

**IN THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF
MARYLAND
Northern Division**

Aerica Grey Quintana Flores,

Petitioner, v.

PAMELA BONDI,

**In her official capacity as Attorney General of the
United States,**

KRISTI NOEM,

**In her official capacity as Secretary of Homeland
Security,**

TODD M. LYONS,

**In his official capacity as Acting Director,
Immigration and Customs Enforcement;**

SEAN ERVIN,

**In his official capacity as Acting Field Office
Director in charge of ICE Atlanta Field Office,**

TERRANCE DICKERSON,

**In his official capacity as Warden of the Stewart
Detention Center.**

Case No: 1:25-cv-01950-DLB

**RESPONSE TO
RESPONDENTS' MOTION
TO DISMISS**

Petitioner, Aerica Grey Quintana Flores (“Ms. Quintana”), through undersigned counsel, hereby responds to the Respondents’ Answer to Petitioner’s Amended Petition and Respondents’ Motion to Dismiss. As more fully set forth in Petitioner’s accompanying memorandum of law in support of their Response, the Court should deny the Motion to Dismiss and grant the relief requested by the Petitioner for the following reasons:

1. This Court has jurisdiction to review questions of law and fact regarding the unlawful detention of the Ms. Quintana notwithstanding 8 U.S.C. § 1252(b)(9), which limits judicial review of questions of law and fact arising from removal proceedings to courts of appeal, as the mere existence of Removal Proceedings does not constitute “an action or decision taken to effectuate removal” under the appropriate interpretation of 8 U.S.C. § 1252(b)(9).
2. This Court has jurisdiction over the Petitioner’s claims notwithstanding 8 U.S.C. § 1252(g), as the Petitioner does not seek review of the Attorney General’s decision to commence removal proceedings but rather review of her unlawful detention.
3. This Court has jurisdiction to review the detention of Ms. Quintana because 8 U.S.C. § 1226(e) applies only to discretionary decisions and Respondents allege that the Petitioner is detained pursuant to the *mandatory* detention provision at 8 U.S.C. § 1226(c)(1)(E).
4. Petitioner’s claims that her detention violates her 5th amendment right to due process is strengthened by the Respondents’ admission that she has been unlawfully detained pursuant to mandatory detention provisions at 8 U.S.C. § 1226(c)(1)(E), which would deprive her of any mechanism in which to meaningfully challenge her detention.
5. Petitioner’s claim that the immigration court does not have jurisdiction over her application for asylum is supported by a common sense reading of on 8 C.F.R. § 1003.14(b) and 8 C.F.R. § 208.2(b) that the immigration court’s jurisdiction over applications for asylum applies to 1) applications that USCIS has referred to the immigration court, and 2) applications for asylum filed *after* removal proceedings have been commenced.

WHEREFORE, Respondents respectfully request that the Court deny the Respondents' Motion to Dismiss and grant the relief requested by the Petitioner in her Amended Petition.

Respectfully submitted,

/s/ Benjamin G. Messer

Dated: June 27, 2025

Benjamin G. Messer

Bar ID: 20548

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Constance Hope Long

Application for admission granted

Swearing-in pending

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