UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NIKORA CASTRO GUTIERREZ

Petitioner,

Case No. 1:26-cv-771

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

KEVIN RAYCRAFT, Acting Field Director for U.S. Immigration and Customs Enforcement, Detroit Field Office, in his official capacity; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAMELA BONDI, U.S. Attorney General.

Respondents.

INTRODUCTION

1. When the government releases someone from custody and promises not to re-detain them until their immigration case is complete, it is unconstitutional to re-arrest them for no reason while their case is still in progress because it is a violation of the Fifth Amendment's due process clause.
2. This petition arises from the sudden, inexplicable, and illegal re-detention of Petitioner by ICE on her way to work two years after she was released "pending a final administrative decision in [her] immigration case…" Exhibit A.
3. Petitioner is a citizen of Venezuela, asylum seeker, and resident of Michigan who was arrested by ICE agents on February 27, 2026.
4. She is currently detained in Baldwin, Michigan at the GEO North Lake Processing Center, a privately-owned detention facility.

5. In January 2024, Petitioner crossed the southern border, was detained and charged by CPB agents, ordered to appear in immigration court in Detroit in eighteen months, and released on her own recognizance after she demonstrated to an immigration official that she was neither a danger to the community nor a flight risk.
6. That release on recognizance was "pending a final administrative decision" in Petitioner's removal proceedings.
7. But Petitioner was subsequently re-detained more than more than two years later without notice or an opportunity be heard and without any reason.
8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be immediately released from custody and be provided with notice and an opportunity to be heard before being re-detained.

JURISDICTION

9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus); 28 U.S.C. § 1331 (federal question); and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).
10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

11. Venue is proper in the Western District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is detained at the direction, and is in the immediate custody, of Respondent Kevin Raycraft. *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims and relevant facts occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

13. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

PARTIES

14. Petitioner is a citizen of Venezuela and resident of Michigan. She is currently detained in Baldwin, Michigan in this district.

15. Respondent Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Acting Director Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

16. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

17. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration

Review (EOIR) and the immigration system it operates is a component agency. She is sued in her official capacity.

FACTS

18. Petitioner arrived in the United States on or about January 20, 2024. She was detained and charged as being present in the United States without being admitted or paroled.
19. She was then released into the United States on her own recognizance, a "form of conditional parole." *Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. 2025).
20. Per regulations, release on recognizance is only permissible after the noncitizen has convinced an immigration official that she is not a flight risk and is not a danger to the community. 8 C.F.R. § 236.1(c)(8).
21. The Notice of Custody Redetermination explicitly states that she would be released on her own recognizance "pending a final administrative determination in your case." Exhibit A.
22. No such determination has been made as Petitioner's asylum application remains pending with the Detroit immigration court.
23. But, for no apparent reason, she was re-detained by rogue ICE agents on February 27, 2026.
24. She was not given notice of her parole revocation prior to her re-detention.
25. On information and belief, Respondents made no individualized determination regarding Petitioner's immigration case, whether the conditions of her release had been violated, or whether there was a changed circumstance warranting her re-detention. There is no rhyme or reason to her re-detention after an immigration official already determined that she was neither a flight risk nor a danger to the community more than two years ago.

26. In fact, the only changes that have occurred are that she has proven she is not a danger and her ties to the community have grown since 2024. She has filed for asylum, received work authorization, and has family in the United States.

27. Petitioner is not flight risk nor a danger to the community.

LEGAL FRAMEWORK

A. Petitioner's Re-Detention Violates the Fifth Amendment

28. Individuals who have been conditionally released from detention have a protected interest in their "continued liberty." *Herrera v. Tate*, No. H-25-3364, 2025 U.S. Dist. LEXIS 189999, at *31 (S.D. Tex. Sep. 26, 2025) (quoting *Young v. Harper*, 520 U.S. 143, 147, (1997).

29. Petitioner's re-detention, two years after being paroled under 8 U.S.C. § 1226(a) after her initial detention at the border, was without prior notice, a showing of changed circumstances, or a meaningful opportunity to object, and therefore she was not afforded the procedural requirements of the Fifth Amendment. *See, e.g., Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 U.S. Dist. LEXIS 156344, at *36 (D. Ariz. Aug. 11, 2025); *Rosales-Garcia v. Holland*, 322 F.3d 386, 409 (6th Cir. 2003) ("Excludable aliens—like all aliens—are clearly protected by the Due Process Clauses of the Fifth and Fourteenth Amendments."), *citing Yick Wo v. Hopkins*, 118 U.S. 356, 6 S. Ct. 1064, 30 L. Ed. 220 (1886).

30. The government does not have the authority to arrest a noncitizen who has been granted parole without properly terminating that parole. *Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 U.S. Dist. LEXIS 135986, at *26 (W.D.N.Y. July 16, 2025); *Y-Z-L-H v.*

Bostock, 2025 U.S. Dist. LEXIS 130216, 2025 WL 1898025, at *13 (D. Or. July 9, 2025), or unless there is some other valid reason to arrest her.

31. Due process then "requires a hearing before an immigration judge before re-detention. *Mejia v. Woosley*, Civil Action No. 4:25-cv-82-RGJ, 2025 U.S. Dist. LEXIS 203256, at *11 (W.D. Ky. Oct. 15, 2025) (internal citation and internal quotation marks omitted).

32. In essence, DHS made a contract with Petitioner: you will be released to pursue your immigration proceedings in the United States, and if you meet the conditions of your parole, you will not be re-detained until there is a final decision in your case.

33. Petitioner held up her end of the bargain – but she was nevertheless detained by ICE agents for no apparent reason.

34. Under the balancing test in *Mathews v. Eldridge*, 424 U.S. 319 (1976), Petitioner is entitled to immediate release and notice and an opportunity to be heard before being re-detained.

35. First, there is a fundamental interest in "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint" which "lies at the heart of the very liberty that [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

36. But, as noted above, Petioner has further and distinct liberty interest that vested on her initial release from DHS custody in 2024 where DHS assured her that she would be released at least until she received a final decision in her immigration proceedings.

37. Moreover, Petitioner is detained "in conditions indistinguishable from criminal incarceration." *Prada v. Raycraft*, No. 1:25-cv-1944, 2026 U.S. Dist. LEXIS 9413, at *12 (W.D. Mich. Jan. 16, 2026).

38. Second, pre-detention notice and an opportunity to be heard *before* her conditional release was terminated would have prevented erroneous deprivation of her freedom.

39. Here, there are, in fact, no changed circumstances that would warrant DHS to suddenly re-arrest Petitioner and her immigration case remains pending. If she was afforded the proper procedural due process before being detained, she could have easily shown that her re-detention was improper.

40. But, once detained, BIA precedent requires the detainee to prove they are neither a flight risk nor a danger. *Matter of R- A- V- P-*, 27 I&N 803, 804 (BIA 2020).

41. Given the practical difficulties of securing counsel and evidence while detained, the risk of erroneous deprivation is magnified without pre-detention notice and opportunity to be heard.

42. Indeed, most courts have found that assigning the detainee the burden of proof at a bond hearing is a due process violation itself. *Soto-Medina v. Lynch*, No. 1:25-cv-1704, 2026 U.S. Dist. LEXIS 11113, at *22 (W.D. Mich. Jan. 21, 2026) (holding the government must prove, by clear and convincing evidence, that a detainee is a flight risk or danger).

43. Finally, while the government has some interest in assuring noncitizens appear at future immigration proceedings, that interest is adequately protected by a pre-detention hearing where the government bears the burden of proof and the noncitizen has full access to counsel and evidence.

44. Indeed, here it is patently obvious that Petitioner is currently being detained erroneously. Respondents already determined that Petitioner was not a flight risk or danger to the community two years ago and agreed to release her "pending a final administrative decision in [her] case," which is currently pending. Additionally, the factors used by

immigration judges to assess flight risk and danger now weigh even more heavily in favor of Petitioner than they did when the initial assessment was made.

45. Petitioner is entitled to immediate release.

CLAIMS FOR RELIEF

COUNT I

Re-Detention Violation of Due Process

46. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

47. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

48. Petitioner has a fundamental interest in liberty and being free from official restraint.

49. Petitioner acquired a further liberty interest after being released from her initial detention to await adjudication of her immigration case. She has been free to work, live, and pursue her asylum application for the last two years.

50. Petitioner's re-detention without notice and a pre-arrest hearing violates her right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that Respondents release Petitioner from custody immediately and provide notice and a hearing before an immigration judge prior to re-detaining Petitioner;

c. Enjoin Respondents from re-detaining Petitioner absent a final administrative decision in her immigration case or a showing, before a neutral judge, of materially changed circumstances;

d. Enjoin Respondents from transferring the Petitioner from the jurisdiction of this District pending these proceedings,

e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

f. Grant any other and further relief that this Court deems just and proper.

Dated: March 9, 2026

Respectfully submitted,

/s/ Michael Drew

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Attorneys for Petitioner

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have either independently confirmed the events described in this Petition and Complaint or discussed the events with Petitioner's cousin. Based on those discussions and my own

investigation, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

/s/ Michael Drew

Attorney for Petitioner

EXHIBIT A

DEPARTMENT OF HOMELAND SECURITY

NOTICE OF CUSTODY DETERMINATION

Alien's Name: NIKORA YULIANNY CASTRO GUTIERREZ A-File Number: [redacted]

Date: 01/22/2024

Event ID: [redacted] Subject ID: [redacted] FIN: [redacted]

Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, I have determined that, pending a final administrative determination in your case, you will be:

- ☐ Detained by the Department of Homeland Security.
- ☒ Released (check all that apply):
  - ☐ Under bond in the amount of $ _____
  - ☒ On your own recognizance.
  - ☐ Under other conditions. [Additional document(s) will be provided.]

JOSEPH FERNANDEZ
Date: 2024.01.22 14:59:32 -07:00
0656051521.CBP

JOSEPH FERNANDEZ — Name and Signature of Authorized Officer

01/22/2024 1456 — Date and Time of Custody Determination

Acting/Patrol Agent in Charge — Title

El Paso, Texas — Office Location/Address

You may request a review of this custody determination by an immigration judge.

- ☒ I acknowledge receipt of this notification, and
  - ☐ I **do** request an immigration judge review of this custody determination.
  - ☒ I **do not** request an immigration judge review of this custody determination.

NRKora — Signature of Alien

01/22/2024 — Date

The contents of this notice were read to NIKORA YULIANNY CASTRO GUTIERREZ (Name of Alien) in the SPANISH (Name of Language) language.

KALI M CLARK
Date: 2024.01.22 15:00:17 -07:00
0989921711.CBP

CLARK, KALI — Name and Signature of Officer

NONE USED — Name or Number of Interpreter (if applicable)

Border Patrol Agent — Title

DHS Form I-286 (1/14)