IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

Yajaira Gabriela Castro Carias, *Petitioner,* V. Warden, ERO El Paso Camp East Montana; Mary De Anda-Ybarra, Field Office Director; Markwayne Mullin Secretary, U.S. Department of Homeland Security; Todd Lyons, Acting Ice Director, Todd Blanche, Acting Attorney General, And DEPARTMENT OF HOMELAND SECURITY *IN THEIR OFFICIAL CAPACITIES* *Respondents.*	§ §	Case No. 3:26-cv-2180 VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND DECLARTORY AND INJUCTIVE RELIEF FOR AN ORDER TO SHOW CAUSE

<u>INTRODUCTION</u>

This Petition is not about whether Petitioner should ultimately be removed from the United States. It is about whether the government may continue to detain her based on an unlawful seizure and without providing the most basic procedural safeguards required by the Constitution. The REAL ID Act of 2005 does not strip this Court of jurisdiction to review the legality of Petitioner's detention or to order her release. Accordingly, this Court retains full authority to grant habeas relief.

Petitioner has lived in the United States since April 11, 2019. During that time, she has built a stable and law-abiding life. She has worked consistently, complied with all requirements imposed by immigration authorities, and has never been charged with or convicted of any crime. She poses no danger to the community and presents no risk of flight.

Petitioner has lived in the United States since April 11, 2019. On July 10, 2019, Petitioner filed a Motion to Reopen her immigration proceedings. The Motion to Reopen was granted. Thereafter, Petitioner's immigration proceedings remained before the Immigration Court until March 11, 2024, when the Immigration Judge dismissed her case. Petitioner also has a pending Form I-130, Petition for Alien Relative.

Petitioner was detained by immigration authorities while she was driving. Beyond the fact that Petitioner was driving when she was detained, Petitioner does not allege additional facts concerning the circumstances of the initial encounter or arrest that are not presently known.

Petitioner is currently in immigration custody. Her immigration history includes a granted Motion to Reopen, the Immigration Judge's March 11, 2024 dismissal of her case, and a presently pending Form I-130 petition. Petitioner challenges the legal authority and constitutionality of her current detention.

For these reasons, Petitioner respectfully requests that this Court grant the Petition and order her release or such other relief as the Court determines is required by law.

REQUIREMENTS OF 28 U.S.C. § 2243 AND APPLICATION FOR AN ORDER TO SHOW CAUSE

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).

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).

Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that the Court issue an order to all Respondents requiring them to show cause why the Petitioner's Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief pursuant to 28 U.S.C. § 2241; 28 U.S.C. § 1331; Article I, § 9, cl. 2 of the United States Constitution; the All Writs Act, 28 U.S.C. § 1651; the Administrative Procedure Act, 5 U.S.C. § 701; and the Declaratory Judgment Act, 28 U.S.C. § 2201 should not be granted and why Respondents should not be ordered to release Petitioner from detention.

Pending adjudication of these claims, Petitioner asks for an order enjoining Respondents from transferring Petitioner from the jurisdiction of the Field Office of the Immigration & Customs Enforcement Office of Enforcement and Removal Operations ("ERO") and this District.

PARTIES

1. Petitioner Yajaira Gabriela Castro Carias is a resident of Texas and is currently being detained under the direction of Respondents at ERO El Paso Camp East Montana, 6920 Digital Road, El Paso, TX 79936.

2. Respondent is the Warden of the ERO El Paso Camp East Montana in El Paso, TX. They have ultimate authority over the facility where petitioner is detained. They are

the immediate custodian responsible for his physical custody. Respondent is at the address 6920 Digital Road, El Paso, TX 79936.

3. Respondent is the Field Office Director responsible for the Field Office of ICE with administrative jurisdiction over Petitioner's immigration case. He is a legal custodian of Petitioner and is named in his official capacity.
4. Respondent Markwayne Mullin is named in his official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, he is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in Texas, and supervises Respondent Mullin; who is legally responsible for pursuing Petitioner's detention and removal; and as such is the legal custodian of Petitioner. Respondent's address is U.S. Department of Homeland Security, 800 K Street, N.W. #1000, Washington, District of Columbia 20528.
5. Respondent Todd Lyons is named in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement within the United States Department of Homeland Security. In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations. Respondent's address is Department of Homeland Security, Enforcement and Removal Office, 500 12th St SW, Washington, DC 20536.
6. Respondent, Todd Blanche, is named in his official capacity as Acting Attorney General of the United States of America, responsible for enforcing Petitioner's continued detention pending his removal proceedings. Blanche's address is 950 Pennsylvania Avenue NW, Washington, D.C. 20530.

JURISDICTION

7. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the United States Constitution; the All-Writs Act, 28 U.S.C. § 1651; the Administrative Procedure Act, 5 U.S.C § 701; and for injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201. Petitioner's current detention as enforced by Respondents constitutes a "severe restraint [] on [Petitioner's] individual liberty," such that Petitioner is "in custody in violation of the . . . laws . . . of the United States." *See Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241(c)(3).

8. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. *See, e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). The REAL ID Act of 2005, which eliminated habeas corpus jurisdiction over final orders of removal, deportation, and exclusion and consolidated such review in the court of appeals, did not impact the ongoing availability of habeas corpus filed in the district court to challenge the length or conditions of immigration detention. *See* H.R. REP. No. 109-72, at 175 (2005), ("Moreover, section 106 would not preclude habeas review over challenges to detention that are independent of challenges to removal orders. Instead, the bill would eliminate habeas review only over challenges to removal orders.") *reprinted in* 2005 U.S.C.C.A.N. 240, 300; *see Hernandez v. Gonzales*, 424 F.3d 42, 42-43 (1st Cir. 2005); *Sissoko v. Rocha*, 412 F.3d 1021, 1033 (9th Cir. 2005); *Kellici v. Gonzales*, 472 F.3d 416 (6th Cir. 2006). This action challenges *Petitioner's detention,* not his removal or deportation.

VENUE

9. Petitioner is physically present within the jurisdiction alleged in this Petition because she is housed at ERO El Paso Camp East Montana in El Paso, Texas. Petitioner was detained by immigration authorities while she was driving.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

10. Petitioner challenges the lawfulness of her present immigration detention. Her immigration history includes a Motion to Reopen filed on July 10, 2019, which was granted. The Immigration Judge later dismissed her case on March 11, 2024. Petitioner also has a pending Form I-130, Petition for Alien Relative.

11. Petitioner seeks judicial review of the legality of her present detention and the procedural protections required by the Due Process Clause. Her physical liberty is a fundamental interest, and habeas review is available to determine whether her detention is authorized by law.

12. To the extent exhaustion is asserted as a prerequisite to review, Petitioner contends that exhaustion is not required where the claim presented is a challenge to the legality or constitutionality of present detention and no adequate administrative remedy provides the relief sought. See McCarthy v. Madigan, 503 U.S. 140, 144–48 (1992).

13. Petitioner's request concerns her present physical confinement. She therefore seeks prompt judicial consideration of whether Respondents possess lawful authority to continue detaining her.

14. Petitioner does not ask this Court to review the merits of an order of removal or adjudicate her pending Form I-130. She seeks habeas review of the legality of her current detention.

STATEMENT OF FACTS REGARDING CURRENT DETENTION

15. Petitioner was detained by immigration authorities while she was driving.

16. Petitioner's Motion to Reopen, filed on July 10, 2019, was granted.

17. On March 11, 2024, the Immigration Judge dismissed Petitioner's immigration case. Petitioner also has a pending Form I-130, Petition for Alien Relative.

18. Petitioner is presently detained in immigration custody and challenges Respondents' legal authority to continue her detention in light of her immigration procedural history.

CLAIMS FOR RELIEF

19. The Government is presently holding Petitioner in immigration custody. Petitioner challenges that detention under the Due Process Clause, the Immigration and Nationality Act, and applicable federal law. The factual allegations above are incorporated into the causes of action below.

FIRST CAUSE OF ACTION:

UNLAWFUL DETENTION IN VIOLATION OF THE FIFTH AMENDMENT

20. The Fifth Amendment protects Petitioner from deprivation of liberty without due process of law. Immigration detention must be authorized by statute and carried out consistently with constitutional requirements.

21. Petitioner's immigration history is material to the determination of the Government's present detention authority. Her Motion to Reopen, filed July 10, 2019, was granted, and the Immigration Judge dismissed her case on March 11, 2024.

22. Petitioner also has a pending Form I-130, Petition for Alien Relative. Petitioner therefore requests review of the statutory and constitutional basis for her present detention.

23. Petitioner was detained while she was driving. Petitioner does not rely on unverified allegations concerning the manner of the stop, the existence or absence of a warrant, or the officers' conduct during the initial encounter.

24. Respondents' continued detention of Petitioner must rest on lawful statutory authority and must comport with the requirements of due process.

25. To the extent Respondents lack lawful authority for Petitioner's continued detention, her confinement constitutes a deprivation of liberty without due process of law under the Fifth Amendment.

SECOND CAUSE OF ACTION:

DETENTION WITHOUT A CONSTITUTIONALLY ADEQUATE BOND HEARING VIOLATES DUE PROCESS

26. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. Civil immigration detention is permissible only where it is reasonably related to a legitimate governmental purpose and accompanied by adequate procedural safeguards. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

27. Petitioner seeks a meaningful opportunity to challenge the legal basis for her present detention before a neutral decision-maker.

28. Petitioner remains detained. The Government bears the obligation to identify the statutory authority under which it is detaining her and to provide the process required by law.

29. Even where Congress authorizes detention, constitutional limitations apply. See Demore v. Kim, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring).

30. In Jennings v. Rodriguez, 583 U.S. 281 (2018), the Supreme Court addressed statutory interpretation but expressly left open the constitutional question of whether prolonged detention without adequate procedural safeguards violates due process.

31. Under the balancing framework set forth in Mathews v. Eldridge, 424 U.S. 319 (1976), due process requires additional safeguards where the risk of erroneous deprivation of liberty is high.

32. Here, Petitioner's private interest—freedom from physical restraint—is fundamental. Her prior proceedings were reopened and later dismissed by the Immigration Judge, and she has a pending Form I-130 petition. Those circumstances warrant careful review of the legal basis for her current detention.

33. Accordingly, due process requires, at a minimum, a prompt individualized bond hearing at which the government bears the burden of justifying continued detention.

THIRD CAUSE OF ACTION:

DETENTION IS NOT REASONABLE RELATED TO A LEGITIMATE GOVERNMENT PURPOSE

34. Civil immigration detention must remain regulatory, not punitive. It is constitutionally permissible only insofar as it reasonably serves legitimate government objectives, such as ensuring appearance at proceedings or protecting the community. See Zadvydas, 533 U.S. at 690.

35. Where detention no longer bears a reasonable relationship to these purposes, continued confinement violates due process.

36. Respondents must establish a lawful basis for Petitioner's continued confinement. Petitioner's immigration proceedings were dismissed by the Immigration Judge on March 11, 2024, and she presently has a pending Form I-130 petition.

37. If Respondents cannot establish lawful authority for Petitioner's continued detention, continued confinement is arbitrary and excessive in relation to any legitimate governmental objective.

38. Petitioner therefore requests that this Court determine whether her current confinement is authorized by law and consistent with the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1) Assume jurisdiction over this matter;

2) Enjoin Respondents from transferring the Petitioner outside the jurisdiction of the Court pending the resolution of this case;

3) Issue a Writ of Habeas Corpus Ordering Respondents to release Petitioner immediately or, alternatively, grant release under reasonable conditions of supervision as the Court deems appropriate;

4) Declare that Petitioner's continued detention is unlawful if Respondents cannot establish a valid statutory and constitutional basis for her confinement;

5) Declare that Petitioner is entitled to the procedural protections required by the Due Process Clause in connection with her present detention; and

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

Respectfully submitted this August 20, 2026

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Attorney for Plaintiff

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

I represent Petitioner, Yajaira Gabriela Castro Carias, and submit this verification on her 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 this August 20, 2026

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