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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

<b>A.P.C.G.</b>	)	
	)	Case No. 1:25-cv-6610
Petitioner,	)	
	)	<b>PETITION FOR WRIT OF</b>
v.	)	<b>HABEAS CORPUS</b>
	)	
<b>MICHAEL J SMITH</b> , Warden, Broadview	)	
Processing Center; <b>LADEON FRANCIS</b> , Director	)	
of Chicago Field Office,	)	<b>ORAL ARGUMENT</b>
U.S. Immigration and Customs Enforcement;	)	<b>REQUESTED</b>
<b>KRISTI NOEM</b> , Secretary of the U.S. Department	)	
of Homeland Security; and <b>PAMELA BONDI</b> ,	)	
Attorney General of the United States,	)	
in their official capacities,	)	
	)	
Respondents.	)	
	)	

**INTRODUCTION**

This is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. §2241 on behalf of F.J.C.G., a native and citizen of Venezuela, by and through ers attorneys, seeking relief to remedy his unlawful detention by Respondents.

On September 30, 2025 Petitioner entered the U.S. with her minor child, then 6 years old. Petitioner encountered immigration and was released. On January 16, 2024 Respondent DHS began removal proceedings by initiating a case with the Executive Office of Immigration Review (EOIR). On January 22, 2024 Petitioner filed an I-589 Application for Asylum and Withholding

of Removal with EOIR which remains pending. The next scheduled court date is March 30, 2026.

On June 14, 2025, individuals from the Immigration and Customs Enforcement Agency (ICE) arrested Petitioner while operating her motor vehicle with a valid Illinois Driver's License and took her to Broadview Processing Center in Broadview, Illinois where she is currently located.

### **CUSTODY**

1. Petitioner is in the physical custody of Respondent Ladeon Francis, Director of Chicago Field Office, U.S. Immigration and Customs Enforcement (ICE); the Department of Homeland Security (DHS); and Respondent Michael J. Smith, Warden of Broadview Processing Center (BPC) in Broadview, Illinois. Upon information and belief, today, June 14, 2025 Petitioner is detained at BPC in Broadview, Illinois. Petitioner is under the direct control of Respondents and their agents.

### **JURISDICTION**

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

3. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Fifth Amendment to the United States Constitution (Due Process Clause).

4. This Court has jurisdiction under 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.

5. 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**

6. Venue is proper because today, April 14, 2025, Petitioner is detained at Broadview Processing Center in Broadview, Illinois, which is within the jurisdiction of this District.

7. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District and Petitioner resides in this District and no real property is involved in this action. 28 U.S.C. § 1391(e).

### **REQUIREMENTS OF 28 U.S.C. § 2243**

8. 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).

9. 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**

10. Petitioner is an asylum seeker from Venezuela. At the time of her arrest, Petitioner resided in Elgin, Illinois. She is in the custody, and under the direct control, of Respondents and their agents at Broadview Processing Center in Broadview, Illinois.

11. Respondent Michael J. Smith is the Warden of Broadview Processing Center and has immediate physical custody of Petitioner pursuant to the facility's contract with ICE to detain noncitizens. Petitioner is in the legal custody of Respondent Smith.

12. Respondent Ladeon Francis is sued in his official capacity as the Director of the Chicago Field Office of U.S. Immigration and Customs Enforcement. Respondent Francis is a legal custodian of Petitioner and has authority to release her.

13. 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, the component agency responsible for Petitioner's detention and custody. Respondent Noem is a legal custodian of Petitioner.

14. 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.

#### **STATEMENT OF FACTS**

15. On or about September 30, 2025, Petitioner entered the United States. Petitioner encountered U.S. immigration officials from DHS, was fingerprinted and released. On or about

January 22, 2024, Petitioner filed an I-589 Application for Asylum and Withholding of Removal with EOIR. That application remains pending

16. On June 14, 2205, ICE arrested Petitioner without obtaining a judicial warrant and in violation of the *Nava* Settlement Agreement (*Castañon Nava et al. v. Dep't of Homeland Security et al.*, No. 18-cv-3757 (N.D. Ill.)). Upon information and belief, Petitioner was placed in the custody of ICE and taken to the Broadview Processing Center in Broadview, Illinois where she is currently being detained.

### **LEGAL FRAMEWORK**

17. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response “within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” 28 U.S.C. § 2243 (emphasis added).

18. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

19. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious.”). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.

20. Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during “the removal period,” which is defined as the 90-day period beginning on “the latest” of either “[t]he date the order of removal becomes administratively final”; “[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the [noncitizen], the date of the court’s final order”; or “[i]f the [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement.”

21. Individuals subject to removal proceedings are statutorily required to have an opportunity to examine evidence against them and to be heard. Pursuant to 8 U.S.C. § 1229a(b)(1)(B), the alien subject to removal proceedings “shall have a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien's own behalf, and to cross-examine witnesses presented by the Government [...].”

22. Moreover, an immigration judge shall make the determination of whether an alien is removable at the conclusion of removal proceedings and based on only the evidence produced at the hearing. 8 U.S.C. § 1229a(c)(1)(A).

23. Absent a final removal order, an alien may be removed under specific circumstances, such as expedited removal (INA § 235(b)(1); 8 U.S.C. § 1225(b)(1)), reinstatement of removal (INA § 241(a)(5); 8 U.S.C. § 1231(a)(5)), stipulated removal (8 C.F.R. § 1003.25(b)), or administrative removal for aggravated felons (INA § 238(b); 8 U.S.C. § 1228(b)). None of those specific circumstances apply to Petitioner.

**CLAIMS FOR RELIEF**

**COUNT ONE**

**Violation of Fifth Amendment Right to Due Process**

24. The allegations in the above paragraphs are realleged and incorporated herein.

25. Petitioner's detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment of the U.S. Constitution.

26. The Fifth Amendment of the U.S. Constitution guarantees that "no person shall be deprived of life, liberty, or property without due process of law." U.S. Const. amend. V. This protection applies to both citizens and non-citizens within the United States.

27. For these reasons, Petitioner's arrest and detention violates the Due Process Clause of the Fifth Amendment.

**COUNT TWO**

**Violation of 8 U.S.C. § 1229a(b)(1)(B)**

28. The allegations in the above paragraphs are realleged and incorporated herein.

29. The Immigration and Nationality Act (INA) at 8 U.S.C. § 1229a(b)(1)(B) requires that an alien subject to removal proceedings be given a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien's own behalf, and to cross-examine witnesses presented by the Government. Petitioner's next immigration court hearing on March 30, 2026. Petitioner has not had a reasonable opportunity to examine the evidence against her, present evidence on her own behalf or cross-examine witnesses prior to her detention. The reason for Petitioner's arrest and detention is unknown.

30. Furthermore, should Respondents transfer Petitioner to facilities outside of the Chicago Immigration Court's jurisdiction and/or remove Petitioner from the United States before

an Immigration Judge has fully adjudicated his case and entered a removal order, Petitioner will be permanently barred from exercising his rights under 8 U.S.C. § 1229a(b)(1)(B).

31. For these reasons, Petitioner's detention violates 8 U.S.C. § 1229a(b)(1)(B).

**COUNT THREE**  
**Violation of 8 U.S.C. § 1229a(c)(1)(A)**

32. The allegations in the above paragraphs are realleged and incorporated herein.

33. The INA at 8 U.S.C. § 1229a(c)(1)(A) states that an immigration judge shall decide whether an alien is removable from the United States based only on the evidence produced at the hearing.

34. Petitioner's removal proceedings have not concluded. Petitioner's asylum claim likewise remains adjudicated

35. On information and belief, Respondents intend to remove Petitioner from the United States before the Immigration Court has made a decision about Petitioner's asylum application.

36. Absent a removal order entered by an immigration judge, an alien may only be removed under specific circumstances. Under INA § 235(b)(1), individuals may be subject to expedited removal if they are arriving at a port of entry without proper documents, or if they entered without inspection and are caught within 100 miles of the border and within 14 days of entry. However, individuals are exempted from expedited removal if they have a fear of persecution upon return to their home country. Petitioner is not subject to expedited removal under INA § 235 because at the time of her entry, she expressed fear of persecution upon return to Venezuela and was therefore placed in proceedings pursuant to INA § 240 to adjudicate her claim for asylum.



37. Additionally, Petitioner has not agreed in writing to be removed without a hearing and she has not committed any crimes. Therefore, Petitioner is not subject to removal without a formal removal order from an immigration judge.

38. For these reasons, Petitioner's detention violates 8 U.S.C. § 1229a(c)(1)(A).

**PRAYER FOR RELIEF**

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

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1229a(b)(1)(B), and 8 U.S.C. § 1229a(c)(1)(A);
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner on her own recognizance or under parole, prohibiting Respondents from removing Petitioner from the jurisdiction of the Chicago Immigration Court and from the United States, and afford Petitioner an opportunity to address the Government's evidence and allegations against her; and
- (5) Grant any further relief this Court deems just and proper.

Dated: June 14, 2025, 2025

Respectfully submitted,

/s/ Laura Smith  
Laura Smith

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*Attorneys for Petitioner*

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

I represent Petitioner, A.P.C.G., 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 14th day of June, 2025.

/s/ Laura Smith  
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