SALGADO & PERALTA, P.A.
Mario Salgado, SBN: 128533
605 Market Street, Suite 1111
San Francisco, CA 94105
Tel: (415) 401-8699

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

Zoila Margarita Andrade Alvarado, Petitioner, v. Christopher CHESTNUT in his official capacity as the Warden of the California City Detention Center operated by CORECIVIC, INC., a Maryland corporation; Markwayne MULLIN, Secretary of the Department of Homeland Security; Todd BLANCHE, U.S. Attorney General; in their official capacity; Moises BECERRA, in his official capacity as Field Office Director of Immigration and Customs Enforcement, Enforcement and Removal Operations. Respondents.	Case Number: _____ Petitioner's Petition for Writ of Habeas Corpus and Injunctive Relief Pursuant to 28 U.S.C. § 2241

INTRODUCTION

1. This petition concerns whether the Due Process Clause permits the Government to detain an individual in a manner that effectively deprives her of the opportunity to complete an adjustment of status application that Congress expressly made available to her. Petitioner was lawfully admitted to the United States as a B-2 visitor, is married to a United States citizen, and is the beneficiary of an approved Form I-130 Petition for Alien Relative. As an immediate relative of a United States citizen, Petitioner is eligible to seek adjustment of status under 8 U.S.C. § 1255.

To complete that process, however, she must undergo a medical examination by a designated civil surgeon and submit a completed Form I-693. See 8 C.F.R. § 245.5.

2. While detained by Immigration and Customs Enforcement, Petitioner has repeatedly requested a temporary release to attend her scheduled medical examination. Those requests have been denied. As a result, Respondents have prevented Petitioner from satisfying a mandatory requirement for adjustment of status while simultaneously continuing removal proceedings against her. Petitioner further understands that the Immigration Judge advised her that she could be ordered removed if she failed to complete the required medical examination.

3. The Due Process Clause guarantees a meaningful opportunity to pursue relief authorized by Congress. By refusing to permit Petitioner to attend the required civil surgeon examination, Respondents have deprived her of that opportunity and have transformed Congress's statutory adjustment of status scheme into a nullity. If Petitioner is removed before completing the examination, her adjustment application will be deemed abandoned, and she will lose the ability to pursue lawful permanent residence notwithstanding her approved immediate-relative petition. Habeas relief is therefore necessary to prevent Respondents from extinguishing Petitioner's statutory opportunity to seek adjustment of status through actions that bear no reasonable relationship to any legitimate governmental interest and that deny her a meaningful opportunity to be heard.

JURISDICTION

4. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas

corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

6. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

7. Venue is proper because Petitioner is detained at the California City Detention Center which is within the jurisdiction of this District.

8. 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 occurred in the Eastern District of California.

REQUIREMENTS OF 28 U.S.C. § 2243

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

10. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

11. Petitioner, Zoila Margarita Andrade Alvarado, is a noncitizen who is seeking asylum and related protections before a U.S. Immigration Court, which is controlled by the Executive Office of Immigration Review (EOIR). Petitioner is currently detained at the California City Detention Center.

12. Respondent Christopher CHESTNUT is sued in his official capacity as the Warden of the California City Detention Center operated by CORECIVIC, INC., a Maryland corporation. CORECIVIC has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

13. Respondent Moises BECERRA is sued in his official capacity as the Field Office Director of the San Francisco Field Office of U.S. Immigration and Customs Enforcement. Respondent BECERRA is a legal custodian of Petitioner and has authority to release Petitioner.

14. Respondent Markwayne MULLIN is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent MULLIN is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees all subordinate agencies within DHS, including U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent MULLIN is a legal custodian of Petitioner.

15. Respondent Todd BLANCHE is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office

for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent BLANCHE is a legal custodian of Petitioner.

STATEMENT OF FACTS

16. On December 20, 2019, Petitioner, a citizen of Honduras, entered the United States as a B-2 visitor pursuant to a tourist visa. She remained in the United States after her period of authorized stay expired on June 19, 2020. (Exhibit A, Form I-94; Exhibit B, Travel History; Exhibit C, Notice to Appear).

17. Petitioner subsequently married a United States citizen, who filed a Petition for Alien Relative on her behalf. USCIS approved the petition. (Exhibit D, Form I-130 Receipt Notice; Exhibit E, Form I-130 Approval Notice).

18. As the spouse of a United States citizen who was lawfully admitted to the United States, Petitioner is eligible to apply for adjustment of status to that of a lawful permanent resident. To complete the adjustment process, she must undergo a medical examination by a designated civil surgeon and submit a completed Form I-693. See 8 C.F.R. § 245.5. Petitioner files this petition for a writ of habeas corpus to obtain a temporary release from detention so she may attend her scheduled medical examination on July 18, complete Form I-693, and continue pursuing adjustment of status. (Exhibit F, Declaration).

Detention History

19. On April 7, 2025, Petitioner was encountered by U.S. Immigration and Customs Enforcement while detained at the Dallas County Jail on criminal charges that were subsequently dismissed. (Exhibit G, Form I-213).

20. On November 21, 2025, Petitioner was served with a Notice to Appear commencing removal proceedings before the Immigration Judge. (Exhibit G, Form I-213; Exhibit C, Notice to Appear).

21. On April 8, 2026, the Immigration Judge denied Petitioner's request for a bond redetermination after finding that she posed a danger to the community based on two criminal arrests during the approximately five years she had resided in the United States. (Exhibit H, Immigration Judge Bond Order).

22. On April 20, 2026, Petitioner filed an application for asylum, withholding of removal, and protection under the Convention Against Torture. (Exhibit I, Form I-589).

Basis for Requested Relief

23. Petitioner has informed undersigned counsel that the Immigration Judge advised her that, unless she completed the required medical examination, she could be ordered removed before her adjustment application could be adjudicated. (Exhibit F, Declaration).

24. Petitioner has submitted multiple requests to the detention facility seeking a temporary release to attend the required medical examination with a designated civil surgeon. (Exhibit F, Declaration). Those requests have been denied, and detention officials have not permitted her to leave the facility to complete the examination. (Exhibit F, Declaration)

PETITIONER'S DILIGENCE AND JUSTIFICATION FOR THE TIMING OF THIS EMERGENCY MOTION PURSUANT TO L.R. 231(B).

25. Although Petitioner has remained in immigration detention, she did not immediately seek habeas relief because she repeatedly attempted to resolve the matter through the detention facility by requesting temporary release to attend the required medical examination. (Exhibit F). Petitioner sought to complete the adjustment of status process without judicial intervention and reasonably pursued the administrative avenue available to her. (Exhibit F). Only after those

requests were denied and it became apparent that Respondents would not permit her to attend the examination—despite the Immigration Judge's warning that failure to complete the medical examination could result in her removal before her adjustment application could be adjudicated—did judicial intervention become necessary. (Exhibit F). This petition therefore was filed promptly after it became clear that no alternative means existed to prevent the loss of Petitioner's statutory opportunity to pursue adjustment of status.

LEGAL FRAMEWORK

26. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.' *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); see also id. at 718 (Kennedy, J., dissenting) ("Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention."). This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. See id. at 721 (Kennedy, J., dissenting) ("[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious").

27. Pursuant to 8 U.S.C. § 1255, Congress provides pathways to legal residency for certain classes of aliens. These pathways permit aliens not lawfully in the United States to "adjust" their status to legal permanent resident if they meet certain requirements. As an initial matter, for an alien to apply for adjustment of status, he or she must have been "admitted or paroled into the United States." 8 U.S.C. § 1255(a). If so admitted or paroled, the Secretary "may" adjust the alien's status to that of a permanent resident "if (1) the alien makes an application for

such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed." Id.

28. Several other restrictions apply, however. Aliens convicted of certain crimes are generally ineligible to apply for adjustment of status because they are deemed inadmissible, see 8 U.S.C. § 1182(a)(2), and, therefore, not "admitted or paroled into the United States" unless the Secretary can and does waive inadmissibility. Additionally, as relevant here, aliens who are in unlawful immigration status such as an overstayer cannot apply for adjustment of status, unless they are immediate relatives, such as spouses, of citizens. 8 U.S.C. §§ 1255(c), (k).

29. Here, Petitioner is not barred by the INA's many restrictions. Petitioner was inspected and admitted as a tourist on many separate occassions. Despite falling out of status, her initial entry was lawful and her subsequent applications for petition for immediate relative and adjustment of status are not barred pursuant to 8 U.S.C. §§ 1255(c), (k). Petitioner is, in short, the exact type of applicant that Congress intended to benefit when it adopted and, over many years, repeatedly amended, the complicated statutory scheme governing the adjustment of status process. Respondents' actions frustrate that scheme.

30. As the Supreme Court has explained, "[s]tatutory construction is a holistic endeavor." Smith v. United States, 508 U.S. 223, 233, 113 S.Ct. 2050, 124 L.Ed.2d 138 (1993) (internal alterations omitted) (quoting *United Savs. Ass'n of Texas v. Timbers of Inwood Forest Assocs., Ltd.*, 484 U.S. 365, 371, 108 S.Ct. 626, 98 L.Ed.2d 740 (1988)). "Just as a single word cannot be read in isolation, nor can a single provision of a statute." Id. Rather, "in expounding a statute, [courts] [are] not ... guided by a single sentence or member of a sentence, but look to the provisions of the whole law, and to its object and policy." *Massachusetts v. Morash*, 490 U.S. 107,

115, 109 S.Ct. 1668, 104 L.Ed.2d 98 (1989) (quoting *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 51, 107 S.Ct. 1549, 95 L.Ed.2d 39 (1987)).

31. Here, read as a whole, the INA creates "a regulatory interstice." *Ceta v. Mukasey*, 535 F.3d 639, 646 (7th Cir. 2008). "Section 1255 and the amended regulation, 8 C.F.R. § 245.2(a)(1), afford [Petitioner] an opportunity to seek adjustment of status with the USCIS," but, at the same time, he risks removal before being able to complete the adjustment of status process. Id. Without court intervention, therefore, such as via a stay of removal, "the statutory opportunity to seek adjustment of status will prove to be a mere illusion." Id. at 647; see also *Kalilu v. Mukasey*, 516 F.3d 777 (9th Cir. 2008) (explaining that the BIA's denial of a motion to reopen "rendered worthless" an alien's ability to seek adjustment of status); *Sheng Gao Ni v. Bd. of Immigration Appeals*, 520 F.3d 125, 131 (2d Cir. 2008) (discussing *Kalilu*). This Court should decline to read the INA in a way that nullifies its adjustment of status scheme.

32. The Court's interpretation should be consistent with Congress's intent in drafting the INA and adopting this specific scheme. As the Second Circuit has explained, the INA's "prevailing purpose" is to "implement[ ] the underlying intention of our immigration laws regarding the preservation of the family unit." *Nwozuzu v. Holder*, 726 F.3d 323, 332 (2d Cir. 2013) (quoting H.R. Rep. No. 82-1365 (1952), reprinted in 1952 U.S.C.C.A.N. 1653, 1680); *cf. I.N.S. v. Errico*, 385 U.S. 214, 220, 87 S.Ct. 473, 17 L.Ed.2d 318 (1966) (interpreting several 1957 amendments to the INA that created exceptions for immediate relatives of citizens as "plainly" evidencing an "intent ... [to] keep[ ] family units together. Congress felt that, in many circumstances, it was more important to unite families and preserve family ties than it was to enforce strictly the quota limitations or even the many restrictive sections that are designed to keep undesirable or harmful aliens out of the country.").

33. The INA's adjustment of status scheme is perhaps one of the statute's strongest articulations of Congress's considered public policy in favor of family unity and association. And as such, "[t]he immigration laws about adjustment of status are not a haphazard compilation of provisions; they are a calibrated set of rules that govern an area of national importance." *Succar v. Ashcroft*, 394 F.3d 8, 25 (1st Cir. 2005). "The statutory scheme reflects Congress's careful balancing of the country's security needs against the national interests Congress wished to advance through adjustment of status proceedings." Id. at 10. Those "national interests" include the preservation of the family. Id. at 22 ("[I]n enacting section 1255(a) in 1960, Congress expressed an intent that eligible aliens be able to adjust status without having to leave the United States, to relieve the burden on the United States citizen with whom the aliens had the requisite family or other relationship."); see also *Matter of Ibrahim*, 18 I. & N. Dec. 55, 57–58 (BIA 1981) ("The Immigration and Nationality Act makes immediate relative status a special and weighty equity.").

34. Despite this carefully balanced adjustment of status scheme, Respondents arbitrarily denied her of an opportunity to attend an appointment with a civil surgeon to complete her adjustment of status application. If Petitioner is removed, any application for adjustment of status would be deemed abandoned, 8 C.F.R. § 245.2(a)(4)(ii)(A), and Petitioner could not re-apply for ten years, 8 U.S.C. § 1182(a)(9)(A)(ii).

35. The Court in *You, Xiu Qing v. Nielsen*, 321 F. Supp. 3d 451 at 466 (S.D.N.Y. 2018) rejected arrest and detention practices predicated on manipulating the laws that Congress has passed. Congress did not intend its carefully considered adjustment of status process for a select group of aliens to become a mechanism for "gotcha" law enforcement. Id. Nor could it, without raising serious constitutional concerns. Id. These type of bait-and-switch tactics are not only a perversion of the statute, but also likely offensive to "the concept of ordered liberty." Id citing

Rochin v. California, 342 U.S. 165, 169, 72 S.Ct. 205, 96 L.Ed. 183 (1952) (internal quotation marks omitted).

36. Because courts "must assume that when drafting the INA, Congress did not intend an absurd or manifestly unjust result," *Lockhart v. Napolitano*, 573 F.3d 251, 260 (6th Cir. 2009), this Court should conclude that Respondents' detention frustrates Congress intent to permit Petitioner to adjust her status and violates her right to due process.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

37. Petitioner re-alleges and incorporates by reference the paragraphs above.

38. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

39. To justify Petitioner's detention, due process requires that the government establish, at an individualized hearing before a neutral decision maker, that Petitioner's detention is justified by clear and convincing evidence of flight risk or danger, taking into account whether alternatives to detention could sufficiently mitigate that risk.

40. This hearing was to take place before Petitioner's detention, but it did not occur.

41. For these reasons, Petitioner's ongoing prolonged detention without a hearing violates due process.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

A. Assume jurisdiction over this matter;

B. Issue a Temporary Restraining Order prohibiting Respondents from moving Petitioner to another facility outside of this District pending the outcome of these proceedings;

C. Issue a Temporary Restraining Order releasing Petitioner from Respondents' custody.

D. Issue a Writ of Habeas Corpus, hold a hearing before this Court if warranted, determine that Petitioner's detention is not justified because the government has not established by clear and convincing evidence that Petitioner presents a risk of flight or danger in light of available alternatives to detention, and order Petitioner's release (with appropriate conditions of supervision if necessary), taking into account Petitioner's ability to pay a bond;

E. In the alternative, issue a Writ of Habeas Corpus and order Petitioner's release to attend her medical examination before the civil surgeon;

F. Issue a declaration that Petitioner's ongoing continued detention violates the Due Process Clause of the Fifth Amendment and issue an Order for Petitioner's Release with Prejudice;

G. Award Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and

H. Grant such further relief as the Court deems just and proper.

Dated: July 7, 2026

Respectfully submitted,

/s/ Mario Salgado
Mario Salgado
Counsel for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Zoila Margarita Andrade Alvarado, and submit this verification on Petitioner's behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: July 7, 2026.

Respectfully Submitted:

s/Mario Salgado
Mario Salgado

CERTIFICATE OF SERVICE

I, Mario Salgado, am over the age of 18 years and maintain a business address located at 605 Market Street Suite 1111 in San Francisco, California 94105. I electronically served the PETITION FOR HABEAS CORPUS AND INJUNCTIVE RELIEF to United States Attorney's Office for the Eastern District of California; 2500 Tulare Street, Suite 4401, Fresno, CA 93721 via the court's filing system.

I swear under penalty of perjury under the laws of the United States of America that the foregoing is true and correct:

Date: July 7, 2026

/s/ Mario Salgado
Mario Salgado, Esq.