UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

N.M.Z (age six),

D.M.Z (age nine),

Ms. Z.,

Petitioners-Plaintiffs,

v.

JOSE RODRIGUEZ, in his official capacity as Warden of the Dilley Immigrant Processing Center; SYLVESTER M. ORTEGA, in his official capacity as Acting Field Office Director, San Antonio Field Office, Enforcement and Removal Operations, U.S. Immigration & Customs Enforcement; TODD LYONS, in his official capacity as Acting Director U.S. Immigrations and Customs Enforcement; KRISTI NOEM, in her official capacity as U.S. Secretary of Homeland Security; PAMELA BONDI, in her official capacity as Attorney General of the U.S.; SIRCE E. OWEN, in her official capacity as Acting Director of the Executive Office for Immigration Review; U.S. DEPARTMENT OF HOMELAND SECURITY; U.S. IMMIGRATIONS AND CUSTOMS ENFORCEMENT; U.S. DEPARTMENT OF JUSTICE; and U.S. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents-Defendants.

Case No. 5:25-cv-00716

VERIFIED PETITION FOR WRITS OF HABEAS CORPUS AND COMPLAINT

INTRODUCTION

1. This case concerns the illegal courthouse arrest and the illegal subsequent detention of Petitioners-Plaintiffs ("Petitioners"): N.M.Z., a six-year-old boy with a history of leukemia; his nine-year-old sister D.M.Z.; and their mother Ms. Z. (collectively, "the family"). N.M.Z., D.M.Z., and Ms. Z. are asylum seekers and citizens of Honduras. They have done everything the government has asked them to: they followed the process the United States established for people seeking asylum to present at the border on a certain date; they appeared on that date, at which point

the government decided to release them on parole while they applied for asylum; they lawfully entered the United States, where they reunited with family; and critically, they attended their immigration court proceedings at the time and location directed. When the family attended immigration court in Los Angeles on May 29, 2025, for a routine hearing, they expected to be able to proceed with an application for asylum in those proceedings. Instead, the government dismissed their immigration case, arrested N.M.Z., D.M.Z., and Ms. Z., detained them, and is now attempting to summarily remove them before they can meaningfully access relief through those proceedings.

2. The arrests and detention of N.M.Z., D.M.Z., and Ms. Z. are wholly unjustified and unrelated to any individualized consideration of the family's circumstances. In the time the family has lived in the United States, they have done their best to integrate into their community and learn English. Before their arrests and detention, N.M.Z. and D.M.Z. loved attending school in the Los Angeles area, playing with their friends, and painting. N.M.Z. played soccer in a local park, and the family attended church every Sunday. N.M.Z. was scheduled for a medical appointment related to his leukemia diagnosis on June 5, 2025, which he was unable to attend because the family was in immigration detention. The family dreams of continuing to establish roots in this country. They plainly are not a flight risk—as evidenced by their dutiful appearance at their scheduled immigration court date—nor are they a danger to the community. Indeed, the government itself decided as much when it paroled them into the United States. N.M.Z., D.M.Z., and Ms. Z. were instead arrested and detained, along with countless others in recent weeks, as part of a nationwide campaign to summarily arrest law-abiding noncitizens when they attend their immigration court hearings.

3. The purpose of this campaign is to facilitate the transfer of immigration proceedings for noncitizens like N.M.Z., D.M.Z., and Ms. Z. from full removal proceedings in immigration court—which are governed by 8 U.S.C. § 1229a and provide various procedural rights to

noncitizens—into "expedited removal" pursuant to 8 U.S.C. § 1225(b)(1)—a process that is initiated outside of immigration court and deprives noncitizens of the procedural protections built into full removal proceedings. Consistent with that overarching goal, Respondents have illegally placed the family in expedited removal.

4. The ongoing detention of N.M.Z., D.M.Z., and Ms. Z. is causing them immense harm. Prior to their May 29, 2025, arrest, the family had never been arrested or placed in detention. Since arriving at the Dilley Immigrant Processing Center in Dilley, Texas, both children are crying each night, and D.M.Z. is barely eating. N.M.Z., meanwhile, has generally lost his appetite, has experienced easy bruising and occasional bone pain, and looks pale–all of which are recognized as symptoms of leukemia. Ms. Z. is anguished watching her son suffer and believes that he needs medical care. The family fears they will be wrongly deported to Honduras, the country from which they seek asylum.

5. N.M.Z., D.M.Z., and Ms. Z. respectfully ask this Court to hold that their arrest was unlawful, to hold that their continued detention is unlawful, and to order their release from custody.

6. Every day N.M.Z., D.M.Z., and Ms. Z. spend in detention subjects them to further irreparable harm. Immediate relief is necessary to ensure that the family is no longer subjected to continued violations of their substantive and procedural rights.

PARTIES

7. Petitioner N.M.Z. is a six-year-old boy diagnosed with leukemia and a Honduran national seeking asylum in the United States. N.M.Z. also is likely eligible for other forms of immigration relief.

8. Petitioner D.M.Z. is nine-year-old girl and a Honduran national seeking asylum in the United States. D.M.Z. also is likely eligible for other forms of immigration relief.

9. Petitioner Ms. Z. is a Honduran national seeking asylum in the United States. Ms.

Z. is the mother of N.M.Z. and D.M.Z.

10. Respondent Jose Rodriguez is the Facility Administrator/Warden of the Dilley Immigrant Processing Center, the facility where the family is detained. Respondent Rodriguez is a legal custodian of the family.

11. Respondent Sylvester M. Ortega is sued in his official capacity as Acting Field Office Director, San Antonio Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement ("ICE"), which has jurisdiction over the Dilley Immigrant Processing Center in Dilley, Texas. Respondent Ortega is a legal custodian of the family.

12. Respondent Todd Lyons is sued in his official capacity as Acting Director of U.S. Immigrations and Customs Enforcement. As the Acting Director of ICE, Respondent Lyons is a legal custodian of the family.

13. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the Department of Homeland Security ("DHS"), the agency tasked with enforcing immigration laws, Secretary Noem is the family's ultimate legal custodian.

14. Respondent Pam Bondi is sued in her official capacity as Attorney General of the United States. As head of the U.S. Department of Justice, the agency that oversees the Executive Office for Immigration Review ("EOIR"), Attorney General Bondi is responsible for administration of the immigration laws as exercised by EOIR, pursuant to 8 U.S.C. § 1103(g). She is legally responsible for the pursuit of Petitioner's detention and removal.

15. Respondent Sirce E. Owen is sued in her official capacity as Acting Director of the Executive Office for Immigration Review. As the Acting Director of EOIR, Respondent Owens is responsible for administration of immigration laws pursuant to 8 U.S.C. § 1103(g). She is legally responsible for the pursuit of Petitioners' detention and removal.

16. Defendant DHS is a cabinet-level agency of the federal government. DHS oversees

the civil detention of noncitizens.

17. Defendant ICE is the subagency within DHS responsible for interior enforcement of the immigration laws and which oversees most civil immigration detention facilities.

18. Defendant DOJ is a cabinet-level agency of the federal government. DOJ oversees the immigration courts.

19. Defendant EOIR is the subagency within DOJ that houses the immigration courts.

JURISDICTION AND VENUE

20. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2241 (habeas corpus); and the Suspension Clause, U.S. Const. art. I, § 2.

21. Venue is proper in the Western District of Texas under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to these claims occurred in this district. Venue is also proper under 28 U.S.C. § 2241(d) and Rule CV-3(b)(3) of the local rules of the Western District of Texas because Ms. Z., D.M.Z., and N.M.Z. are detained at a facility within this district and their immediate physical custodian is located in this District. Rule CV-3(b)(3) ("[a] § 2241 petition must be filed in the division that includes the county in which the petitioner is in custody").

22. Prior to filing this action, Petitioners and/or counsel on their behalf repeatedly contacted ICE, the U.S. Department of Justice Office of Immigration Litigation, and the U.S. Attorney's Office for the Western District of Texas in an effort to seek the family's release without the need for federal litigation.

23. Further administrative exhaustion is unnecessary because it would be futile. Immigration Judges do not grant bond or release requests for immigrants that DHS subjects to expedited removal. *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019).

CUSTODY

24. The family is in the physical custody of Respondents. Ms. Z., D.M.Z., and N.M.Z. are imprisoned at the Dilley Immigrant Processing Center, an immigration detention facility located at 300 El Rancho Way, Dilley, Texas 78017. The family is under the direct control of Respondents and their agents.

BACKGROUND

A. Legal Framework of Removal Proceedings

25. Full removal proceedings in immigration court provide noncitizens with an opportunity to be heard before an Immigration Judge. Under 8 U.S.C. § 1229a, noncitizens in full removal proceedings have procedural protections, including "the privilege of being represented . . . by counsel of the [noncitizen's] own choosing who is authorized to practice in such proceedings," 8 U.S.C. § 1229a(b)(4)(A), and "a reasonable opportunity to examine the evidence against the [noncitizen], to present evidence on the [noncitizen's] own behalf, and to cross-examine witnesses presented by the Government," *id.* § 1229a(b)(4)(B).

26. Decisions made by "Immigration Judges may be appealed to the Board of Immigration Appeals." 8 C.F.R. § 1003.38(a). If the Board of Immigration Appeals affirms the immigration judge's decision, the noncitizen may file a petition for review in the federal court of appeals for the judicial circuit in which the removal proceeding terminated. *See* 8 U.S.C. § 1252(b)(2).

27. Although noncitizens in full removal proceedings "may be arrested and detained," detention is generally not mandatory, and anyone who is detained may request a bond hearing before the immigration judge. 8 U.S.C. § 1226(a)(1)-(2).

28. When N.M.Z., D.M.Z., and Ms. Z. arrived at the Los Angeles immigration court on May 29, 2025, their case was progressing through full removal proceedings.

29. The statutorily guaranteed procedures and rights in full removal proceedings are significantly more expansive than those available to noncitizens designated for expedited removal under 8 U.S.C. § 1225(b).

30. An immigration officer may process a noncitizen for expedited removal upon issuing a determination that the noncitizen "is arriving in the United States or is described in clause (iii)" and is inadmissible under 8 U.S.C. §§ 1182(a)(6)(C) or 1182(a)(7). *See* 8 U.S.C. § 1225(b)(1)(A)(i).

31. A noncitizen who has been "admitted or paroled into the United States" is excluded from expedited removal. 8 U.S.C. § 1225(b)(1)(A)(iii)(II); *see also* 8 C.F.R. § 235.1(b)(1)(ii) (excluding noncitizens who have "been admitted or paroled following inspection by an immigration officer at a designated port-of-entry").

32. Unlike full removal proceedings, expedited removal is a process that begins—and often concludes—outside of immigration court. Noncitizens subjected to expedited removal are ordered removed by an immigration officer "without further hearing or review." 8 U.S.C. § 1225(b)(1)(A)(i).

33. The lone exception to this rule is that if a noncitizen indicates an intention to apply for asylum or a fear of persecution, the officer "shall refer the [noncitizen] for an interview by an asylum officer" to conduct a credible fear interview. 8 U.S.C § 1225(b)(1)(A)(i)-(ii). If the asylum officer determines that the noncitizen does not have a credible fear of persecution, the noncitizen may seek review of that determination by an immigration judge. 8 U.S.C. § 1225(b)(1)(B)(iii)(III). If the immigration judge concurs, the noncitizen is removed from the United States; there is no opportunity to seek further review.

34. If a noncitizen passes a credible fear interview, they are permitted to apply for asylum and related relief in full removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(B); 8 C.F.R.

§ 208.30(f).

35. The Immigration and Nationality Act ("INA") provides for limited review of an application of expedited removal. It provides no mechanism for a parolee to challenge the application of expedited removal to them on the basis they had previously been paroled.

36. Unlike noncitizens in full removal proceedings, noncitizens in expedited removal proceedings are subject to mandatory detention. 8 U.S.C. § 1225(b)(1)(B)(iv). Respondents treat noncitizens subject to mandatory detention under § 1225 as ineligible for bond.

B. CBP One App and Parole

37. Under 8 U.S.C. § 1182(d)(5), DHS has discretion to parole noncitizens into the United States "on a case-by-case basis for urgent humanitarian reasons." Parole is available only if DHS determines that a noncitizen is not a security or flight risk. 8 C.F.R. § 212.5(b).

38. In 2020, DHS launched a smartphone app called CBP One to provide travelers with access to certain immigration related functions prior to their arrival in the United States. Under the prior administration, CBP One became the primary mechanism for people seeking to enter the United States to seek asylum. Noncitizens used the app to request and to receive an appointment to enter the United States and be considered for protection. When a person entered the United States using CBP One, they could—in DHS's discretion—be released into the United States on parole under 8 U.S.C. § 1182(d)(5) with a document instructing them to appear in full removal proceedings conducted under 8 U.S.C. § 1229a.

39. According to the Board of Immigration Appeals, parole under this provision provides the "only exception" that would permit someone in Petitioners' position to be released into the United States following entry using CBP One. *See Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025).

C. Expansion of Expedited Removal

40. Since its creation nearly three decades ago, federal immigration authorities have applied expedited removal in limited circumstances: to noncitizens who are seeking admission at a port of entry, who have been apprehended near the border shortly after they entered the country, or who arrive in the United States by sea. *See* 69 Fed. Reg. 48877 (Aug. 11, 2004); 67 Fed. Reg. 68924 (Nov. 13, 2002).

41. However, on January 21, 2025, DHS issued a Federal Register Notice that, with immediate effect, authorized the application of expedited removal to certain noncitizens arrested anywhere in the country who cannot show "to the satisfaction of an immigration officer" that they have been continuously present in the United States for longer than two years. 90 Fed. Reg. 8139 (Jan. 24, 2025).

42. As a result, noncitizens who have resided in the country for less than two continuous years are at imminent risk of deportation without any hearing or meaningful review, regardless of their ties to the United States, or the availability of claims for relief from and defenses to removal. Even individuals who are not properly subject to expedited removal or to any kind of removal (for example, U.S. citizens or individuals who have been continuously present for more than two years) are summarily removed if they are unable to affirmatively prove those facts to the satisfaction of an immigration officer.

D. Recent Illegal Campaign of Courthouse Arrests

43. For years, DHS, including ICE, largely refrained from conducting civil immigration arrests at courthouses, including immigration courts, out of recognition that conducting such arrests could deter noncitizens from attending mandatory court proceedings and disrupt the proper functioning of courts. This was encapsulated in a policy and longstanding practice of minimizing arrests at courthouses, including at the immigration courts.

44. A memorandum to ICE and U.S. Customs and Border Protection ("CBP") from the Acting Directors of ICE and CBP dated April 27, 2021 ("2021 Memo") permitted ICE agents to conduct "civil immigration enforcement action . . . in or near a courthouse" only on the basis of "a national security threat," "an imminent risk of death, violence, or physical harm to any person," the "hot pursuit of an individual who poses a threat to public safety, or the "imminent risk of destruction of evidence material to a criminal case." *Civil Immigration Enforcement Actions in or near Courthouses* (Apr. 27, 2021).[1] Furthermore, "[i]n the absence of a hot pursuit," ICE was permitted to make civil arrests against "an individual who poses a threat to public safety" only if "(1) it is necessary to take the action in or near the courthouse because a safe alternative location for such action does not exist or would be too difficult to achieve the enforcement action at such a location, and (2) the action has been approved in advance by a Field Office Director, Special Agent in Charge, Chief Patrol Agent, or Port Director." *Id.* at 2. The 2021 Memo specifically covered "immigration courts." *Id.*

45. One of the core principles underlying the 2021 Memo was that "[e]xecuting civil immigration enforcement actions in or near a courthouse may chill individuals' access to courthouses, and as a result, impair the fair administration of justice." *Id.* at 1.

46. On January 20, 2025, ICE rescinded the 2021 Memo and issued a replacement memorandum to all ICE employees ("the January 2025 Memo"). *See Interim Guidance: Civil Immigration Enforcement Actions in or near Courthouses* (Jan. 20, 2025).[2] This new guidance permits "ICE officers or agents [to] conduct civil immigration enforcement actions in or near courthouses when they have credible information that leads them to believe the targeted [noncitizen(s)] is or will be present at a specific location, and where such action is not precluded

[1] https://www.cbp.gov/sites/default/files/assets/documents/2021-Apr/Enforcement-Actions-in-Courthouses-04-26-21.pdf.

[2] https://www.ice.gov/doclib/foia/policy/11072.3_CivilImmEnfActionsCourthouses_01.21.2025.pdf.

by laws imposed by the jurisdiction in which the enforcement action will take place." *Id.* This policy nonetheless cautions immigration officials that "ICE officers and agents should generally avoid enforcement actions in or near courthouses, or areas within courthouses that are wholly dedicated to non-criminal proceedings (e.g. family court, small claims court)" unless operationally necessary or unless there is approval from the Field Office Director or the Special Agent in Charge. *Id.* at 3. Despite such language, the January 2025 Memo constitutes a reversal of the 2021 Memo, as shown by ICE's dramatic and rapid expansion of arrests at immigration courthouses.

47. The January 2025 Memo thus dramatically expanded civil immigration arrests by ICE agents at courthouses across the country. But the January 2025 Memo does not discuss the certainty that immigration enforcement in or near courts will chill access to courts and impair the fair administration of justice. *See generally id.* Instead, it asserts that enforcement at or near courthouses "can reduce safety risks to the public, targeted [noncitizen(s)], and ICE officers and agents" and is required "when jurisdictions refuse to cooperate with ICE, including when such jurisdictions refuse to honor immigration detainers and transfer [noncitizens] directly to ICE custody." *Id.*

48. The January 2025 Memo was revised and made final on May 27, 2025, through a Memorandum issued by the Acting Director of ICE ("the Courthouse Arrest Memo"). *Civil Immigration Enforcement Actions In or Near Courthouses* (May 27, 2025).[3] The Courthouse Arrest Memo is substantively the same as the January 2025 Memo except that it removes a line limiting civil immigration arrests in courthouses "where such action is not precluded by laws imposed by the jurisdiction in which the enforcement action will take." *Compare* January 2025 Memo, at 2, *with* Courthouse Arrest Memo, at 2. Thus, in its final form, the Courthouse Arrest Memo purports to allow ICE to conduct civil immigration arrests at courthouses even if such

[3] https://www.ice.gov/doclib/foia/policy/11072.4.pdf.

arrests would violate local or state law.

49. In the weeks since the Courthouse Arrest Memo was made final, the government has aggressively implemented it through a new enforcement initiative at immigration courts in Los Angeles and throughout the country. This initiative specifically targets people who are in full removal proceedings and who the government believes it can subject to expedited removal. The initiative has three basic components. *First*, DHS moves to dismiss removal proceedings, with no advance notice, at the same time that these individuals appear in immigration court for a master calendar hearing (the equivalent of an arraignment or pretrial conference in criminal court), on the grounds that such proceedings are no longer in the best interests of the government. *Second*, ICE agents—in coordination with ICE immigration court attorneys—station themselves in immigration court, including in the hallways or even in courtrooms, depending on the location, so that they can immediately arrest and detain individuals upon conclusion of their court hearings. *Finally*, in cases where the IJ grants the government's motion to dismiss, the government places individuals in expedited removal.

50. The U.S. Department of Justice has suggested in written guidance that IJs should allow motions to dismiss to be made orally and decided from the bench, and that neither the 10-day response period mandated by the Immigration Court Practice Manual nor additional documentation or briefing is required to permit dismissal.

51. This initiative is unprecedented. DHS has confirmed publicly that they are targeting individuals they believe are subject to the expansion of expedited removal in order to move them from regular removal proceedings to expedited removal.[4] Moreover, this new initiative appears to be driven by the imposition of a new daily quota of 3,000 ICE arrests by the White House.[5]

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[4] Bill Melugin (@BillMelugin_), X (May 22, 2025, 3:50 PM).

[5] Cameron Arcand, *Trump administration sets new goal of 3,000 illegal immigrant arrests daily*, FOX NEWS (May 29, 2025), https://www.foxnews.com/politics/trump-administration-aims-3000-

52. As a result of this new initiative, civil arrests of noncitizens at immigration courts are occurring at rates never before seen in the United States.[6]

53. Last week, on June 18, 2025, a federal district court concluded that ICE's new policy is unlawful, ruling as follows:

> ICE's newfound strategy to attempt to dismiss ongoing immigration court proceedings in support of an argument that they can thereby arrest and detain individuals already paroled before the court is unlawful. ICE cannot manipulate the removal proceedings in its favor by substituting expedited proceedings for immigration proceedings already in progress before the immigration court. It is an abuse of process. . . . Once immigration court proceedings are underway, decisions regarding continued release are to be made by the Immigration Judge with the protections of judicial due process.

Valdez v. Joyce, No. 25-cv-4627, Dkt. 15, at 7 (S.D.N.Y. June 18, 2025).

E. Detrimental Effects of Detention on Children's Physical and Mental Health

54. Doctors, mental health professionals, and other professionals have long documented the detrimental effects of immigration detention on children's physical and mental health.

55. The American Academy of Pediatrics ("AAP") issued a Policy Statement in 2017, which was reaffirmed in 2022, condemning the government's reliance on detention for immigrant children accompanied by their parents. The AAP determined that

> children in the custody of their parents should never be detained, nor should they be separated from a parent, unless a competent family court makes that determination. In every decision about children, government decision-makers

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arrests-illegal-immigrants-each-day.

[6] *See, e.g.*, Martha Bellisle, Claire Rush & Kate Brumback, *Immigration officers intensify arrests in courthouse hallways on a fast track to deportation*, Associated Press (June 11, 2025), https://apnews.com/article/immigration-court-arrests-ice-deportation-99d822cdc93ae7dc26026c27895d5ea1; Luis Ferré-Sadurní, *Inside a Courthouse, Chaos and Tears as Trump Accelerates Deportations*, N.Y. Times (June 12, 2025), https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html; Hamed Aleaziz, et. al., *How ICE Is Seeking to Ramp Up Deportations Through Courthouse Arrests*, N.Y. Times (May 30, 2025), https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html.

should prioritize the best interest of the child.

Julie M. Linton, et al., American Academy of Pediatrics, *Detention of Immigrant Children* (May 1, 2017).[7]

56. The AAP reached this conclusion based on studies of detained immigrant children, which found negative physical and emotional symptoms among detained children, including posttraumatic symptoms that persist beyond the length of detention. The AAP further found that children in detention may experience developmental delays and poor psychological adjustment.

57. The AAP concluded that "even brief detention can cause psychological trauma and induce long-term mental health risks for children." *Id.*

58. Because of its harmful effects on children, the detention of immigrant families has likewise been condemned by the American Medical Association, American Psychiatric Association, the American College of Physicians, DHS's own Advisory Committee on Family Residential Centers, and doctors employed by DHS.[8]

F. Inadequate and Inappropriate Medical Care for Children in Family Detention

59. For years, doctors have raised alarms about the inadequate and inappropriate medical care for children in family detention facilities, including at the detention center in Dilley, Texas.

60. For example, in July 2018, doctors employed by DHS released a scathing

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[7] https://publications.aap.org/pediatrics/article/139/5/e20170483/38727/Detention-of-Immigrant-Children.

[8] *See* Letter from Scott Allen, MD and Pamela McPherson, MD, to U.S. Senator Charles E. Grassley and U.S. Senator Ron Wyden (July 17, 2018), Appendix (collecting statements from the AAP, American Medical Association, American Psychiatric Association, the American College of Physicians), https://www.wyden.senate.gov/imo/media/doc/Doctors%20Congressional%20Disclosure%20SWC.pdf ("Allen Letter"); Report of the DHS Advisory Committee on Family Residential Centers (Sept. 30, 2016), https://www.ice.gov/sites/default/files/documents/Report/2016/ACFRC-sc-16093.pdf.

assessment of medical care at family detention facilities.[9]

61. More recently, in 2023, a study by doctors at Harvard University and Massachusetts General Hospital that reviewed medical records from the Dilley family detention center noted: "There appeared to be a preponderance of providers practicing outside of their scope. There was a lack of pediatric-specific medical knowledge, evident in many medical records and inadequate documentation of medical reasoning."[10] As to children with chronic illnesses, the study noted "[t]here was inadequate follow up identified in the documentation of children with chronic illness and a poorly outlined referral process for children after leaving detention."[11]

62. Children and others detained at the Dilley family detention center continue to suffer from inadequate medical care.

63. In May 2018, a young child died shortly after being released from the Dilley family detention center, where nurses and physicians' assistants had overlooked signs of her deteriorating health.[12]

STATEMENT OF FACTS

A. N.M.Z. Is Diagnosed with Leukemia at the Age of Three.

64. Ms. Z. was born in 1996. She is the mother of D.M.Z., who was born in 2016, and N.M.Z., who was born in 2018. Ms. Z., D.M.Z., and N.M.Z. were all born in Honduras.

65. When N.M.Z. was three years old, he was diagnosed with acute lymphoblastic

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[9] *See* Allen Letter.

[10] Sridhar, S., Digidiki, V., Kunichoff D., Bhabha, J., Sullivan, M., Gartland, MG., *Child Migrants in Family Immigration Detention in the U.S. an Examination of Current Pediatric Care Standards and Practices*, FXB Center for Health and Human Rights at Harvard University, Boston and MGH Asylum Clinic at the Center for Global Health, at p. xi (2023), https://globalhealth.harvard.edu/wp-content/uploads/2024/01/Child-Migrants-in-Family-Immigration-Detention-in-the-US.pdf.

[11] *Id.*

[12] Joel Rose, "A Toddler's Death Adds to Concerns About Migrant Detention," *Morning Edition*, National Public Radio (Aug. 28, 2018), https://www.npr.org/2018/08/28/642738732/a-toddlers-death-adds-to-concerns-about-migrant-detention.

leukemia. He underwent chemotherapy treatment in Honduras, including the administration of chemotherapeutic agents in his cerebrospinal fluid.

66. Ms. Z. understood that N.M.Z. needed to complete about 2.5 years of chemotherapy and related treatment for his leukemia.

67. N.M.Z. completed about two years of chemotherapy and related treatment in Honduras, at which point Ms. Z. understood that he did not have leukemia cells in his blood. Ms. Z. also understood that N.M.Z. would need regular monitoring and medical care related to his leukemia.

B. The Family Flees to the United States.

68. Ms. Z. fled Honduras with D.M.Z. and N.M.Z. after they were subject to imminent, menacing death threats.

69. In 2024, Ms. Z., D.M.Z., and N.M.Z. came to the United States to seek safety. Following a lawful process that was in place in 2024, the family applied to enter the United States through the CBP One application and received an appointment to come to the United States.

70. On October 26, 2024, Ms. Z., D.M.Z., and N.M.Z. presented at the border for their CBP One appointment. They were processed quickly, paroled into the United States under 8 U.S.C. § 1182(d)(5), and served with a Notice to Appear requiring Ms. Z., D.M.Z., and N.M.Z. to appear before the Los Angeles immigration court on May 29, 2025.

71. After receiving the Notice to Appear, Ms. Z., D.M.Z., and N.M.Z. were quickly released to live with Ms. Z.'s mother in the Los Angeles area. Their family purchased airline tickets for them to travel to Los Angeles, and they lived with Ms. Z.'s mother until their arrests.

72. D.M.Z. and N.M.Z. promptly enrolled in a local public school focused on the arts. Both children loved attending school, playing with their friends, and painting. N.M.Z. loved playing soccer in a local park, and the family attended church every Sunday.

C. The Family Is Arrested at the Los Angeles Immigration Courthouse.

73. Ms. Z. remained concerned about N.M.Z.'s cancer, took him to multiple medical appointments in the Los Angeles area, and made a medical appointment for June 5, 2025, related to his leukemia diagnosis—an appointment that he could not attend because he was in immigration detention at that time. Ms. Z. made the June 5, 2025, medical appointment because she believed that N.M.Z. needed regular monitoring and possibly ongoing medical care related to his leukemia diagnosis.

74. Pursuant to the Notice to Appear, and as directed by the government, Ms. Z., D.M.Z., and N.M.Z dutifully appeared before the Los Angeles immigration court on May 29, 2025, for a routine immigration hearing.

75. During the hearing, a lawyer representing DHS orally moved to dismiss the full removal proceedings against the family. DHS did not make this motion in advance, present any written arguments, or provide the family an advance opportunity to respond.

76. Nevertheless, Ms. Z. objected to DHS's motion to dismiss, explaining, on behalf of herself and her children, "We wish to continue [with our cases]." The immigration judge did not afford Ms. Z. any opportunity to elaborate.

77. Immediately and over Ms. Z.'s objection, the immigration judge granted the DHS motion. No one ever explained to Ms. Z., D.M.Z., or N.M.Z. that they could face arrest and detention.

78. Immediately afterwards, as Ms. Z., D.M.Z., and N.M.Z. left the courtroom, and without any prior notice or warning, government agents arrested the family in the hallway before the family could enter the elevator. These agents were men dressed in civilian clothing. On information and belief, the government agents who arrested the family were officers with ICE.

79. Following their arrest, Ms. Z., D.M.Z., and N.M.Z. were detained for hours in a

room on the first floor of the courthouse. During this time, agents told the family that they were not allowed to go home and did not permit the family to make any phone calls. Ms. Z., D.M.Z., and N.M.Z. were crying in fear.

80. Agents then took Ms. Z., D.M.Z., and N.M.Z. to an immigration center in Los Angeles, where the family was detained. Again, Ms. Z., D.M.Z., and N.M.Z. were crying in fear. During this time, as an agent lifted his shirt, N.M.Z. saw the agent's gun. Terrified, N.M.Z. urinated on himself and wet his clothing. No one offered N.M.Z. dry clothing for hours and he remained in wet, urine-stained clothing. Throughout this time, Ms. Z., D.M.Z., and N.M.Z. were each offered only one apple, one small packet of cookies, a small juice box, and water.

81. Agents put the family on a flight departing for San Antonio on May 30, 2025. Several other families who had been arrested in immigration court were on the flight as well. Agents then drove Ms. Z., D.M.Z., and N.M.Z., as well as the other families, to the detention center in Dilley, Texas.

82. Ms. Z., D.M.Z., and N.M.Z. have been detained at the family detention center in Dilley since May 30, 2025. Prior to May 29, 2025, the family had had never been in a carceral setting and had never been arrested in the United States, Honduras, or anywhere in the world.

D. The Family's Experiences in Detention.

83. As part of the intake process at the Dilley facility, D.M.Z. and N.M.Z. were subjected to a basic physical exam. Ms. Z. explained that N.M.Z. had been diagnosed with leukemia in Honduras, but as far as she knows, nothing was done to monitor his leukemia at that time. Several days later, Ms. Z. noticed that a note about cancer was added to N.M.Z.'s medical records.

84. Since arriving at Dilley, D.M.Z. and N.M.Z. have cried each night and prayed for God to take them out of the detention center. D.M.Z. is barely eating. N.M.Z. has generally lost

his appetite, experienced easy bruising and occasional bone pain, and looks pale, all of which are recognized as symptoms of leukemia. Because of these issues, Ms. Z. is terrified that N.M.Z. is not receiving necessary medical treatment. Since arriving at Dilley, Ms. Z. has been told that her blood pressure is high, an issue that she had not experienced before being detained.

85. Counsel for the Petitioners notified ICE of N.M.Z.'s history of leukemia on June 6, June 12, and June 17, 2025, and requested his immediate release for medical treatment, together with the release of Ms. Z. and D.M.Z. The U.S. Department of Justice Office of Immigration Litigation was notified of N.M.Z.'s leukemia on June 6 and June 17, 2025. Counsel notified the U.S. Attorney's Office for the Western District of Texas of N.M.Z.'s history of leukemia and the urgent need for his release with D.M.Z. and Ms. Z. on June 18, 2025.

86. Petitioners were unable to obtain a full set of N.M.Z.'s medical records because the family is detained. Nevertheless, the June 12, 2025, release request included a limited set of N.M.Z.'s medical records from Honduras, a certified English translation of those records, and a notarized letter from Dr. Pran Saha, M.D., M.P.H., Assistant Clinical Professor of Pediatrics, Department of Pediatrics, Columbia Vagelos College of Physicians and Surgeons.

87. While blood testing would be one way to detect leukemia, some types of leukemia can stay confined to the bone marrow for a while, so they may not be detectable in the blood, thus requiring a bone biopsy to detect the leukemia.[13]

88. After reviewing the limited set of N.M.Z.'s translated medical records, Dr. Saha concluded as follows:

> It is abundantly clear that the records are a protocol for radiation and chemotherapy, both critical elements of treatment for cancer. The document reveals that this treatment protocol is for acute lymphoblastic leukemia (ALL), and that the chemotherapy includes administration of chemotherapeutic agents in the cerebrospinal fluid; this is referred to as intrathecal therapy and is abbreviated as ITT throughout the document.

[13] *Leukemia Diagnosis*, Penn Medicine, available at: https://www.pennmedicine.org/conditions/leukemia/diagnosis.

Notarized Letter by Dr. Saha, Exhibit A.

E. Respondents Place the Family in Expedited Removal While Their Removal Proceedings Remain Pending.

89. On June 10, 2025, counsel requested a credible fear interview for Petitioners in the event that DHS had placed them in expedited removal proceedings. That afternoon, an unnamed deportation officer replied, "[y]our clients are pending a credible fear interview." This statement confirms Respondents' position that the family is in expedited removal and, thus, subject to mandatory detention under 8 U.S.C. § 1225(b) and ineligible for bond.

90. On June 18, 2025, counsel mailed an appeal of the Immigration Judge's grant of DHS's motion to dismiss to the Board of Immigration Appeals. The Board of Immigration Appeals received the appeal on June 19, 2025. That appeal remains pending. Exhibit B, Appeal.

91. On or about June 21, 2025, Defendants subjected Petitioners to a credible fear interview.

92. The Defendants conducted the credible fear interview early on a Saturday morning without any advance notice to Petitioners' counsel, despite knowing for weeks that the Petitioners were represented and that counsel had submitted G-28 forms to DHS confirming the representation.

93. At the beginning of the credible fear interview, Ms. Z. requested that the interviewing officer call her counsel, and Ms. Z. provided the interviewing officer with her counsel's mobile phone number. It is unclear whether the interviewing officer ever actually called her counsel.[14]

94. Given the Defendants' failure to provide any advance notice of the credible fear

[14] The only call that counsel missed on the morning of June 21, 2025, is from (475) 277-3002, which does not appear to be a phone number associated with the U.S. government.

interview, Ms. Z., D.M.Z., and N.M.Z. navigated the interview alone without the assistance of counsel.

95. Upon information and belief, DHS moved to dismiss the immigration removal proceedings that were pending and that would permit Ms. Z., D.M.Z., and N.M.Z. to apply for asylum in order to subject them to expedited removal from the United States.

96. Ms. Z., D.M.Z., and N.M.Z. are facing two current removal proceedings ongoing simultaneously: their appeal of the dismissal of their traditional removal proceedings, and expedited removal proceedings. In at least one similarly situated case, the government has admitted that it cannot subject noncitizens to expedited removal while the appeal from the dismissal of their case plays out.[15]

CAUSES OF ACTION

FIRST CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Substantive Due Process); Administrative Procedure Act 5 U.S.C. §§ 702, 705

97. The family repeats and realleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

98. As DHS determined when it paroled them into the United States, the family is not a flight risk nor are they a danger to the community. Respondents' detention of the family is therefore unjustified. Accordingly, the family is being detained in violation of their constitutional right to Due Process under the Fifth Amendment, and they should be released immediately.

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[15] *See Y-Z-L-H- v. Bostock*, No. 3:25-cv-965, Dkt. 10, at 10 (June 12, 2025) (conceding that "[t]here is currently no final order of removal against Petitioner; he has until July 7, 2025, in which to file an administrative appeal with the Board. While the administrative appeal process plays out, Petitioner remains in removal proceedings under 8 U.S.C. § 1229a, where he retains all the substantive and procedural rights attendant to those proceedings . . . ."); *accord id.*, Dkt. 11, at 4-5.

SECOND CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process); Administrative Procedure Act, 5 U.S.C. §§ 702, 706

99. The family repeats and realleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

100. The Due Process Clause of the Fifth Amendment protects all "person[s]" from deprivation of liberty "without due process of law." U.S. Const. Amend. V.

101. The government made the reasoned decision to parole the family into the United States to pursue asylum, thereby necessarily concluding that they are not a security or flight risk. The Due Process Clause entitles the family to meaningful process assessing whether their detention is justified. The arrest and detention of the family without an opportunity for them to contest their detention in front of a neutral adjudicator after they had been living in the United States for more than seven months provides insufficient process and violates the Due Process Clause of the Fifth Amendment of the Constitution.

102. Given the importance of the liberty interest at stake, the absence of any meaningful existing process, and Respondents' minimal interest in detaining law-abiding families, a pre-deprivation hearing at which Respondents bear the burden of proof of showing that the family is a security or flight risk is required. The family should be immediately released pending any such hearing. In the alternative, this Court should hold a judicial bond hearing to determine whether the family should be released.

THIRD CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process); Administrative Procedure Act, 5 U.S.C. §§ 702, 706

103. The family repeats and realleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

104. The family remains in full removal proceedings pursuant 8 U.S.C. § 1229a while they appeal the dismissal of those proceedings to the Board of Immigration Appeals. The government's efforts to subject the family to removal proceedings under 8 U.S.C. § 1225(b)(1), while full removal proceedings under 8 U.S.C. § 1229a remain ongoing, violates the Due Process Clause of the Fifth Amendment of the Constitution.

105. In full removal proceedings under § 1229a, the family would be entitled to a bond hearing. Accordingly, the Court should order the family's immediate release or order the government to provide a bond hearing to the family.

FOURTH CLAIM

Violation of the Immigration and Nationality Act and its Implementing Regulations, Administrative Procedure Act, 5 U.S.C. §§ 702, 706

106. The family repeats and realleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

107. Section 1229a provides that, "[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether [a noncitizen] may be admitted to the United States or, if the [noncitizen] has been so admitted, removed from the United States." 8 U.S.C. § 1229a(a)(3). The family is in Section 1229a proceedings that are ongoing. No determination has yet been made as to whether they are to be removed from the United States in those proceedings.

108. Moreover, the family has a statutory right to apply for asylum, 8 U.S.C. § 1158(a)(1), which they intend to do.

109. The government's dismissal of the family's removal proceedings pursuant to 8 U.S.C. § 1229a violated the INA and its implementing regulations. In full removal proceedings under § 1229a, the family would be entitled to a bond hearing. Accordingly, the Court should order the family's immediate release or order the government to provide a bond hearing to the family.

FIFTH CLAIM

Violation of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(1); 8 U.S.C. § 1252(e)(2); Administrative Procedure Act, 5 U.S.C. § 706(2)

110. The family repeats and realleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

111. 8 U.S.C. § 1225(b)(1) covers the "[i]nspection of [noncitizens] arriving in the United States and certain other [noncitizens] who have not been admitted or paroled." 8 U.S.C. § 1225(b)(1). Section 1225(b)(1)(A)(iii)(II) further clarifies that "[a noncitizen] described in this clause is [a noncitizen] who . . . has not been admitted or paroled into the United States." 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

112. The family was paroled into the United States in October 2024. The government's application of 8 U.S.C. § 1225(b)(1) to the family over seven months after they were paroled exceeds the government's statutory authority in violation of the INA and the Administrative Procedure Act ("APA").

113. In full removal proceedings under § 1229a, the family would be entitled to a bond hearing. The Court should order the family's immediate release or order the government to grant that bond hearing.

SIXTH CLAIM

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process); Administrative Procedure Act, 5 U.S.C. §§ 702, 706

114. The family repeats and realleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

115. Because the family was paroled into the United States, expedited removal under 8 U.S.C. § 1225(b)(1) cannot be applied to them. The government has not provided the family with an opportunity to challenge their placement into expedited removal on these grounds. The

government's failure to provide the family with such an opportunity violates the Due Process Clause of the Fifth Amendment of the Constitution.

116. In full removal proceedings under § 1229a, the family would be entitled to a bond hearing. Accordingly, the Court should order the family's immediate release or order the government to grant a bond hearing. The court should further order, assuming the family is successful in the bond hearing or otherwise released, that the family must receive a pre-deprivation hearing before being subjected to expedited removal or detention under § 1225(b).

SEVENTH CLAIM

Violation of the Fourth Amendment to the U.S. Constitution (unlawful arrest); Administrative Procedure Act, 5 U.S.C. §§ 702, 706

117. The family repeats and realleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

118. The family was detained by federal immigration officials as removable when they entered the United States. The government exercised its discretion under the INA to release, or parole, the family while they litigated that charge in immigration court. At the time of the family's arrest, they had been living at liberty pursuant to a parole determination by federal immigration authorities.

119. The government lacked reliable information of changed or exigent circumstances that would justify the family's arrest after federal immigration authorities had already decided they could pursue their claims for immigration relief at liberty. The family's re-arrest based solely on the fact that they are subject to removal proceedings is unreasonable and violates the Fourth Amendment. The court should therefore order their release.

EIGHTH CLAIM

Violation of the Administrative Procedure Act, 5 U.S.C. §§ 702, 706

120. The family repeats and realleges the allegations contained in all preceding

paragraphs of this Petition-Complaint as if fully set forth herein.

121. The government's policy of targeting people who appear for their immigration hearings for arrest in immigration courthouses is arbitrary and capricious. The policy is an unreasoned departure from recent and longstanding agency policy and practice. The government has provided no reasoned explanation for this reversal.

122. The policy also fails to consider multiple important aspects of the problem. Arresting people who appear for their court proceedings will disincentivize people from attending those proceedings, even where they have meritorious claims for relief, and impede the fair administration of justice. The policy also fails to consider the fact that people who appear for their immigration proceedings are not flight risks and therefore do not need to be detained while their proceedings are pending.

123. The courthouse arrest policy, and the family's arrest pursuant to that policy, constitute agency actions that are arbitrary and capricious and therefore violate the APA, 5 U.S.C. § 706(2). The court should order their immediate release.

NINTH CLAIM

Violation of the Immigration and Nationality Act and the Administrative Procedure Act, 5 U.S.C. §§ 702, 706

124. The family repeats and realleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

125. The government's arrest of the family immediately after they exited an immigration court proceeding in which they were parties violates the common law privilege against civil arrests while coming to, attending, and returning from court. This common law protection is incorporated into the INA.

126. The courthouse arrest policy, and Petitioners' arrest under that policy, are in excess of statutory authority and contrary to law, and therefore violate the APA, 5 U.S.C. § 706(a),

because the INA does not authorize civil arrests in and around courthouses. The court should therefore order the family's immediate release.

PRAYER FOR RELIEF

WHEREFORE, the petitioner respectfully requests that this Court:

1) Assume jurisdiction over this matter;
2) Issue a temporary restraining order and preliminary and permanent injunctions preventing Respondents from transporting Petitioners outside the United States or outside this judicial District;
3) Issue a preliminary injunction or an order releasing the Petitioners on their own recognizance;
4) Issue an Order to Show Cause returnable in three days ordering that the petition be served and the Respondents respond to the petition;
5) Declare that the Petitioners' arrest and detention violates the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act, the Immigration and Nationality Act, and the Suspension Clause of Article I of the U.S. Constitution;
6) Issue a Writ of Habeas Corpus ordering Respondents to immediately release the Petitioners from custody or, in the alternative, hold a prompt bond hearing to determine whether Petitioners should remain in custody;
7) Declare that Petitioners may not be subject to expedited removal because they were paroled into the United States and remain in full removal proceedings under 8 U.S.C. § 1229a, and either order Petitioners' release or require Respondents to provide them with a bond hearing on that basis;
8) Set aside the Respondents' revised Immigration Courthouse Arrest Policy, including as applied to the Petitioners;

9) Award the Petitioners reasonable attorneys' fees and costs for this action under the Equal Access to Justice Act, 28 U.S.C. § 2414; and

10) Grant the Petitioners any other relief this Court deems just and proper.

Dated: June 24, 2025

Respectfully submitted,

/s/ Daniel Hatoum

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COUNSEL'S VERIFICATION

I am submitting this verification on behalf of the Petitioners because I am one of the Petitioners' attorneys. I have discussed with the Petitioner Ms. Z. the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

/s/ Elora Mukherjee

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PETITIONER'S VERIFICATION

I reviewed the factual information about me, D.M.Z., and N.M.Z. in the foregoing Petition for Writ of Habeas Corpus and Complaint. The factual information about me, D.M.Z., and N.M.Z. was interpreted for me from English to Spanish, and this information is true and correct to the best of my knowledge.

Date: 06-23-25

Print Name: [redacted]

Signature: [redacted]