UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

YANIXA ROSSALIA LOPEZ-CASTELLANOS

Petitioner,

v.

TODD BLANCHE, in his official capacity as the Acting Attorney General of the United States of America,

MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security;

DAREN K. MARGOLIN, Director, Executive Office for Immigration Review, in his official capacity;

DAVID J. VENTURELLA, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement;

MARY DE ANDA-YBARRA, in her official capacity as Director of the El Paso Field Office of ICE, Enforcement and Removal Operations; and

WARDEN, in his or her official capacity as Warden of ERO El Paso Camp East Montana.

Respondents.

Civil Action No. 3:26-cv-01891

Immigration No. A [redacted]

PETITIONER'S ORIGINAL VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. This is a petition for writ of habeas corpus filed on behalf of **Yanixa Rossalia Lopez-Castellanos** ("Petitioner") seeking relief from her unlawful detention pursuant to 28 U.S.C. § 2241. Petitioner seeks immediate judicial intervention because her continued detention violates the Constitution of the United States.
2. Petitioner (A208-780-867) is a native and citizen of Honduras who entered the United States with her mother in approximately 2015 when she was only ten years old. *See* Ex. C, Motion to Reopen. Petitioner was removed in absentia on July 14, 2016 when she was only eleven years old because her mother failed to appear at their scheduled hearing. *Id.*
3. Since then, Petitioner has lived her life in the United States peacefully, graduating high school, marrying a United States citizen, and giving birth to three United States citizen children, one of whom is **only 7 months old and still being breastfed**. *Id.*
4. On or about May 27, 2026, Petitioner was stopped by local law enforcement in South Carolina for a traffic-related encounter as she was driving her **terminally ill mother** to a doctor's appointment. She was transported to a police station for further questioning, where officers questioned her regarding her immigration status. After determining that she lacked lawful immigration status, local authorities transferred Petitioner into the custody of U.S. Immigration and Customs Enforcement ("ICE"), and she has remained continuously detained since that date. *See* Ex. A, Proof of Detention in ICE Custody.
5. Petitioner is presently confined at the ERO El Paso Camp East Montana, under the authority of ICE, hundreds of miles away from her family, including her youngest who is still being breastfed. *See* Ex. A, Proof of Detention in ICE Custody. She has a pending I-130 filed on her behalf by her U.S. citizen husband and a pending Motion to Reopen before

the Charlotte Immigration Court. *See* Ex. B, EOIR Automated Case Information; Ex. C, Motion to Reopen.

6. Although Congress authorized the temporary detention of certain noncitizens during removal proceedings, civil immigration detention remains subject to constitutional limitations. Immigration detention is regulatory rather than punitive, and the Government bears the burden of ensuring that continued detention bears a reasonable relationship to its legitimate purposes and comports with the requirements of due process.

7. Petitioner's continued detention violates those principles. She has been deprived of her physical liberty without a constitutionally adequate determination that her continued confinement is necessary to prevent flight or protect the community. Absent meaningful procedural safeguards, continued civil detention cannot be reconciled with the Fifth Amendment's guarantee that no person shall be deprived of liberty without due process of law.

8. "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). Although Congress has authorized the temporary detention of certain noncitizens during the pendency of removal proceedings, that authority is not unlimited. Civil immigration detention must remain reasonably related to its regulatory purposes and comport with the procedural protections guaranteed by the Fifth Amendment.

9. Absent intervention by this Court, Petitioner will remain subject to continued unlawful detention while she waits for her removal proceedings to be reopened and the I-130 filed on her behalf to be adjudicated. She will wait in detention hundreds of miles away from a

child **who is merely 7 months old and absolutely dependent upon her mother because she is still being breastfed**. She is also separated from **her mother who has mere months to live and for whom Petitioner is her sole caregiver**. And, of course, Petitioner is separated from her husband and other two children who are very young. Because Petitioner's continued confinement violates the Constitution and laws of the United States, she respectfully requests that this Court declare her detention unlawful and grant such relief as is necessary to remedy the ongoing deprivation of her liberty, including immediate release or, alternatively, a constitutionally adequate individualized custody determination.

II. JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus authority); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. §§ 2201-02 (declaratory relief), and Article I, Section 9, clause 2 of the United States Constitution (Suspension Clause), as Petitioner is presently in custody under the authority of the United States and challenges her detention as in violation of the Constitution, laws, or treaties of the United States.
11. Federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).
12. Venue is proper in this District, and specifically in the **Western District of Texas El Paso Division**, because Petitioner is presently confined at the **ERO El Paso Camp East Montana** in El Paso, Texas, within this Court's territorial jurisdiction, and her detention is administered by the **El Paso Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations**. Accordingly, Petitioner's

immediate custodian and the federal officials responsible for her detention are subject to this Court's jurisdiction.

III. 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, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

14. The writ of habeas corpus has long served as the fundamental means by which federal courts safeguard individual liberty against unlawful executive detention. Congress has directed that petitions for habeas corpus receive prompt judicial consideration through the expedited procedures set forth in 28 U.S.C. § 2243. The Fifth Circuit has likewise recognized that federal district courts possess jurisdiction under 28 U.S.C. § 2241 to adjudicate challenges to the legality of immigration detention. *See Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026). Accordingly, Petitioner's challenge to the legality of her continued detention warrants the prompt consideration contemplated by § 2243.

IV. PARTIES

15. Petitioner **YANIXA ROSSALIA LOPEZ-CASTELLANOS** is a native and citizen of Honduras presently detained by U.S. Immigration and Customs Enforcement ("ICE") at the ERO El Paso Camp East Montana in El Paso, TX.

16. Respondent **TODD BLANCHE** is the Acting Attorney General of the United States. He is sued in his official capacity.

17. Respondent **MARKWAYNE MULLIN** is the Secretary of the Department of Homeland Security ("DHS"). He is sued in his official capacity.

18. Respondent **DAREN K. MARGOLIN** is the Director of the Executive Office for Immigration Review ("EOIR"). He is sued in his official capacity because EOIR is responsible for administering Petitioner's removal proceedings and exercises authority over immigration court custody redetermination proceedings.

19. Respondent **DAVID J. VENTURELLA** is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"), an agency within the Department of Homeland Security responsible for Petitioner's detention and the enforcement of the Immigration and Nationality Act. He is sued in his official capacity.

20. Respondent **MARY DE ANDA-YBARRA** is the Director of the El Paso Field Office of ICE, Enforcement and Removal Operations ("ERO"). Respondent De Anda-Ybarra is sued in her official capacity as the local ICE official responsible for Petitioner's detention and custody.

21. Respondent **WARDEN OF THE ERO EL PASO CAMP EAST MONTANA** is responsible for Petitioner's immediate physical custody at ERO El Paso Camp East Montana, located at 6920 Digital Road, El Paso, TX 79936. Respondent is sued in his or her official capacity as Petitioner's immediate custodian.

V. FACTUAL BACKGROUND

1. Petitioner is a native and citizen of Honduras who entered the United States with her mother in approximately 2015 when she was only ten years old. *See* Ex. C, Motion to Reopen. Petitioner was removed in absentia on July 14, 2016 when she was only eleven years old because her mother failed to appear at their scheduled hearing. *Id.*

2. Since then, Petitioner has lived her life in the United States peacefully, graduating high school, marrying a United States citizen, and giving birth to three United States citizen children, one of whom is **only 7 months old and still being breastfed.** *Id.*
3. Petitioner's U.S. citizen husband has filed a Form I-130 petition on her behalf that remains pending with USCIS. *Id.* She has also filed a Motion to Reopen and Motion to Stay with the Charlotte Immigration Court based on the fact that the in absentia order was entered against her when she was a minor and she is now eligible for relief. *Id.*; Ex. B, EOIR Automated Case Information. The motion remains pending before the Charlotte Immigration Court. *See* Ex. B, EOIR Automated Case Information.
4. On or about May 27, 2026, Petitioner was stopped by local law enforcement in South Carolina for a traffic-related encounter as she was driving her **terminally ill mother** to a doctor's appointment. She was transported to a police station for further questioning, where officers questioned her regarding her immigration status. After determining that she lacked lawful immigration status, local authorities transferred Petitioner into the custody of U.S. Immigration and Customs Enforcement ("ICE"), and she has remained continuously detained since that date. *See* Ex. A, Proof of Detention in ICE Custody.
5. Since her arrest on May 27, 2026, Petitioner has remained continuously detained by ICE. She is presently confined at ERO El Paso Camp East Montana, where she remains in ICE custody pending the outcome of her Motion to Reopen. *Id.*
6. Petitioner's immigration proceedings remain ongoing before the Charlotte Immigration Court. *See* Ex. B, EOIR Automated Case Information. Although a final administrative removal order has previously entered, Petitioner's removal is automatically stayed by the filing of her Motion to Reopen an in absentia order. *See* INA § 240(b)(5)(C); 8 C.F.R. §

1003.23(b)(4)(ii). Petitioner's detention is thus governed by 8 U.S.C. § 1226 rather than the post-removal detention provisions of 8 U.S.C. § 1231.

7. Petitioner's sole missed appearance at immigration court was due to no fault of her own as she was only 11 years old at the time, could not have taken herself to court, and had no knowledge of any requirements other than what her mother told her. Based on the diligence with which she is proceeding now, Petitioner is not a flight risk and intends to pursue all avenues of relief available to her. Furthermore, she has a U.S. citizen spouse and three young U.S. citizen children who all tie her to the community and show that she is not a flight risk. Nor is Petitioner a danger to the community. She has not been convicted of any offense rendering her subject to mandatory detention under 8 U.S.C. § 1226(c) nor any other criminal history which makes her a danger to the community. Respondents have not demonstrated that her continued confinement is necessary to protect the public or ensure her appearance at future proceedings.
8. Petitioner's continued detention has deprived her of her physical liberty while her application for relief and motion remains pending before USCIS and the Immigration Court, respectively. Unless this Court intervenes, Petitioner will remain confined throughout the pendency of those proceedings despite the constitutional limitations governing civil immigration detention.
9. Petitioner now seeks relief under 28 U.S.C. § 2241 because her continued detention violates the Constitution and laws of the United States. Through this Petition, she requests that this Court exercise its habeas jurisdiction to remedy her unlawful detention and grant such relief as justice requires.

VI. LEGAL FRAMEWORK

10. The Due Process Clause of the Fifth Amendment imposes independent constitutional limitations upon civil immigration detention, apart from any statutory requirements or limitations. "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). These due process rights are for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

11. First, "[t]he touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including "the exercise of power without any reasonable justification in the service of a legitimate government objective." *Cnty. Of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

12. These protections extend to noncitizens facing detention, as "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, "[f]reedom 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*, 533 U.S. at 690.

13. Substantive due process thus requires that all forms of civil detention—including immigration detention—bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community.

Zadvydas, 533 U.S. at 690-92; *see also Demore v. Kim*, 538 U.S. 510 at 519-20, 527-28, 31 (2003).

14. Second, the procedural component of the Due Process Clause prohibits the government from imposing even permissible physical restraints without adequate procedural safeguards.

15. Generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully revocable. *See Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

VII. CLAIMS FOR RELIEF

COUNT I – Fifth Amendment Due Process Violation (Substantive Due Process)

16. Petitioner incorporates by reference the above factual allegations and re-asserts them as though stated fully herein.

17. Petitioner's continued detention without access to an individualized custody redetermination hearing violates the Due Process Clause of the Fifth Amendment. Prolonged detention without review is arbitrary, punitive, and unconstitutional.

18. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690.

19. In the present case, Petitioner is not a danger to the community. Petitioner has no criminal history in the U.S. or anywhere in the world.

20. Furthermore, Petitioner is not a flight risk. Petitioner failed to appear at an immigration court hearing in 2016. However, she was eleven years old and therefore cannot be said to have willfully avoided court. She only knew what she was told my adults in her life. As an adult, Petitioner now seeks to regularize her status and has taken important steps to do so. She has no incentive to abandon these efforts which would allow her to remain with her husband and children. Finally, Petitioner has the ultimate ties to the U.S. which make her unlikely to abscond—her U.S. citizen husband and her three very young children, one of whom is only 7 months old and relies on Petitioner entirely. Petitioner's mother is also terminally ill and Petitioner is her sole caretaker which makes her even less of a flight risk.
21. Moreover, Petitioner's detention is punitive as it bears no "reasonable relation" to any legitimate government purpose. *Id.* (finding immigration detention is civil in nature and thus ostensibly "nonpunitive in purpose and effect"). Here, Petitioner cannot be removed as the filing of the Motion to Reopen in her case effects an automatic stay of removal. Thus, she remains in detention for little reason when there are, at minimum, alternatives to detention which would allow her to be home with her family, and particularly her 7 month old child.

COUNT II – Fifth Amendment Due Process Violation (Procedural Due Process)

22. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.
23. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty liberty interest in avoiding detention. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey*, 408 U.S. at 482-83. The government's justification for detention—based on a finding of flight risk or danger—must

outweigh this liberty interest. *See Sosnava Rodriguez v. Ortega*, No. 26-50183 (consolidated with Nos. 26-50219 and 26-50221) (5th Cir. July 2, 2026)

24. Generally, "the Constitution requires some kind of a hearing before the State deprives a person of liberty or property." *Zinermon*, 494 U.S. at 127. The BIA strips an Immigration Judge of any authority to release him on bond, eliminating the only possibility of review of his detention status within the immigration court system. *See Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025); *Matter of Yajure Hurtado*, 29 I&N 216 (BIA 2025). What Petitioner seeks here is recognition of a procedural right to prove that there is no state interest in depriving her of her physical liberty and that her right to be at liberty is actually outweighed in this particular instance.

25. Because Petitioner received no procedural protections, the risk of erroneous deprivation is high. This is particularly the case as the sole reason for her detention—to effect the removal order—cannot be undertaken. Her removal is stayed while her Motion to Reopen is pending. If that Motion is denied, an appeal is likely after that, which would mean more time in which the Government would be detaining her with no real goal. In the months since she has been in ICE custody, she has not secured her release on bond, as the BIA stripped Immigration Judges of any authority to release her on bond, cutting off any avenue for review of her custody status in the existing immigration court framework. Because the private interest in freedom from immigration detention is substantial, due process requires the government to bear the burden of proving by clear and convincing evidence that Petitioner is a flight risk or danger to the community before continuing to detain her.

VIII. REQUEST FOR INJUNCTIVE RELIEF

26. Petitioner respectfully requests that this Court grant injunctive relief directing Respondents to provide her an immediate individualized custody redetermination hearing under INA § 236(a) within seven (7) days, or, in the alternative, to release her under reasonable conditions of supervision.

27. There is no evidence that Petitioner poses a danger to the community or presents a risk of flight. She has lived peacefully in his community, taken concrete steps to regularize her residence here, and remained in full compliance with immigration authorities.

28. Crucially, Petitioner is a mother of three very young children, one of whom is only 7 months old and breastfed. Her presence in all of their lives, but particularly her 7-month-old's life is absolutely essential to their wellbeing.

29. For these reasons, this Court should grant injunctive relief, requiring Respondents to release Petitioner or provide her with a bond hearing or immediate release as soon as possible.

IX. PRAYER FOR RELIEF

30. Respondents' detention of Petitioner without access to a pre-deprivation hearing or an individualized custody re-determination violates both substantive and procedural due process. Petitioner has a pending Motion to Reopen which automatically stays her removal, has a pending I-130 which would provide an avenue for permanent relief, has no disqualifying criminal conviction, and seeks only a neutral custody determination – not review of the merits of her removal case. The writ should issue because continued categorical detention without a bond hearing raises serious constitutional concerns.

31. For the above and foregoing reasons, Petitioner respectfully requests that this Court take the following actions:

a. Issue a writ of *habeas corpus* ordering Petitioner's immediate release or, in the alternative, ordering Respondents to provide Petitioner with a constitutionally adequate, individualized bond hearing under 8 U.S.C. § 1226(a) within seven (7) days of the Court's order;

b. Grant permanent injunctive relief as appropriate;

c. Award Petitioner reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2812, and any other applicable provision of law; and

d. Grant such other relief as this Court deems just and proper.

DATE: July 10, 2026

Respectfully submitted,

By: */s/MarronGebremeskel*

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CERTIFICATE OF SERVICE

By my signature below, I hereby certify that on this day, I served a true and correct copy of the above and foregoing PETITIONER'S ORIGINAL VERIFIED PETITION FOR WRIT OF HABEAS CORPUS together with all attachments thereto, on the Respondents by Certified Mail, and that a copy was also submitted through the Court's CM/ECF electronic filing system.

DATE: July 10, 2026

/s/MarronGebremeskel
MARRON GEBREMESKEL