

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

LICINEA RODRIGUES-BARROS,)
)
 Petitioner,)
)
 v.)
)
 DONALD J. TRUMP, IN HIS OFFICIAL)
 CAPACITY AS PRESIDENT OF THE UNITED)
 STATES; PATRICIA HYDE, IN HER OFFICIAL)
 CAPACITY AS ACTING BOSTON FIELD)
 OFFICE DIRECTOR, IMMIGRATION AND)
 CUSTOMS ENFORCEMENT, ENFORCEMENT)
 AND REMOVAL OPERATIONS; VERMONT)
 SUB-OFFICE DIRECTOR OF IMMIGRATION)
 AND CUSTOMS ENFORCEMENT,)
 ENFORCEMENT AND REMOVAL)
 OPERATIONS; TODD M. LYONS, IN HIS)
 OFFICIAL CAPACITY AS ACTING)
 DIRECTOR, U.S. IMMIGRATION AND)
 CUSTOMS ENFORCEMENT; KRISTI NOEM,)
 IN HER OFFICIAL CAPACITY AS)
 SECRETARY OF THE UNITED STATES)
 DEPARTMENT OF HOMELAND SECURITY;)
 MARCO A. RUBIO, IN HIS OFFICIAL)
 CAPACITY AS SECRETARY OF STATE; AND)
 PAMELA BONDI, IN HER OFFICIAL)
 CAPACITY AS U.S. ATTORNEY GENERAL,)
)
 Respondents.)
 _____)

Case No. 2:25-cv-496

**AMENDED PETITION
FOR WRIT OF
HABEAS CORPUS**

**ORAL ARGUMENT
REQUESTED**

INTRODUCTION

1. This is a petition for writ of habeas corpus, filed on behalf of the Petitioner, Licinea Rodrigues-Barros (Ms. Barros), who is three months pregnant and was unlawfully arrested and shackled without a warrant by Immigration and Customs Enforcement (ICE) agents in the basement of a Brockton, Massachusetts courthouse on May 7, 2025.

2. Six years earlier, in May 2019, Ms. Barros had been charged in Brockton with a felony and a misdemeanor, arising from a dispute between her and another woman over a boyfriend. When Ms. Barros failed to appear in court for that case, the court issued a warrant. Six years later, in May 2025, Ms. Barros was arrested based on that warrant following a traffic stop in Massachusetts. She was brought to Brockton, and after she was released by the judge on conditions, she was arrested by ICE, detained in Burlington, Massachusetts, in a cell with ten other women and no beds, for a day, and then brought to Vermont, where she is currently detained at the Chittenden Regional Correctional Facility in South Burlington, Vermont.

3. Ms. Barros is three months pregnant and has a two-year-old daughter. Ms. Barros's boyfriend, Marcos Tavares, is the father of her children. Ms. Barros and Mr. Tavares live with their daughter in an apartment in East Providence, Rhode Island.

4. Ms. Barros was born and raised in Cape Verde until 2016, when she came to the United States at the age of sixteen lawfully on a six-month visa to visit her father, a lawful permanent resident, and her brother, a United States citizen. Her parents suggested that she stay in the United States, and she overstayed her visa. Ms. Barros believed that her father had filed an I-130 petition on her behalf in 2017 so that she could obtain a green card. However, when Ms. Barros recently sought documentation of that petition from her father in connection with this case, he told her that he did not in fact file a petition on her behalf. Rather, he planned to file a petition on her behalf once he obtained citizenship. Ms. Barros's father is scheduled to take his citizenship test within the next month.

5. Accordingly, to vindicate Petitioner's statutory, constitutional, and regulatory rights, this Court should grant the instant petition for a writ of habeas corpus.

JURISDICTION

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

7. 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).

8. 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

9. Venue is proper because Ms. Barros is detained at Chittenden Regional Correctional Facility, in South Burlington, Vermont, within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

10. 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).

11. 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

12. Ms. Barros has a pathway to lawful status, as her father has been a lawful permanent resident since 2010 and is scheduled to take his citizenship test within the next month. He can then petition for Ms. Barros to obtain a green card. Ms. Barros is currently detained in Vermont. She is in the custody, and under the direct control, of Respondents and their agents.

13. Respondent Donald J. Trump is named in his official capacity as the President of the United States. In this capacity, he is responsible for the policies and actions of the executive branch, including the Department of State and the Department of Homeland Security. At all relevant hereto, Respondent Trump's address is the White House, 1600 Pennsylvania Ave. NW, Washington, D.C. 20500.

14. Respondent Patricia Hyde is named in her official capacity as the Acting Field Office Director of the Boston Field Office for Immigration and Customs Enforcement ("ICE") within the United States Department of Homeland Security. In this capacity, she is responsible for the administration of immigration laws and the execution of detention and removal determinations and is a custodian of Petitioner. At all times relevant hereto, Respondent Hyde's address is Boston ICE Enforcement and Removal Operations Field Office, 1000 District Avenue, Burlington, MA 01803.

15. Respondent the Director of the Vermont Sub-Office of ICE Enforcement and Removal Operations, whose name is currently unknown to the undersigned, is named in his or her official capacity as the Director of the Vermont Sub-Office of the Boston Field Office for Immigration and Customs Enforcement ("ICE") within the United States Department of Homeland Security. In this capacity, she is responsible for the administration of immigration

laws and the execution of detention and removal determinations and is a custodian of Petitioner.

At all relevant times, the Director's address is 64 Gricebrook Road, St. Albans, VT 05478.

16. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of ICE. He administers and enforces the immigration laws of the United States, routinely conducts business in the District of Vermont, is legally responsible for pursuing efforts to remove the Petitioner, and as such is the custodian of the Petitioner. At all times relevant hereto, Respondent Lyons's address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington DC 20536-5900.

17. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner. At all times relevant hereto, Respondent Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

18. Respondent Pamela Bondi is sued in her 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, she 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 Bondi is a legal custodian of Petitioner. At all times relevant hereto, Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

STATEMENT OF FACTS

Personal and Family History

19. Ms. Barros is a citizen of Cape Verde. Her father is a lawful permanent resident who lives in Randolph, Massachusetts, with his brother (Ms. Barros's uncle), also a lawful permanent resident. Her mother remains in Cape Verde. Ms. Barros has a brother, who is a U.S. Citizen and lives in Pawtucket, Rhode Island. She has two sisters, who are lawful permanent residents and live in Boston, Massachusetts. She also has several nieces and nephews through those siblings.

20. In 2016, at the age of sixteen, Ms. Barros came to the United States lawfully on a six-month visa to visit her father and brother. Her parents suggested that she could stay in the United States, and she overstayed her visa.

21. Ms. Barros believed that her father had filed an I-130 petition on her behalf in 2017 and that that petition was still pending. However, Ms. Barros recently asked her father if he had documentation of that filing for this case and learned that he did not in fact file an I-130 on her behalf. Her father planned to file an I-130 for her once he obtained citizenship; he has his citizenship test scheduled within the next month.

22. Ms. Barros has a two-year-old daughter, A.T., with her boyfriend, Marcos Tavares, and she is currently three months pregnant with their second child. Mr. Tavares is a lawful permanent resident, and he lives and works in East Providence, Rhode Island. A.T. remains with Mr. Tavares at the couple's apartment in East Providence while Ms. Barros is detained.

Arrest and Detention

23. In May 2019, when Ms. Barros had just turned nineteen, she was charged with one count of felony assault and battery with a dangerous weapon (pavement) and one count of misdemeanor assault and battery in Brockton, Massachusetts. These charges arose from a dispute between Ms. Barros and another woman over a boyfriend. Ms. Barros failed to appear for a pretrial hearing in that case, and a warrant was issued.

24. Six years later, on May 7, 2025, Ms. Barros was pulled over for a traffic violation in Massachusetts, and when they ran her license, it indicated that there was an outstanding warrant. She was taken into custody and brought to court in Brockton, Massachusetts the next day, May 8. After her appearance in court, Ms. Barros was released by the judge on personal recognizance with conditions until the next scheduled court date on June 6, 2025.

25. Ms. Barros was brought down to the basement of the courthouse to be processed for release. Suddenly, two plain-clothes individuals appeared and began placing her in handcuffs and putting shackles on her ankles and around her belly. These individuals did not identify themselves or show her any documentation or warrant for her arrest. The guard for the courthouse told Ms. Barros that they were Immigration and Customs Enforcement (ICE) agents, and he told the agents that they should not shackle her because she was pregnant. The ICE agents said they knew, yet they proceeded to shackle her. Ms. Barros asked the ICE agents if she was going to prison, and they told her that they did not know, they just transported people.

26. The ICE agents brought Ms. Barros to an unmarked car and placed her inside. They transported her in shackles to a facility in Burlington, Massachusetts, about an hour away from the courthouse. They took her fingerprints and gave her a Notice to Appear in Immigration Court on May 27, 2025. Ms. Barros was told that she had overstayed her visa.

27. In Burlington, Massachusetts, Ms. Barros was kept in a room with ten other women and no beds for a day and a half.

28. On May 9, 2025, Ms. Barros was transported to Vermont and arrived at Chittenden Regional Correctional Facility (CRCF), in South Burlington, Vermont at around 1:00 a.m., where she has remained since. She is being held in a room with three other women who are also ICE detainees. Every few days, her cellmates change as ICE rapidly moves other detainees in and out of the facility, often in the middle of the night or early morning.

29. Since being detained, Ms. Barros has been experiencing persistent nausea, dizziness, and headaches. She is very concerned for her own health and the health of her unborn child.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Procedural Due Process

30. Petitioner realleges and incorporates by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

31. The Due Process Clause of the United States Constitution applies to “all persons within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 679 (2001).

32. Immigration detention must further the twin goals of ensuring a noncitizen’s appearance during removal proceedings and preventing danger to the community.

33. In light of these goals, Ms. Barros’s detention is wholly unjustified. Indeed, it bears no reasonable relation to any legitimate government purpose.

34. Ms. Barros is not a flight risk. She has significant family ties in Massachusetts and Rhode Island, including a two-year-old daughter. She has been living in that area since she arrived to the United States nine years ago. Her life, community, and work are all there.

35. Ms. Barros is not a danger to the community. She has no convictions, and there is no other legitimate reason to regard her as a danger to the community.

36. The sole basis for Ms. Barros's detention is the Respondents' broad policy to create a climate of fear among immigrants and discourage migration to the United States.

COUNT TWO
Violation of Fourth Amendment and 8 U.S.C. § 1357(a)(2)

37. Petitioner realleges and incorporates by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

38. The Fourth Amendment "applies to aliens and non-citizens alike." *Cotzojay v. Holder*, 725, F.3d 172, 181 (2d Cir. 2013).

39. Section 1357(a) of Title 8 of the U.S. Code provides that an immigration officer can make a warrantless arrest only "if he has reason to believe that the [person] so arrested is in the United States in violation of any such law or regulation and *is likely to escape before a warrant can be obtained for [her] arrest.*"

40. ICE agents conducted a warrantless arrest of Ms. Barros without any reasonable basis to believe that she was such an immediate flight risk that they would not have time to obtain a warrant.

COUNT THREE
Violation of Fifth Amendment Substantive Due Process

41. Petitioner realleges and incorporates by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

42. Under the Fifth Amendment, a civil immigration detainee “may not be punished at all.” *Darnell v. Pineiro*, 849 F.3d 17, 35 & 21 n.3 (2d Cir. 2017). Such a detainee cannot be deprived of her basic human needs or exposed to conditions that pose an unreasonable risk of serious damage to her future health. *Id.* at 30.

43. It is well-established that incarceration for a pregnant person poses significant and unique harm to the person and their unborn child. In particular, shackling a pregnant person poses profound risks to that person and their unborn child.

44. Ms. Barros’s incarceration serves no legitimate non-punitive purpose and exposes her, as a pregnant woman, to an unreasonable risk of serious damage to her future health and the health of her unborn child.

45. ICE’s conduct in shackling Ms. Barros for a significant period of time when they knew she was pregnant poses an unreasonable risk of serious damage to her and her unborn child and is likely to recur if she remains in ICE’s custody.

COUNT FOUR

Violation of Tenth Amendment and Common Law Privilege Against Courthouse Arrests

46. Petitioner realleges and incorporates by reference the allegations contained in the preceding paragraphs as if fully set forth herein.

47. The Tenth Amendment provides, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” U.S. Constitution, amend. X.

48. The common-law privilege against civil courthouse arrests is a centuries-old privilege that has been incorporated into the Immigration and Nationality Act. See *Velazquez-Hernandez v. U.S. Immigrations and Customs Enforcement*, 500 F. Supp. 3d 1132, 1143 (S.D. Cal. 2020); *New York v. U.S. Immigration & Customs Enforcement*, 431 F. Supp. 3d 377, 392 (S.D.N.Y. 2019); see also *Washington v. U.S. Dep't of Homeland Security*, 614 F. Supp. 3d 863, 878-79 (W.D.Wa. 2020).

49. The arrest of Ms. Barros in a state courthouse for a civil immigration matter exceeded the authority of the United States, violating the Tenth Amendment and the common law privilege against courthouse arrests, as incorporated in the INA.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be transferred outside the District of Vermont;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (4) Declare that Petitioner's detention violates the Fifth Amendment right to procedural and substantive due process; the Fourth Amendment right against warrantless seizure; 8 U.S.C. § 1357(a)(2); the Tenth Amendment; and the common law privilege against courthouse arrests, as incorporated into the INA.
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Briana Hauser

Briana Hauser

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Counsel for Petitioner

Dated: May 21, 2025

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

I represent Petitioner, Licinea Rodrigues-Barros, 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 21st day of May, 2025.

/s/ Briana Hauser
Briana Hauser