

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

CLAUDIA YADIRA ALVARENGA
ESPANA AKA BENITA CASTILLO-
LOPEZ,

Petitioner,

v.

TODD M. LYONS, *et al.*

Respondents.

Case No. 1:25-cv-950 (MSN/IDD)

**PETITIONER'S REPLY BRIEF IN SUPPORT OF PETITIONER'S COMPLAINT FOR INJUNCTIVE
RELIEF**

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Petitioner Claudia Yadira Alvarenga Espana, aka Benita Castillo-Lopez, respectfully submits her Reply Brief as ordered by this Court on June 9, 2025.

INTRODUCTION

Petitioner Claudia Yadira Alvarenga Espana aka Benita Castillo-Lopez is a Guatemalan national with an affirmative asylum application in March 2025, which is currently pending. She was apprehended by ICE in Chantilly, Virginia, on June 3, 2025. A stay of removal was filed at the Washington Field Office on June 4, 2025, and an emergency habeas petition was submitted in this Court on June 6, 2025. Despite this, the government transferred Petitioner to Louisiana and subsequently deported her to her home country of Guatemala on June 10, 2025. Approximately 25-30 minutes after deplaning, an officer approached her and notified her that her attorney had filed something for her case. She had just started some paperwork but was given the choice to stay in Guatemala or return to the United States. After calling her husband, Jhoan Mesen Jimenez, they decided that it would be best if she came back to the United States. Declaration of Jhoan Mesen Jimenez PEX1 ¶3; PEX2, Marriage Certificate of Claudia Alvarenga Espana and Jhoan Mesen Jimenez; PEX3, Call Log. She arrived back in the United States on the same day and was received by Karnes County Immigration Processing Center on June 10, 2025, at 11:46:03pm. PEX4 ERO Transfer Notification dated June 10, 2025.

DISTRICT COURT PETITION FOR HABEAS CORPUS

Jurisdiction Is proper. Ms. Alvarenga does not challenge the validity of her original removal order; she challenges its execution in violation of law and Court orders. Courts uniformly hold that challenges to detention and removal procedures fall within the district court's habeas jurisdiction despite 8 U.S.C. §1252(a)(5). For example, the Ninth Circuit rejected a government plea to dismiss under §1252, holding that a wrongful arrest and detention of a long-time resident were not barred by §1252 because the claim attacked "the legality of [the officer's] detention," not a decision "to commence proceedings" or "execute removal orders." *Sissoko v. Rocha*, 412 F.3d 1021, 1023 (9th Cir. 2005) (en banc) (petitioners' claims for unlawful detention were cognizable despite §1252). Similarly here, Petitioner challenges the arbitrary removal and detention despite a pending withholding claim and a TRO – not the merits of the underlying order. Those factual challenges squarely invoke §2241, which "broadly grants federal courts the power to award habeas corpus relief to petitioners who are in custody in violation of federal

law,” and affirms that “absent suspension, the writ of habeas corpus remains available to every individual detained within the United States.” *Joshua M. v. Barr*, 439 F. Supp. 3d 632, 669 (E.D. Va. 2020) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004)). The ordinary bar of §1252(a)(5) thus does not apply. Moreover, this case falls within well-recognized exceptions to the “immediate custodian/district of confinement” rule. Ms. Alvarenga’s counsel diligently monitored her status and in fact learned only belatedly that ICE had transported her out of the Eastern District. Under *Rumsfeld v. Padilla*, the Supreme Court noted that when a detainee is “spirited” to an unknown location so that his lawyer cannot reasonably know where to file, “habeas jurisdiction would be in the district court from whose territory the petitioner had been removed.” 542 U.S. 426, 454 (2004) (Kennedy, J., concurring). The Fourth Circuit and other courts have given that concurrence particular weight where, as here, the government’s actions had the purpose or effect of confusing venue. See, e.g., *Ozturk v. Trump*, No. 3:25-cv-1019, 2025 WL 1318154, at *4-*5 (2d Cir. May 7, 2025); *Ozturk v. Trump* (D. Vt.), 2025 WL 1145250, at *9-*10 (Apr. 18, 2025). Applying these principles, this Court recently held that EDVA had jurisdiction over a habeas petition filed by a petitioner who had been abruptly moved through multiple districts, because counsel could not know his location. *Suri v. Trump*, No. 1:25-cv-480, 2025 WL 1310745, at *2 (E.D. Va. May 6, 2025). There, the Court denied the government’s motion to dismiss and specifically ruled that this Court “has proper habeas jurisdiction to consider the Petition.”

Likewise here, Ms. Alvarenga’s attorneys filed in this District as soon as they reasonably could (while she was in EDVA custody), and ICE thereafter moved her under cover of night at 12:48am the day after the stay of removal was filed with ICE. Under *Padilla* (and Fourth Circuit decisions applying it), habeas jurisdiction properly lies here. The government’s contrary reliance on 8 U.S.C. §1252(a)(5) is misplaced. That provision closes only the statutory habeas writ when “a petition is filed to request review of” a removal order, not where the petition challenges how the order was carried out. As in *Sissoko*, the bar of §1252 does not reach claims that the government executed removal in violation of law or court orders. Ms. Alvarenga’s petition is a core habeas challenge to her present custody, not a collateral attack on the merits of any judgment of removal. Accordingly, jurisdiction properly lies here in this Court.

**ICE VIOLATED DUE PROCESS AND THE TEMPORARY RESTRAINING ORDER ISSUED
BY THIS COURT ON JUNE 9, 2025**

The government's removal of Ms. Alvarenga in the face of a pending TRO and habeas petition egregiously violated due process. Courts have long recognized that injunctive orders – especially federal judges' orders – must be obeyed by all officers of the court. Here the Court had issued a TRO to preserve the status quo, and Petitioner had a live entitlement to withhold-of-removal proceedings, having expressed a fear of return and claimed victimhood of human trafficking. By proceeding with removal anyway, ICE denied her any hearing on that claim and flouted this Court's order. Such conduct is a blatant breach of the Fifth Amendment's guarantee of fair process and the Court's authority.

Moreover, immigration regulations themselves required that Petitioner be protected, not deported. By 8 C.F.R. §241.8(e), if a reinstated-order alien expresses a fear of return, ICE "shall immediately refer []" her for an asylum officer interview. Here Petitioner had affirmatively done so and was pursuing withholding-only relief (the statutory process for aliens with a credible fear claim), yet the government ignored her due process rights to a reasonable fear interview §241.8(e) and instead proceeded to remove her. The Fifth Amendment does not tolerate such contemptuous disregard of law. It is well settled that federal officers may not be excused for violating court orders; the Constitution "requires that the Government follow fair procedures before depriving any person of life, liberty, or property." Cf. *Trump v. Sierra Club*, 597 U.S. ___, ___, 2022 WL 1999792, at *13 (2022). Furthermore, neither Counsel for the Respondent, nor the accompanying Declaration of Justin L. Richardson, mention the fact that on June 10, 2025, Petitioner was removed to Guatemala in spite of this Court's order barring removal of Petitioner. PEX1; PEX2; PEX3; *see* REX.

By removing Ms. Alvarenga in defiance of this Court's TRO and binding regulations, Respondents deprived her of the most basic due process – an opportunity to pursue her protection claim in immigration court – and thereby rendered her detention unlawful. The Court must enforce its injunction and return Petitioner to the status quo ante.

REINSTATEMENT OF THE REMOVAL ORDER WAS UNLAWFUL

The government relies on 8 U.S.C. §1231(a)(5) to "reinstate" the prior order after Petitioner's reentry. But §1231(a)(5) applies only when an alien illegally reenters after removal. Ms. Alvarenga's "reentry" was not

voluntary or illegal in the ordinary sense but compelled by traffickers. She is a victim of human trafficking, and U.S. law affords special protection to such victims (including eligibility for T nonimmigrant status and exemptions from certain deportation grounds). Nothing in §1231(a)(5) suggests it was intended to sweep in trafficking victims who were forced back into the United States under duress. In any event, Petitioner's trafficking and fear claims mandate that she be afforded an opportunity to meaningfully seek that relief. By regulation, once the prior order is reinstated an alien with a fear claim must be referred for an interview and only removed after that process. ICE never complied with that rule when they deported Petitioner to Guatemala on June 10, 2025. Nor did Petitioner "depart voluntarily" in any meaningful sense; she was rescued by U.S. authorities from servitude, not on a self-initiated return trip. To treat her as a freely "illegally reentering" alien would trivialize Congress's intent in the Trafficking Victims Protection Act and related provisions, which presume trauma and coercion, not free choice. In short, Petitioner's circumstances fall far outside the paradigm of §1231(a)(5). Reinstating her old removal order under these facts was without statutory or constitutional authority.


**RELIEF – IMMEDIATE RELEASE FROM ICE CUSTODY AND TO EFFECTUATE A RESTRAINING
ORDER STAYING HER REMOVAL**

The only adequate remedy is to grant Petitioner immediate release and permission to stay so she can pursue her withholding-only claim and T visa with the process she is due. Given ICE's violation of the TRO and her fundamental rights, continued detention under these conditions is unlawful. This Court therefore should order Respondents to restore Petitioner to custody in this district, direct her release, and quash any order preventing her from proceeding with her CAT/withholding claim and T visa. Without such relief, her petition will be irreparably mooted, and her rights extinguished by the very actions challenged. The extraordinary circumstances here – government defiance of court orders and removal of a trafficking victim claiming fear – demand immediate judicial intervention.

CONCLUSION

For the foregoing reasons, and the reasons stated in Petitioner's opening brief, this Court should reject the government's jurisdictional and statutory arguments, hold that Ms. Alvarenga's removal was unlawful, and order her immediate release so that she may obtain the due process protections of the immigration courts.

Respectfully submitted this 13th day of June 2025,

A handwritten signature in cursive script, reading "David Kim", is positioned above a solid horizontal line.

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