

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

\_\_\_\_\_  
GISELA MIREYA CALDERON CAMPOS, )

A.Y. CAMPOS CALDERON, *a minor, by* )  
*and through her next friend Gisela Mireya* )  
*Calderon Campos,* )

S.I. CAMPOS CALDERON, *a minor, by* )  
*and through his next friend Gisela Mireya* )  
*Calderon Campos,* )

*Petitioners,* )

v. )

KRISTI NOEM, Secretary of Homeland )  
Security, )

PAMELA BONDI, Attorney General, )

RUSSELL HOTT, Field Office Director, )  
Immigration and Customs Enforcement, )  
Washington Field Office, )

PATRICK DIVVER, Deputy Field )  
Office Director, Immigration and Customs )  
Enforcement, Washington Field Office, )

*Respondents.* )  
\_\_\_\_\_ )

Civ. Action No. 1:25cv309

**PETITION FOR WRIT OF HABEAS CORPUS  
AND COMPLAINT FOR INJUNCTIVE RELIEF**

1. Petitioner Gisela Mireya Calderon Campos ("Ms. Calderon Campos") and her two minor children, Petitioners A.Y. and S.I., are natives of El Salvador who were lawfully paroled into the United States and allowed to move to Virginia, where they developed ties to the community. A.Y. is a citizen of the United States by birthright, and Ms. Calderon Campos and S.I.

are presently eligible to adjust status to lawful permanent resident as immediate relatives of a U.S. citizen. All three Petitioners presented themselves for a routine check-in appointment with U.S. Immigration and Customs Enforcement ("ICE") in Chantilly, Va. on February 11, 2025, when they were detained without any forewarning. Since that date, they have been held in custody by ICE without any basis in law as to Petitioner A.Y., and in violation of the Fifth Amendment of the United States Constitution as to all three Petitioners.

### **JURISDICTION AND VENUE**

2. This action arises under the Immigration and Nationality Act of 1952 ("INA"), as amended, 8 U.S.C. § 1101 *et seq.*, and the Due Process Clause of the Fifth Amendment to the United States Constitution. This Court has jurisdiction pursuant to Art. I, § 9, cl. 2 of the United States Constitution; 28 U.S.C. § 2241 (general grant of habeas authority to the district courts); 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. §§2201, 2202 (Declaratory Judgment Act); and 28 U.S.C. § 1651 (All Writs Act).

3. Venue is proper under 28 U.S.C. § 1391(e)(1)(A), (B) because Respondents Hott and Divver, both of whom have a principal place of business in Fairfax, Va., are the ICE officials with immediate legal and physical custody of Petitioners; and because all of the acts and omissions complained of herein took place within the territorial jurisdiction of this Court.

### **PARTIES**

4. Petitioner Gisela Mireya Calderon Campos ("Ms. Calderon Campos") and her two minor children, petitioners A.Y. and S.I., are natives of El Salvador who were lawfully paroled into the United States on November 4, 2024.

5. Kristi Noem is the Secretary of the U.S. Department of Homeland Security. The U.S. Immigration and Customs Enforcement ("ICE") officers who unlawfully arrested Petitioners



and who continue to detain them without any legal basis do so under her supervision and in their capacity as her designees. Likewise, the immigration officer(s) who first issued expedited removal orders to Petitioners did so as her designee. She is sued in her official capacity.

6. Pamela Bondi is the Attorney General of the United States. The Immigration Judge who affirmed Petitioners' expedited removal orders did so as her designee. She is sued in her official capacity.

7. Russell Hott is the Field Office Director of the Washington Field Office of U.S. Immigration and Customs Enforcement, located in Fairfax, Va. He is the immediate custodian who is currently holding Petitioners in legal and physical custody. He is sued in his official capacity.

8. Patrick Divver is the Deputy Field Office Director of the Washington Field Office of U.S. Immigration and Customs Enforcement, located in Fairfax, Va. He is the immediate custodian who is currently holding Petitioners in legal and physical custody; and he is the individual who personally took the decision not to release Petitioners from custody, and to proceed with removing Petitioners from the United States, with full knowledge of the facts alleged herein. He is sued in his official capacity.

### **FACTUAL ALLEGATIONS**

9. Petitioners are natives of El Salvador who entered the United States on or about October 10, 2024. Petitioner Calderon Campos is the mother of A.Y., who is one year and nine months old, and S.I., who is five years old. *See* Exs. A, B (birth certificates of A.Y. and S.I.).

10. Petitioner Calderon Campos is married to a U.S. citizen, José Roberto Campos, since October 23, 2021. *See* Ex. C (marriage certificate). José has been a U.S. citizen since he naturalized on February 17, 2005. *See* Ex. D (José's naturalization certificate). José lived as a U.S.

citizen in the United States for more than five years (at least two of which were after attaining the age of fourteen years) prior to the birth of A.Y.<sup>1</sup> A.Y. is therefore a citizen of the United States pursuant to 8 U.S.C. § 1401(g).

11. Upon entry into the United States, all three Petitioners were detained by ICE. Thereafter, on October 24, 2024, all three Petitioners were paroled into the United States pursuant to 8 U.S.C. § 1182. *See* Ex. E (parole documents). All three Petitioners were allowed to proceed to Virginia, where they began to establish ties to the community, living in marital unity and as a family with José.

12. Once they were paroled into the United States, Petitioner Calderon Campos and her son S.I. became eligible to adjust status to that of lawful permanent resident pursuant to 8 U.S.C. § 1255(a). Each is an immediate relative of a U.S. citizen pursuant to 8 U.S.C. § 1151(b)(2)(A)(i), and neither is subject to any grounds of inadmissibility nor is otherwise ineligible to adjust status.

13. Once Petitioners Calderon Campos and S.I. properly file applications for adjustment of status with the Department of Homeland Security, they will be lawfully present in the United States, and therefore will not be subject to removal, while those applications are pending. If the applications are granted, they will thereupon become lawful permanent residents of the United States.

14. On November 12, 2024, Petitioner Calderon Campos was given a credible fear interview in Sterling, Va. pursuant to 8 C.F.R. § 208.30. The officer who carried out the interview determined that while Ms. Calderon Campos did credibly fear return to El Salvador due to death

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<sup>1</sup> A significant amount of physical presence evidence was sent to Respondents Hott and Divver by e-mail on Tuesday, February 18, 2025, at 4:30pm. Undersigned counsel is in the process of redacting this evidence in compliance with Fed. R. Civ. P. 5.2 and the Local Rules of this Court, and will file such redacted evidence promptly as a separate docket entry.



threats against herself and her children, her fear lacked a nexus to a protected ground; and therefore denied her credible fear interview. Ms. Calderon Campos sought review of that determination before an Immigration Judge in Sterling, Va., pursuant to 8 C.F.R. § 1003.42; and the IJ affirmed the decision on November 18, 2024. *See* Ex. F (IJ decision). Thereupon, all three Petitioners' orders of expedited removal became administratively final. 8 U.S.C. § 1225(b)(1).

15. After the expedited removal order became final, Petitioner Calderon Campos was placed on supervision with ICE pursuant to 8 U.S.C. § 1231(a), and dutifully complied with her supervision requirements.

16. On February 11, 2025, all three Petitioners dutifully attended an in-person check-in at the ICE office in Chantilly, Va., pursuant to instructions from ICE. Without forewarning, all three Petitioners were taken into custody, and Ms. Calderon Campos had to watch her two children being roughed up by ICE officers. ICE is currently detaining Petitioners under armed guard at a hotel, under the direct physical and legal custody of Respondents Hott and Divver.

17. Petitioners, by counsel, have provided ICE with all of the exhibits attached hereto, as well as significant un rebutted physical presence evidence pertaining to José.

18. Respondent Divver responded by means of an email which stated *in toto*: "ICE is in the process of executing your clients Expedited Removal Order as affirmed by an Immigration Judge. Your client has opted to be removed from the United States with both of her children. It is evident that one of the children has a probative claim to United States Citizenship; therefore, your clients are welcome to apply for admission to the United States from El Salvador."

19. This is false. Petitioner Calderon Campos has not consented that she or either of her children be removed to El Salvador, especially not Petitioner A.Y. who is a U.S. citizen; or, upon information and belief, if she has so stated, her statement was directly and proximately

induced by false representations of fact by Respondents and/or other ICE officers under their supervision and control, and without full knowledge of A.Y.'s legal rights and legal claim to U.S. citizenship.

- 20. ICE is threatening to remove all three Petitioners to El Salvador imminently.
- 21. Petitioners have exhausted all administrative remedies.

**FIRST CLAIM FOR RELIEF:  
Detention of U.S. Citizen (Petitioner A.Y.)**

- 22. Petitioners re-allege and incorporate by reference the preceding paragraphs 1-21.
- 23. ICE lacks statutory and constitutional authority to detain U.S. citizens.
- 24. ICE's continued detention of Petitioner A.Y. violates the laws of the United States and the Fifth Amendment to the U.S. Constitution.

**SECOND CLAIM FOR RELIEF:  
Expedited Removal of U.S. Citizen (Petitioner A.Y.)**

- 25. Petitioners re-allege and incorporate by reference the preceding paragraphs 1-21.
- 26. Pursuant to 8 U.S.C. § 1252(e)(2)(A), the expedited removal order of Petitioner A.Y. may be judicially reviewed by means of a petition for habeas corpus, and the habeas court may determine whether Petitioner A.Y. is an alien.
- 27. Respondent Bondi (and her designee the Immigration Judge) lack statutory and constitutional authority to order the expedited removal of individuals who are not aliens.
- 28. ICE lacks statutory and constitutional authority to carry out the expedited removal of individuals who are not aliens.
- 29. Petitioner A.Y.'s order of expedited removal is in violation of the laws of the United States and the Fifth Amendment to the U.S. Constitution.

**THIRD CLAIM FOR RELIEF:  
Detention and Removal of Individuals Entitled to Seek  
Adjustment of Status to Lawful Permanent Resident, Without**



**Meaningful Opportunity to Apply for Lawful Permanent Residency  
(Petitioners Calderon Campos and S.I.)**

30. Petitioners re-allege and incorporate by reference the preceding paragraphs 1-21.

31. Petitioners Calderon Campos and her son S.I. have been lawfully paroled into the United States and allowed to develop ties to the community. They are therefore “persons” within the meaning of the Due Process Clause of the Fifth Amendment to the U.S. Constitution.

32. Petitioners Calderon Campos and her son S.I. have a liberty interest in their freedom from physical restraint, and have a liberty and property interest in being allowed to apply for adjustment of status to lawful permanent residence.

33. If Petitioners Calderon Campos and S.I. are physically removed from the United States, they will no longer be able to apply for adjustment of status to lawful permanent residence; and they will face grounds of inadmissibility in seeking to return to the United States as lawful permanent residents by means of consular processing.

34. Respondents’ actions in detaining Petitioners Calderon Campos and her son S.I., and in threatening to remove them to El Salvador before they have an opportunity to apply for permanent residency, deprive them of their liberty and property rights without due process of law.

**PRAYER FOR RELIEF**

35. WHEREFORE, Petitioners respectfully request that this Court assume jurisdiction over this matter and enter an order:

- a) Temporarily restrain the physical removal of all three Petitioners from the United States, to maintain the status quo, preserve this Court’s habeas jurisdiction, and prevent irreparable harm;
- b) Declare that Petitioner A.Y.’s continued detention violates the laws of the United States and her due process rights;

- c) Grant the writ of habeas corpus and order Respondents to release Petitioner A.Y. forthwith, without any further supervision;
- d) Order Respondents to release Petitioner Calderon Campos as next friend and essential caretaker of Petitioner A.Y., subject to any terms of supervision they may choose in their discretion;
- e) Grant habeas corpus review of Petitioner A.Y.'s expedited removal order, and vacating said order, on the grounds that A.Y. is not an alien;
- f) Order the immediate release of Petitioners Calderon Campos and S.I.;
- g) Enjoin the removal of Petitioners Calderon Campos and S.I. for a reasonable period of time so that they may file applications for adjustment of status;
- h) Order Respondents to reimburse Petitioners' costs of suit and reasonable attorneys' fees incurred in relation to this petition, under the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- i) Grant any other relief that this Court deems just and proper.

Respectfully submitted,

Date: February 18, 2025

//s/ Simon Sandoval-Moshenberg  
Simon Y. Sandoval-Moshenberg, Esq.  
VSB No.: 77110  
Counsel for Plaintiff  
Murray Osorio PLLC  
4103 Chain Bridge Road, Suite 300  
Fairfax, VA 22030  
Telephone: (703) 352-2399  
Facsimile: (703) 763-2304  
ssandoval@murrayosorio.com



## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Gisela Mireya Calderon Campos, A.Y. Campos Calderon,  
S.I. Campos Calderon

(b) County of Residence of First Listed Plaintiff Cameron  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Murray Osorio PLLC, 4103 Chain Bridge Road, Suite 300,  
Fairfax, VA 22030, 703-352-2399

## DEFENDANTS

Kristi Noem, Pamela Bondi, Russell Hott, Patrick Divver

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

U.S. Attorney's Office, 2100 Jamieson Ave., Alexandria VA  
22314

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability		<b>INTELLECTUAL PROPERTY RIGHTS</b>	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medico Act	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<b>LABOR</b>	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting		<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<b>IMMIGRATION</b>	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 448 Education			
	<b>PRISONER PETITIONS</b>			
	<input checked="" type="checkbox"/> Habeas Corpus:			
	<input type="checkbox"/> 463 Alien Detainee			
	<input type="checkbox"/> 510 Motions to Vacate Sentence			
	<input type="checkbox"/> 530 General			
	<input type="checkbox"/> 535 Death Penalty			
	<b>Other:</b>			
	<input type="checkbox"/> 540 Mandamus & Other			
	<input type="checkbox"/> 550 Civil Rights			
	<input type="checkbox"/> 555 Prison Condition			
	<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. § 2241

Brief description of cause:

Unlawful detention and threatened removal of a U.S. citizen child; other causes of action

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

2/14/2025

SIGNATURE OF ATTORNEY OF RECORD

/s// Simon Sandoval-Moshenberg

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE