

**UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT**

HEIDI PEREZ ALFARO,

Petitioner,

-against-

THERESA MESSIER, SUPERINTENDENT, CHITTENDEN REGIONAL CORRECTIONAL FACILITY – SOUTH BURLINGTON; 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; DAVID W. JOHNSTON, IN HIS OFFICIAL CAPACITY AS VERMONT SUB-OFFICE DIRECTOR OF 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; PETE R. FLORES, IN HIS OFFICIAL CAPACITY AS ACTING COMMISSIONER FOR U.S. CUSTOMS AND BORDER PROTECTIONS; KRISTI NOEM, IN HER OFFICIAL CAPACITY AS SECRETARY OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY; MARCO RUBIO, IN HIS OFFICIAL CAPACITY AS SECRETARY OF STATE; AND PAMELA BONDI, IN HER OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL,

Respondents.

Case No.  
2:25cv:00584-cr

**PETITION FOR WRIT  
OF HABEAS CORPUS**

**ORAL ARGUMENT  
REQUESTED**

### **INTRODUCTION**

1. This is a petition for writ of habeas corpus, filed on behalf of Ms. Heidi Perez Alfaro (“Ms. Perez Alfaro” or “Petitioner”), who was unlawfully arrested without a warrant by U.S. Customs and Border Patrol (“CBP”) agents in Richford, Vermont, following a pretextual traffic stop, on June 14, 2025. Upon information and belief, she was brought to the CBP barracks in Richford, VT. She was then transferred to the Clinton County Jail in Plattsburgh, NY. Petitioner has since been subsequently relocated to Chittenden Regional Correctional Facility, where she is currently detained.

2. Ms. Perez Alfaro’s country of origin is Mexico. She entered the United States without inspection to the United States on or about February 2023 when she was 16 years old. Since entering the United States, Ms. Perez Alfaro has resided in Vermont.

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

4. Absent an order from this Court, it is the belief of undersigned that Petitioner will be transported out of this jurisdiction and/or removed from the Country.

### **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 Petitioner is detained at Chittenden County 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. Petitioner has lived in Vermont for two years, where she recently graduated from Milton High School in Milton, Vermont. Petitioner is currently detained in Vermont. She is in the custody, and under the direct control, of Respondents and their agents.

13. Respondent Theresa Messier is the Superintendent of Chittenden Regional Correctional Facility – South Burlington and, therefore, she is the immediate custodian of Petitioner. *See*

*Ozturk v. Trump*, — F. Supp. 3d —, 2025 WL 1145250, at \*8 (D. Vt. Apr. 18, 2025) (discussing immediate custodian rule).

14. 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.

15. Respondent Patricia Hyde is sued in her official capacity as the Acting Director of the Boston Field Office of U.S. Immigration and Customs Enforcement. Respondent Hyde is a legal custodian of Petitioner and has authority to release Ms. Perez Alfaro.

16. Respondent the Director of the Vermont Sub-Office of ICE Enforcement and Removal Operations, David W. Johnston, 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, he is responsible for the administration of immigration laws and the execution of detention and removal determinations within the district of Vermont and is a custodian of Petitioner. At all relevant times, the Director's address is 64 Gricebrook Road, St. Albans, VT 05478.

17. Respondent Pete R. Flores is named in his official capacity as the Acting Commissioner of CBP. In this capacity, Respondent Flores leads CBP employees who are responsible for the administration of immigration laws and the execution of detention and removal determinations within its area of authority. At all relevant times, the Commissioner's address is 1300 Pennsylvania Avenue NW, Washington, DC 20229.

18. 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.

19. 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.

20. 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**

#### ***Background on Ms. Perez Alfaro***

19. Ms. Perez Alfaro is a citizen of Mexico. She has lived in Vermont and attended school in Vermont since February of 2023.

20. She is 18 years old and has no criminal history.

21. She graduated from Milton High School in Milton, Vermont, on June 8, 2025.

She has plans to attend Vermont State University in the Fall of 2025.

22. Ms. Perez Alfaro has a strong history of community ties and significant community involvement.

***Ms. Perez Alfaro and her Family's Speech on Matters of Public Concern***

23. Ms. Perez Alfaro's stepfather, Jose Ignacio De la Cruz De la Rosa ("Mr. De la Cruz") is a prominent spokesperson for the Vermont's immigrant community, part of Migrant Justice's Coordinating Committee, and for years, has been at the forefront of struggles for human rights and social justice.

24. Mr. De la Cruz is also a former dairy worker and currently the Worker-owner of New Farmworks Construction. He has led campaigns for workers' rights in the dairy and construction industries, and has been at the center of every immigrant rights legislation in Vermont in the past five years.

25. A frequent presence at the Vermont State House, Mr. De la Cruz recently testified in favor of the Housing Access for Immigrant Families proposal, which was signed into law by Governor Phil Scott two days before his arrest.

26. Ms. Perez Alfaro, even at 18 years old, is a community leader in her own right. Ms. Perez Alfaro has led marches and rallies for Milk with Dignity. In 2024, she spoke on stage at the Vermont Pride Parade. While a high school junior, she was a principal leader in the 2024 campaign to pass the Education Equity Act, ensuring access to higher education for immigrant students in Vermont.

***The Federal Government's Suppression of Constitutionally Protected Speech***

27. Starting in 2016, the Department of Homeland Security (“DHS”) began a campaign of targeted retaliation against Migrant Justice. The agency physically and electronically surveilled the organization, planted confidential informants in meetings, compiled dossiers on leaders, and sowed disinformation to undermine the work of Migrant Justice.

28. During a two year period, DHS detained forty immigrant community members affiliated with Migrant Justice, including the highest-profile leadership of the organization.

29. In 2020, DHS settled with Migrant Justice, terminating deportation cases against the plaintiffs and affirming a constitutional prohibition against the targeting of persons due to First Amendment-protected activities of speech and association.

30. Since President Trump took office in January of 2025, this suppression and targeting of immigrants and advocates of immigrant’s rights has continued on a very broad scale.

31. This includes deploying the National Guard on peaceful protests around immigrant’s rights in California.<sup>1</sup>

32. This also includes an incident on June 12, 2025, where Senator Alex Padilla, Democrat of California, was shoved out of a room and handcuffed after he tried to question Kristi Noem, DHS Secretary, during a news conference. Senator Padilla is vocal critic of the Trump administration’s immigration policies.<sup>2</sup>

***Ms. Perez Alfaro’s Detention by CBP as Implementation of the Policy to Arrest Protestors and to Racially Profile Individuals Not Otherwise Engaged in Unlawful Behavior***

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<sup>1</sup> Luke Broadwater et al., *Protests Erupt in Los Angeles Over Trump’s Immigration Policies*, N.Y. Times (June 13, 2025), <https://www.nytimes.com/live/2025/06/13/us/la-protests-trump-ice>.

<sup>2</sup> Maanvi Singh, *Los Angeles Protests Erupt as Padilla and Noem Trade Accusations over Immigration*, The Guardian (June 12, 2025), <https://www.theguardian.com/us-news/2025/jun/12/los-angeles-protests-alex-padilla-kristi-noem>.

33. On June 14, 2025, around 12 pm, Ms. Perez Alfaro was the passenger in a vehicle driven by her stepfather, Mr. De la Cruz, driving on VT Route 105 in Richford, Vermont. They were driving to deliver food to several dairy farms in the area. As they were driving back to their home in Milton, their vehicle was pulled over by CBP by uniformed agents in marked Border Patrol vehicles. There is no known justification for the stop.

34. During the stop, Ms. Perez Alfaro and Mr. De la Cruz exercised their rights to remain silent and called Migrant Justice's emergency hotline. During the course of the stop, CBP agents broke driver's side window and opened the car door. They then detained Ms. Perez Alfaro and Ms. Perez Alfaro. There is no known justification for the stop, detention, nor use of force by CBP officers.

35. Based on information and belief, CBP agents brought Ms. Perez Alfaro and Mr. De la Cruz to CBP Barracks in Richford, Vermont. Following processing, Ms. Perez Alfaro was transported to Clinton County Jail in Plattsburgh, NY. At an unknown time on June 15, 2025, and with no warning to the undersigned who has entered his appearance before DHS, Ms. Perez Alfaro was again transferred from Clinton County Jail to Chittenden Regional Correctional Facility in South Burlington, VT. Ms. Perez Alfaro remains in custody at this facility as of this writing, which is within the District of Vermont.

### **CLAIMS FOR RELIEF**

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

36. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

37. On information and belief, CBP agents stopped Ms. Perez Alfaro's car without reasonable suspicion, and arrested Petitioner without probable cause or a warrant, violating her constitutional right against warrantless seizure, and CBP's statutory authority under 8 U.S.C. § 1357(a)(2). *See United States v. Brignoni-Ponce*, 422 U.S. 873 (1975) (holding CBP must have at least reasonable suspicion to conduct a roving patrol stop to interrogate a vehicle and its passengers.) Further, the use of force in this case – the breaking of a car window to effectuate two warrantless arrests which lacked probable cause – far surpasses what would be considered reasonable use of force, as required by statute and regulation. 8 U.S.C. § 1357(a)(5)(B); 8 C.F.R. § 287.8.

**COUNT TWO Violation of the First Amendment to the United States Constitution**

38. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

39. The First Amendment to the United States Constitution provides that “Congress shall make no law . . . abridging the freedom of speech . . . or the right of the people . . . to petition the Government for a redress of grievances.” U.S. Const. Amend. I.

40. The First Amendment protects speech by noncitizens residing in the United States.

41. The First Amendment also protects past, present, and future speech.

42. The government's Policy of detaining noncitizens on the basis of their protected speech, and the targeting, arrest, and detention of Ms. Perez Alfaro and her stepfather Mr. De la Cruz, violate the First Amendment.

43. On information and belief, the government targeted Ms. Perez Alfaro on the basis of her and her stepfather's past protected speech, and the past protected speech by the organization they are a part of, that is, Migrant Justice.

44. The government's targeting and detention of Ms. Perez Alfaro prevents her from continuing to exercise her constitutional right to speech.

45. The government's targeting and detention of Ms. Perez Alfaro chills both her speech and the speech of other individuals who would like to express similar views.

46. The government's targeting and detention of Ms. Perez Alfaro may prevent her future speech in the United States in the event that she is indeed removed from the country.

47. The government's targeting and detention of Ms. Perez Alfaro deprives audiences of her present and future speech on matters of public concern.

48. These consequences are not incidental to some legitimate government objective. As the government has made clear, these consequences are the ultimate objective of the government's actions.

**COUNT THREE Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution**

49. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

50. 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).

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

52. In light of these goals, Ms. Perez Alfaro's detention is wholly unjustified. Indeed, it bears no reasonable relation to any legitimate government purpose.
53. Ms. Perez Alfaro is not a flight risk. She just recently graduated from high school and is enrolled to attend Vermont State University this Fall. Her life, community, family, and work all are in the United States.
54. Ms. Perez Alfaro is not a danger to the community. She has no criminal record, and there is no other legitimate reason to regard her as a danger to the community.
55. Because Ms. Perez Alfaro's detention bears no reasonable relation to a legitimate government purpose, it is punitive.
56. On information and belief, a basis for Ms. Perez Alfaro's detention is to punish her for her country of origin not being the United States, her speech, and to chill similar speech.

**COUNT FOUR Release on Bail Pending Adjudication**

57. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.
58. This Court has the "inherent authority" to grant bail to habeas petitioners like Ms. Perez Alfaro. *See Mapp v. Reno*, 241 F.3d 221, 230 (2d Cir. 2001).
59. When considering such a petition, courts assess (1) "whether the petition raises substantial claims" and (2) "whether extraordinary circumstances exist that make the grant of bail necessary to make the remedy effective." *Elkimya v. Dep't of Homeland Sec.*, 484 F.3d 151, 154 (2d Cir. 2007) (cleaned up).
60. As long as Ms. Perez Alfaro is in detention, she will be punished for her Mexican-descent and disfavored speech, ratifying another constitutional violation that the government sought to achieve with her detention.

**COUNT FIVE VIOLATION OF 8 USC 1226(a)**

61. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.
62. Respondents are unlawfully detaining Petitioner under 8 U.S.C. § 1226(a) because at the time of her arrest and current—upon information and belief—she was not arrested on a warrant issued by the Attorney General.
63. Section 1226(a) provides the executive authority to detain a foreign national if and when the executive issues a warrant and a notice to appear for removal proceedings. Section 1226(a) states as follows:

**(a) Arrest, detention, and release**

On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General--

- (1) may continue to detain the arrested alien; and
- (2) may release the alien on--
  - (A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or
  - (B) conditional parole; but
- (3) may not provide the alien with work authorization (including an “employment authorized” endorsement or other appropriate work permit), unless the alien is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.

64. Because Respondents did not have a warrant issued by the Attorney General at the time of her arrest, Respondents cannot rely upon 8 U.S.C. § 1226(a) for authority to detain Petitioner.
65. Further, upon information and belief, there is no pending decision on whether Petitioner is to be removed from the United States—and therefore, there can be no justification for civil detention intended to restrain the Petitioner during the course of removal proceedings (because no removal proceedings were pending at the time of her arrest). *See, e.g., Zadvydas v. Davis*, 533 U.S. 678

(2001) (holding a statute no longer authorizes detention when the detention does not serve the statute's intended purpose).

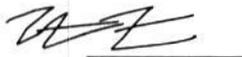
66. Respondents cannot remedy this error by issuing a warrant now because the statute requires a warrant and a notice to appear as a precondition to arrest and detention.
67. Petitioner's continued detention is unlawful.

**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 Fourth Amendment right against warrantless seizure; the First Amendment right to freedom of speech; and the Fifth Amendment right to due process.
- (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,



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Pro Bono Counsel for Petitioner

Dated: June 16, 2025

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

I represent Petitioner, HEIDI PEREZ ALFARO, and submit this verification on his 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 16th day of June, 2025.



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Brett Stokes, Esq.