IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

VALENTINA GALVIS CORTES, and N-A- (a minor), Petitioners,	**Case No. 1:25-cv-06293**
v.	**Honorable Matthew F. Kennelly**
Sam Olson, IMMIGRATION CUSTOMS ENFORCEMENT AND REMOVAL OPERATIONS CHICAGO FIELD OFFICE DIRECTOR; Sandra Salazar, IMMIGRATION CUSTOMS ENFORCEMENT AND REMOVAL OPERATIONS CHICAGO FIELD OFFICE DIRECTOR; Marcos Charles, ACTING EXECUTIVE ASSOCIATE DIRECTOR, ENFORCEMENT AND REMOVAL OPERATIONS; Todd M. Lyons, ACTING DIRECTOR, IMMIGRATION CUSTOMS ENFORCEMENT, Madison Sheahan, DEPUTY DIRECTOR, IMMIGRATION CUSTOMS ENFORCEMENT; Kristi Noem, SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY; Pam Bondi, ATTORNEY GENERAL OF THE UNITED STATES; Donald J. Trump, PRESIDENT OF THE UNITED STATES Respondents.	**Civil Action**

PETITIONER'S REPLY TO RESPONDENT'S MEMORANDUM IN OPPOSITION

INTRODUCTION

This case is before the Court on a petition for habeas corpus after Petitioner's unlawful arrest and detention (purportedly) pursuant to 8 U.S.C. § 1225(b)(1) at the Chicago Immigration Court on June 5, 2025. Petitioner submits this reply in support of her request for relief under 28 U.S.C. § 2241. Petitioner asks this Court to declare that the Department of Homeland Security

(DHS)'s attempt to remove her through expedited removal proceedings under 8 U.S.C. § 1225(b) was unlawful given that she was previously placed in standard removal proceedings under 8 U.S.C. § 1229a, because she has remained continuously in the United States for over two years, the Immigration Judge's (IJ) order dismissing her standard removal proceedings was not administratively final, and because she had timely appealed that order dismissing her standard removal proceedings to the Board of Immigration Appeals (BIA). Federal courts retain jurisdiction to review whether DHS has lawfully designated a noncitizen for expedited removal and to prevent the unlawful circumvention of statutory removal procedures.

PROCEDURAL BACKGROUND

Petitioner entered the United States in 2022 and was promptly served with a Notice to Appear. She complied with the requirements of removal proceedings under § 1229a, attended scheduled hearings, and filed her asylum application. In June 2025, when her case was dismissed before the immigration court, DHS abruptly shifted course and attempted to subject her to expedited removal under § 1225(b).

Petitioner was detained under that unlawful regime and subjected to a credible fear interview. She ultimately passed the interview, and her case was restored to § 1229a proceedings. Nonetheless, DHS has continued to impose restrictive conditions, including an electronic ankle monitor and ICE check-ins, that directly stem from the unlawful expedited removal placement.

Meanwhile, Petitioner's case remains pending before the Board of Immigration Appeals, which has issued a briefing schedule that will determine the course of her removal proceedings.

LEGAL STANDARD AND JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 2241 to review whether DHS is lawfully detaining or attempting to remove a noncitizen, especially where fundamental statutory or

constitutional protections are at stake. The Supreme Court has repeatedly confirmed that habeas corpus remains available to test the legality of executive detention and removal. In *INS v. St. Cyr*, 533 U.S. 289, 314 (2001), the Court held that noncitizens may seek habeas review of purely legal and constitutional claims when no other adequate remedy exists. While 8 U.S.C. § 1252(e)(2) restricts certain individual challenges to final expedited removal orders, it does not eliminate this Court's jurisdiction to decide whether DHS has lawfully invoked expedited removal at all.

ARGUMENT

II. DHS Elected the § 1229a Path and Cannot Retroactively Reassign Petitioner to Expedited Removal

From the outset, DHS chose to pursue Petitioner's case under the regular removal process of § 1229a from February 2022 through June 2025. They served her with a Notice to Appear, scheduled hearings, accepted pleadings, and received her timely asylum application. By these actions, DHS elected to proceed under the statutory framework of § 1229a. Established precedent recognizes that once the government initiates and pursues removal under § 1229a, it cannot later abandon that path and force an individual into expedited removal for tactical convenience.

Here, the Immigration Judge's dismissal of her case has been appealed, and the appeal remains pending before the BIA. Until the BIA rules, the IJ's order is not final, and Petitioner remains in § 1229a proceedings. Respondents, therefore, had no statutory authority to reassign her case to expedited removal suddenly. Their decision to do so was arbitrary, unauthorized, and unlawful.

III. The Government's Abrupt Reassignment Violated Petitioner's Due Process Rights

The Constitution permits Congress to withhold certain protections from newly arriving individuals at the border. But Petitioner does not fall within that category. She has been in the United States for more than two years, has fully complied with the requirements of § 1229a proceedings, and relied on DHS's election to litigate her case in that forum.

The Supreme Court has held that individuals in this position may invoke due process rights absent from expedited removal. *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). DHS violated these rights when it seized Petitioner without a meaningful hearing and attempted to arbitrarily reroute her case from § 1229a proceedings to expedited removal.

DHS v. Thuraissigiam, 591 U.S. 103 (2020), does not insulate DHS's actions. That case involved a true "arriving alien" at the border who was immediately placed into expedited removal proceedings under § 1225(b). By contrast, Petitioner had long been in § 1229a proceedings. She is entitled to a full asylum hearing before an immigration judge, and DHS's attempt to shortcut that process deprived her of basic fairness.

IV. This Court Has Jurisdiction to Remedy DHS's Statutory and Constitutional Overreach

This petition challenges DHS's statutory authority to place Petitioner in expedited removal and to impose detention and ongoing restraints resulting from that unlawful decision. Petitioner does not seek review of factual findings or discretionary determinations. She seeks judicial review of whether DHS acted within the law, which is precisely the kind of claim habeas review exists to address.

In *INS v. St. Cyr*, 533 U.S. 289 (2001), the Supreme Court confirmed that habeas jurisdiction extends to questions of statutory authority over detention. Similarly, in *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Court emphasized that detention exceeding statutory limits is

unlawful and subject to habeas relief. Section 1252(e)(2) explicitly preserves habeas review to determine whether an individual was properly placed in expedited removal. Where, as here, DHS lacked statutory authority to invoke § 1225(b), the Court has the power to remedy the violation.

The remedy under § 1252(e)(4)(B) is to ensure Petitioner receives full § 1229a proceedings and fits her case precisely. Although she is now back in those proceedings after passing her credible fear interview, the unlawful shift to expedited removal continues to restrain her liberty without a statutory basis and causes her ongoing harm through her electronic monitoring and ICE reporting requirements. The Court has jurisdiction to declare these restraints unlawful and to order her full release from restrictions stemming from DHS's statutory overstep.

CONCLUSION

Petitioner was lawfully placed into standard removal proceedings under 8 U.S.C. § 1229a and never received a final order of removal. DHS unlawfully reclassified her as an individual newly subject to expedited removal under 8 U.S.C. § 1225(b). This Court has jurisdiction under 28 U.S.C. § 2241 to review whether DHS's actions comply with statutory and constitutional requirements. For these reasons, Petitioner respectfully requests that the Court declare her placement in expedited removal unlawful, hold that her detention and continuing restraints lack a statutory basis, and order that she not be subjected to further monitoring or detention tied to her improper expedited removal. Petitioner further asks the Court to ensure that her case proceeds solely under § 1229a, where she can pursue her asylum claim without unlawful interference, and to grant such other relief as the Court deems just and proper.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, the undersigned attorney, William Gaston McLean III, certify that I electronically filed the Petitioner's Reply to Respondent's Memorandum in Opposition with the Clerk of the Court using the CM/ECF system on August 18, 2025. Pursuant to FED. R. CIV. P. 5(b)(3) and the Northern District of Illinois L.R. 5.9. I have thereby electronically served all Filing Users with a copy of Plaintiffs' Petitioner's Reply to Respondent's Memorandum in Opposition.

I, the undersigned attorney, William Gaston McLean III, certify that I have also served a copy of the Petitioner's Reply to Respondent's Memorandum in Opposition by email on Craig Oswald, Catherine Manahan, and Joshua Press, the attorneys for the Assistant United States Attorney's Office, at the following email addresses on August 18, 2025:

Craig.Oswald@usdoj.gov
Catherine.Manahan@usdoj.gov
Joshua.Press@usdoj.gov

Signed,

/s/ *William Gaston McLean III*
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