IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

YAHAIRA GOVEA ESTRADA,	:	
	:	
Petitioner,	:	
	:	**Case No. 4:25-CV-204-CDL-AGH**
v.	:	**28 U.S.C. § 2241**
	:	
WARDEN, STEWART DETENTION CENTER,[1]	:	
	:	
Respondent.	:	

MOTION TO DISMISS

On June 27, 2025, Petitioner filed a petition for a writ of habeas corpus ("Petition"). ECF No. 1. The Petition raises a single claim asserting that Petitioner's conditions of confinement violate the Eighth Amendment. Pet. ¶¶ 48-56, ECF No. 1. On the same day, Petitioner filed an Emergency Motion for Temporary Restraining Order ("TRO") seeking a stay of removal. ECF No. 2. In support, Petitioner claims that Immigration and Customs Enforcement ("ICE") "apparently proposes to deport the Petitioner before the end of June 2025" even though "Petitioner does not have a pending removal order to the best of Petitioner Counsel's knowledge." Em. Mot. for TRO 2, ECF No. 2.

On the night of June 27, 2025, the Court granted in part Petitioner's Emergency Motion for TRO and ordered that (1) "Respondents shall produce a copy of the final order of removal, and (2) ICE "shall not remove Petitioner until further order of the Court." ECF No. 3. The Court also

[1] In addition to the Warden of Stewart Detention Center, Terrence Dickerson, Petitioner also names officials from United States Immigration and Customs Enforcement in the Petition. "[T]he default rule [for claims under 28 U.S.C. § 2241] is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citations omitted). Thus, Respondent has substituted the Warden of Stewart Detention Center as the sole appropriately named respondent in this action.

noted that "[i]f a final order of removal is produced, it is likely that the Petition for habeas corpus relief will be dismissed promptly for lack of subject matter jurisdiction." *Id.*

Respondent now files this Motion to Dismiss the Petition. In response to the Court's Order (ECF No. 3), Respondent has submitted Petitioner's Form I-871 Notice of Intent/Decision to Reinstate Prior Order, which operates as a final order of removal pursuant to 8 U.S.C. § 1231(a)(5). *See* Declaration of ICE Assistant Field Office Director Traci Horrach ("Horrach Decl.") ¶ 9 & Ex. G. As further explained below, the Court should lift the present stay of removal because Petitioner is subject to a final reinstated removal order and because the Court lacks subject matter jurisdiction to stay removal. Further, the Court should dismiss the Petition because Petitioner's conditions of confinement claim—her sole claim for relief—is not cognizable in habeas corpus.

BACKGROUND

Petitioner is a native and citizen of Mexico who has been detained post-final order of removal pursuant to 8 U.S.C. § 1231 since May 14, 2025. Horrach Decl. ¶¶ 3, 8-9. On or about July 27, 2008, Petitioner attempted to enter the United States at the Bridge of the Americas Port of Entry in El Paso, Texas using a counterfeit Form I-551 Permanent Resident Card bearing the name of another person. *Id.* ¶ 4 & Ex. A. On or about July 27, 2008, Customs and Border Protection ("CBP") issued Petitioner an expedited removal order pursuant to 8 U.S.C. § 1225(b)(1) after finding that she was inadmissible pursuant to 8 U.S.C. § 1182(a)(6)(C)(i) based on her attempt to secure admission into the United States by fraud or willful misrepresentation. *Id.* ¶ 5 & Ex. B.

On July 29, 2008, Petitioner was charged with possession of a false identification document with intent to defraud the United States in violation of 18 U.S.C. § 1028(a)(4) and (b)(6) in the United States District Court for the Western District of Texas. *Id.* ¶ 6 & Ex. C. On August 4, 2008, Petitioner was convicted of this charge following a guilty plea and sentenced to 7 days confinement. *Id.* ¶ 6 & Ex. D. On or about August 8, 2008, Petitioner was removed from the United States pursuant to her expedited removal order. *Id.* ¶ 7 & Ex. E.

On or about May 14, 2025, ICE/ERO encountered Petitioner at the Gwinnett County, Georgia Jail. Horrach Decl. ¶ 8 & Ex. F. Petitioner admitted to ICE/ERO that she was illegally present in the United States, and she entered ICE/ERO custody on the same day. *Id.* ¶ 8 & Ex. F. On or about May 14, 2025, ICE/ERO issued Petitioner a Form I-871 Notice of Intent/Decision to Reinstate Prior Order, which reinstated Petitioner's July 27, 2008 expedited removal order pursuant to 8 U.S.C. § 1231(a)(5). *Id.* ¶ 9 & Ex. G.

There is a significant likelihood of Petitioner's removal in the reasonably foreseeable future. *Id.* ¶ 10. Mexico is open for international travel, and ICE/ERO is currently removing non-citizens to Mexico. *Id.* ICE/ERO is presently prepared to remove Petitioner to Mexico pursuant to the May 14, 2025 final reinstated removal order. *Id.*

LEGAL FRAMEWORK

8 U.S.C. § 1231(a)(5) provides for the reinstatement of a prior order of removal "from its original date" if DHS "finds that an alien has reentered the United States illegally after having been removed . . . under an order of removal[.]" *See also* 8 C.F.R. § 1241.8(a). The Supreme Court has held that "reinstated removal orders are 'administratively final.'" *Johnson v. Guzman Chavez*, 594 U.S. 523, 534 (2021); *see also id* ("[W]e therefore must decide two questions: whether respondents were 'ordered removed' and whether their reinstated removal orders were 'administratively final.' The answer to both questions is yes.").

A reinstated removal order "is not subject to being reopened or reviewed, . . . and the alien shall be removed under the prior order at any time after the reentry." 8 U.S.C. § 1231(a)(5). Further, a non-citizen subject to a reinstated removal order "has no right to a hearing before an immigration judge," 8 C.F.R. § 1241.8(a), and "is not eligible and may not apply for any relief" from removal, 8 U.S.C. § 1231(a)(5). *See Fernandez-Vargas v. Gonzales*, 548 U.S. 30, 35 (2006) (recognizing that section 1231(a)(5) "applies to all illegal reentrants, explicitly insulates the removal orders from review, and generally forecloses discretionary relief from the terms of the reinstated order"). A non-citizen subject to a reinstated removal order may only seek withholding of removal. *See* 8 U.S.C. § 1231(b). Pursuit or grant of statutory withholding does not affect the validity of a reinstated removal order. *Guzman Chavez*, 594 U.S. at 531-32; *Nasrallah* v. *Barr*, 590 U.S. 573, 582 (2020); *INS* v. *Aguirre-Aguirre*, 526 U.S. 415, 419 (1999).

Once a removal order is reinstated, the non-citizen's detention is governed by 8 U.S.C. § 1231. 8 C.F.R. § 1231(a)(5); 8 C.F.R. § 1241.8(c); *see also Guzman Chavez*, 594 U.S. at 533-47. Congress provided in § 1231(a)(1) that ICE/ERO shall remove an alien within ninety (90) days of the latest of: (1) the date the order of removal becomes administratively final; (2) if a removal is stayed pending judicial review of the removal order, the date of the reviewing court's final order; or (3) the date the alien is released from criminal confinement. *See* 8 U.S.C. §§ 1231(a)(1)(A)-(B). During this ninety-day time frame, known as the "removal period," detention is mandatory. *See id.* at § 1231(a)(2).

If ICE/ERO does not remove an alien within ninety days, detention may continue if it is "reasonably necessary" to effectuate removal. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001); 8 U.S.C. § 1231(a)(6) (providing that an alien who is subject to mandatory detention, inadmissible, or who has been determined to be a risk to the community or a flight risk, "may be detained beyond the removal period"). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court determined that, under the Fifth Amendment, detention for six months is presumptively reasonable. 533 U.S. at 700. "After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.* at 701 (emphasis added); *see also* 8 C.F.R. § 241.13. Where there is no significant likelihood of removal in the reasonably foreseeable future, the alien should be released from confinement. *Id.*

In *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002), the Eleventh Circuit further elaborated on the framework announced by the Supreme Court in *Zadvydas*, stating that "in order to state a claim under *Zadvydas* the alien not only must show post-removal order detention in excess of six months but also must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." 287 F.3d at 1052. Thus, the burden is on Petitioner to demonstrate: (1) post-removal order detention lasting more than six months; and (2) evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *Gozo v. Napolitano*, 309 F. App'x 344, 346 (11th Cir. 2009) (per curiam) (quoting *Akinwale*, 287 F.3d at 1051-52).

ARGUMENT

The Court should lift the existing TRO staying Petitioner's removal because (1) Petitioner is subject to a valid final reinstated removal order, and (2) the Court lacks subject matter jurisdiction to stay Petitioner's removal. In addition, the Petition should be dismissed. Petitioner's sole claim for relief challenges her conditions of confinement. However, conditions of confinement claims are not cognizable in habeas, and Petitioner is not entitled to release even if her allegations are proven.

I. The Court should lift the TRO because Petitioner is subject to a final reinstated removal order.

The Court should lift the present TRO because Petitioner has been subject to a final reinstated removal order since May 14, 2025. Horrach Decl. ¶ 9 & Ex. G. As the Supreme Court has recognized, a reinstated removal order is administratively final, and the post-final order of removal authorities govern Petitioner's detention. *Guzman Chavez*, 594 U.S. at 534.

In seeking an emergency TRO, Petitioner claims that ICE/ERO may not remove her from the United States because "[t]here is no clear showing of the basis to execute this deportation as Petitioner does not have a pending removal order to the best of Petitioner Counsel's knowledge." Em. Mot. for TRO 2. Petitioner cites no evidence or argument in support of this claim beyond her counsel's representation that she "researched all claims for relief" and could not locate Petitioner's removal proceedings on a public database. Cochran Decl. ¶¶ 3-4, ECF No. 2-1.

However, as explained above, Petitioner is subject to a final reinstated removal order. In 2008, she was issued an expedited removal order based on her attempt to illegally enter the United States through fraud. Horrach Decl. ¶¶ 4-5 & Ex. B. After Petitioner's criminal conviction for attempting to defraud the United States on this basis, she was removed from the United States pursuant to this expedited removal order on August 8, 2008. *Id.* ¶ 7 & Ex. E. On May 14, 2025, ICE/ERO discovered that Petitioner had subsequently re-entered the United States upon encountering her at the Gwinnett County Jail. *Id.* ¶ 8 & Ex. F. Accordingly, ICE/ERO issued a final reinstated removal order on the same day based on a finding that she had previously been removed and re-entered the country. *Id.* ¶ 9 & Ex. G; *see also* 8 C.F.R. § 1241.8(a)(1)-(3), (c).

The Supreme Court has thoroughly analyzed the statutory and regulatory scheme and held that reinstated removal orders constitute final orders of removal within the meaning of INA. *Guzman Chavez*, 594 U.S. at 534 ("[R]einstated removal orders are 'administratively final.'"). Indeed, ICE/ERO is statutorily obligated to remove Petitioner from the United States based on this final reinstated removal order. 8 U.S.C. § 1231(a)(5) ("If the Attorney General finds that an alien has reentered the United States illegally after having been removed, . . . the alien *shall* be removed under the prior order at any time after the reentry. (emphasis added)). ICE/ERO is also obligated to detain Petitioner for the first 90 days after her removal order becomes final. 8 U.S.C. § 1231(a)(1), (2). Here, Petitioner has been detained for only 47 days since ICE/ERO issued her final reinstated removal order on May 14, 2025.

II. The Court should lift the TRO because the Court lacks jurisdiction to stay removal.

The Court should lift the present TRO because the Court lacks subject matter jurisdiction to stay removal under two statutory provisions: 8 U.S.C. § 1252(b)(9) and 8 U.S.C. § 1252(g).

A claim may proceed in this Court only if federal subject matter jurisdiction exists. *Lifestar Ambulance Serv., Inc. v. United States*, 365 F.3d 1293, 1295 (11th Cir. 2004). This is because "[f]ederal courts are not courts of general jurisdiction; they have only the power that is authorized by Article III of the Constitution and the statutes enacted by Congress pursuant thereto." *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986) (citation omitted). "The limits upon federal jurisdiction, whether imposed by the Constitution or by Congress, must be neither disregarded nor evaded." *Owen Equip. & Erection Co. v. Kroger*, 437 U.S. 365, 374 (1978).

In the immigration context, "[f]ollowing enactment of the REAL ID Act of 2005, district courts lack habeas jurisdiction to entertain challenges to final orders of removal." *Themeus v. U.S. Dep't of Justice*, 643 F. App'x 830, 832 (11th Cir. 2016) (per curiam) (citing 8 U.S.C. § 1252(a)(5), (b)(9)). "Instead, 'a petition for review filed with the appropriate court is now an alien's exclusive means of review of a removal order.'" *Id.* (quoting *Alexandre v. U.S. Att'y Gen.*, 452 F.3d 1204, 1206 (11th Cir. 2006)). 8 U.S.C. § 1252(b)(9) provides in full:

> Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under [subchapter II of chapter 12 (8 U.S.C. §§ 1151-1378)] shall be available only in judicial review of a final order under this section. Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28 or any

> other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

8 U.S.C. § 1252(b)(9).

The Supreme Court has described section 1252(b)(9) as an "unmistakable zipper clause" that streamlines litigation by consolidating and channeling claims first to the agency and then to the circuit courts through petitions for review. *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999). In *AADC*, the Court elaborated on the breadth of section 1252(b)(9), explaining that it serves as a "general jurisdictional limitation" on challenges to actions arising from removal operations and proceedings. *Id.* at 482. District courts are barred from reviewing removal proceedings regardless of how the non-citizen characterizes the claim. *Mata v. Sec'y of Dep't of Homeland Sec.*, 426 F. App'x 698, 700 (11th Cir. 2011) (per curiam) (affirming district court's dismissal of challenge to removal order brought pursuant to the federal question and mandamus statutes, Administrative Procedure Act, and the Declaratory Judgment Act).

Additionally, 8 U.S.C. § 1252(g) provides that

> [e]xcept as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), . . . no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.

8 U.S.C. § 1252(g). "When asking if a claim is barred by § 1252(g), courts must focus on the action being challenged." *Canal A Media Holding, LLC v. U.S. Citizenship & Imm. Servs.*, 964 F.3d 1250, 1257-58 (11th Cir. 2020). Section 1252(g) provision applies "to three discrete actions that the Attorney General may take: [the] 'decision or action' to '*commence* proceedings, *adjudicate* cases, or *execute* removal orders.'" *AADC*, 525 U.S. at 482 (emphasis in original). Section 1252(g) operates as "a 'discretion-protecting provision' designed to prevent the

'deconstruction, fragmentation, and hence prolongation of removal proceedings.'" *Camarena v. Director, Imm. & Customs Enf't*, 988 F.3d 1268, 1272 (11th Cir. 2021) (quoting *AADC*, 525 U.S. at 487).

Section 1252(b)(9) deprives the Court of jurisdiction over Petitioner's request that the Court stay her removal. By seeking a stay of removal, Petitioner plainly challenges ICE/ERO's decision to seek her removal from the United States. In doing so, she seeks "[j]udicial review of [a] question[] of law and fact . . . arising from an[] action taken or proceeding brought to remove [a non-citizen] from the United States[.]" 8 U.S.C. § 1252(b)(9). Accordingly, this Court lacks jurisdiction to afford Petitioner a stay of removal in this habeas proceeding. *Id.* ("[N]o court shall have jurisdiction, by habeas corpus under section 2241 of title 28 or any other habeas corpus provision . . . to review such an order or such questions of law or fact."); *see also C.B.M. v. Warden, Stewart Det. Ctr.*, No. 4:19-cv-44-CDL, 2019 WL 5243067, at *1 (M.D. Ga. Aug. 30, 2019) ("The Court lacks jurisdiction to stay Petitioner's removal." (citation omitted)); *Watson v. Stone*, No. 4:13-cv-480-CDL, 2013 WL 6072894, at *2 (M.D. Ga. Nov. 18, 2013) (denying a non-citizen's motion to stay his removal and noting that § 1252(a)(5) "has consistently been interpreted by district courts faced with a motion to stay removal as stripping them of jurisdiction to provide such relief[]" (collecting cases)).

Further, section 1252(g) similarly deprives the Court of jurisdiction to stay Petitioner's removal. By requesting a stay of removal, Petitioner clearly seeks to challenge "the decision or action by the Attorney General to . . . execute [her] removal order[.]" 8 U.S.C. § 1252(g). The Eleventh Circuit has made clear that section 1252(g) deprives the Court of jurisdiction to stay removal. In *Camarena v. Director, Immigration and Customs Enforcement*, 988 F.3d 1268 (11th Cir. 2021), two non-citizen subject to final orders of removal "filed . . . habeas petition[s] and . . .

emergency motion[s] to halt the execution of [their] removal order[s]." 988 F.3d at 1270-71. The district courts denied their requests for stays of removal, finding they lacked subject matter jurisdiction. *Id.* The Eleventh Circuit affirmed on appeal, holding that the non-citizens' "claims [fell] squarely within § 1252(g)'s jurisdictional bar" because they challenged "the government's execution of [their] removal orders." *Id.* at 1272.

Like the non-citizens in *Camarena*, Petitioner is subject to a final order of removal and seeks a stay of her removal. In doing so, Petitioner challenges ICE/ERO's action to "execute [his] removal order[.]" 8 U.S.C. § 1252(g). As the Eleventh Circuit recognized in *Camarena*, such a challenge "fall[s] squarely within § 1252(g)'s jurisdictional bar[.]" *Camarena*, 988 F.3d at 1272. The Court, therefore, lacks subject matter jurisdiction over Petitioner's request that her removal be stayed, and the Court should lift the TRO accordingly.

III. The Petition should be dismissed because Petitioner's conditions of confinement claim is not cognizable in habeas, and she is not entitled to release from custody on this basis.

In the Petition, Petitioner raises one claim for relief: the conditions of her confinement in immigration custody violate the Eighth Amendment, and she is entitled release from custody as a remedy. Pet. ¶¶ 48-56, 58. The Petition should be dismissed for two reasons. First, conditions of confinement claims are not cognizable in a habeas corpus proceeding. Second, allegations concerning conditions of confinement, even if proven, do not entitle Petitioner to release.

First, Petitioner's claim should be denied because it is not cognizable in habeas. "[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). "[W]here an inmate seeks injunctive relief challenging the fact of his conviction or the duration of his sentence . . . [s]uch claims fall within the 'core' of habeas corpus[.]" *Nelson v. Campbell*, 541 U.S. 637, 643 (2004). "By contrast, constitutional claims that merely challenge the conditions of a prisoner's confinement, whether the inmate seeks monetary or injunctive relief, fall outside of that core[.]" *Id.* For these reasons, in the immigration context, the Eleventh Circuit has held that a "§ 2241 petition is not the appropriate vehicle for raising . . . a claim challeng[ing] the conditions of confinement, not the fact or duration of that confinement." *Vaz v. Skinner*, 634 F. App'x 778, 781 (11th Cir. 2015) (per curiam) (affirming dismissal of immigration detainee's habeas petition alleging the denial of inadequate medical care because the claim was not cognizable in habeas).

In reliance on these principles, courts throughout the Eleventh Circuit—including this Court—have held that immigration detainees' claims concerning their conditions of confinement are not cognizable in habeas. *Benavides v. Gartland*, No. 5:20-cv-46, 2020 WL 3839938, at *4 (S.D. Ga. July 8, 2020); *Louis v. Martin*, No. 2:20-cv-349-FtM-60NPM, 2020 WL 3490179, at *7 (M.D. Fla. June 26, 2020); *A.S.M. v. Warden, Stewart Cnty. Det. Ctr.*, 467 F. Supp. 3d 1341, 1348-49 (M.D. Ga. 2020); *Archilla v. Witte*, No. 4:20-cv-00596-RDP-JHE, 2020 WL 2513648, at *12 (N.D. Ala. May 15, 2020); *Matos v. Lopez Vega*, 614 F. Supp. 3d 1158, 1167-68 (S.D. Fla. 2020). Petitioner similarly attempts to challenge her conditions of confinement in immigration custody through a habeas petition. Pet. ¶¶ 48-56. The Court should dismiss the Petition because this claim is not cognizable in this habeas proceeding.

Second, Petitioner's claim should be denied because she is not entitled to release from custody to remedy any purportedly unlawful condition of confinement. "[E]ven if a prisoner proves an allegation of mistreatment in prison that amounts to cruel and unusual punishment, he is not entitled to release." *Gomez v. United States*, 899 F.2d 1124, 1126 (11th Cir. 1990) (citing *Cook v. Hanberry*, 596 F.2d 658, 660 (5th Cir. 1979), *cert. denied*, 442 U.S. 932 (1979)). Rather, "[t]he appropriate Eleventh Circuit relief from prison conditions that violate the Eighth Amendment during legal incarceration is to require the discontinuance of any improper practices, or to require correction of any condition causing cruel and unusual punishment." *Id.*

The Eleventh Circuit has held that "even if [an immigration detainee] established a constitutional violation [in a habeas proceeding], he would not be entitled to the relief he seeks because release from imprisonment is not an available remedy for a conditions-of-confinement claim." *Vaz*, 634 F. App'x at 781 (citing *Gomez*, 899 F.2d at 1126); *see also A.S.M.*, 467 F. Supp. 3d at 1348 ("Release from detention is not available as a remedy for unconstitutional conditions of confinement claims." (citations omitted)). Accordingly, even assuming Petitioner could establish an unlawful condition of confinement, her habeas claim should be dismissed because she is not entitled to release from custody as a remedy.

CONCLUSION

For the reasons stated herein, Respondent respectfully requests that the Court lift the TRO (ECF No. 3) and dismiss the Petition.

Respectfully submitted this 30th day of June, 2025.

WILLIAM R. KEYES
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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Y.G.E., Petitioner, v. WARDEN, Stewart Detention Center, Respondent,	CASE NO. 4:25-CV-204-CDL-AGH

DECLARATION OF TRACI HORRACH

I, Traci Horrach, declare as follows:

1. I am employed as an Assistant Field Office Director for the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), Enforcement and Removal Operations, Atlanta Field Office ("Atlanta ERO") in Lumpkin, Georgia. As part of my official duties, I am one of the ICE officers responsible for overseeing the Atlanta ERO Field Office's detained immigration docket, including cases involving ICE detainees at the Stewart Detention Center ("SDC"), in Lumpkin, Georgia. I make this declaration based on my personal knowledge and review of official records.

2. An Alien File ("A-file") is an individual case file for each alien, organized by the unique registration number given to each alien (A-number). The Petitioner's A-file is currently located at Atlanta ERO. All documents referenced in this declaration were created in the normal course of business by officials and employees of ICE or received by ICE in the normal course of business.

3. I have reviewed the case of Yahaira Govea-Estrada ("Petitioner"), A-number [redacted] who is currently in ICE custody at Stewart Detention Center in Lumpkin, Georgia.

4. The Petitioner is a native of Mexico and a citizen of Mexico. On or about July 27, 2008, the Petitioner attempted to enter the United States at the Bridge of the Americas Port of Entry in El Paso, Texas by presenting a counterfeit Form I-551 bearing the name of another person. *See* Exhibit A, 2008 Electronic I-213, Record of Deportable or Inadmissible Alien.

5. On or about July 27, 2008, the Petitioner was issued an Expedited Removal Order to Mexico under section 235(b) of the Immigration and Nationality Act ("INA"). *See* Exhibit B, I-860, Expedited Removal Order.

6. On July 29, 2008, Petitioner was charged with possession of a false identification document with intent to defraud the United States in violation of 18 U.S.C. § 1028(a)(4) and (b)(6) in the United States District Court for the Western District of Texas. Exhibit C, Criminal Complaint. On August 4, 2008, the Petitioner was convicted of this charge and sentenced to 7 days confinement. Exhibit D, Criminal Judgment.

7. On or about August 8, 2008, the Petitioner was removed from the United States pursuant to that Expedited Removal Order. *See* Exhibit E, I-296, Verification of Removal; Exhibit A, 2008 Electronic I-213, Record of Deportable or Inadmissible Alien.

8. On or about May 14, 2025, Atlanta ERO encountered the Petitioner at the Gwinnett County, Georgia Jail. Petitioner admitted to Atlanta ERO that she was illegally present in the United States. *See* Exhibit F, 2025 Electronic I-213, Record of Deportable or Inadmissible Alien. She entered ERO custody on the same day.

9. On or about May 14, 2025, pursuant to INA § 241(a)(5), the Petitioner was issued an I-871, Notice of Intent/Decision to Reinstate Prior Order reinstating the Petitioner's July 27, 2008, Expedited Removal Order to Mexico. *See* Exhibit G, I-871, Notice of Intent/Decision to Reinstate Prior Order.

10. There is a significant likelihood of Petitioner's removal in the reasonably foreseeable future. Mexico is open for international travel, and ERO is currently removing non-citizens to Mexico. Atlanta ERO is presently prepared to remove the Petitioner to Mexico pursuant to the May 14, 2025, Reinstated Order.

Pursuant to Title 28, U.S. Code § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

TRACI N HORRACH
Digitally signed by TRACI N HORRACH
Date: 2025.06.29 11:07:43 -04'00'

Date: June 29, 2025

Traci Horrach, Assistant Field Office Director
Department of Homeland Security
Immigration & Customs Enforcement
Enforcement and Removal Operations
Atlanta Field Office, Lumpkin, Georgia

A

SSN: **N/A**	Age: **41**	Landmark: **N/A**
Juvenile Verified: **N/A**	Age at Encounter: **24**	Arrest At/Near: **BOA**
Occupation: **HOUSE WIFE**	Height: **62**	Juvenile Status: **N/A**
TSC Log #: **N/A**	Weight: **157**	CBP Family Unit ID: **N/A**
NUIN #: **N/A**	Speak/Understand English: **N/A**	CBP Separation Reason: **N/A**
SEN #: **N/A**	Read/Write English: **N/A**	Accompanying Family Member Relation: **N/A**
TECS Subject #: **N/A**	Primary Language: **N/A**	Accompanying Family Member Subject ID: **N/A**
U.S. Veteran Status: **N/A**	Family Members: **N/A**	Consequence Delivery System Selection: **N/A**
Relationship to U.S. Veteran(s): **N/A**		ICE Family ID: **N/A**

I-213 Narrative

Narrative 1 : Created Date: 07/27/2008 09:46 PM

At about 1745 hours on July 27, 2008 the subject applied for admission into the United States from Mexico via Pedestrian Primary at the Bridge of the Americas Port of Entry in El Paso, Texas. The subject presented a counterfeit Form I-551 Temporary Resident Card in the name of Silvia Avila Sanchez and date of birth as [redacted]84, and having number (partially blocked) 306. CBPO D Martinez asked the subject where she was going. The subject replied she was going to work cleaning a lady's house in El Paso. The inspecting officer asked the subject where he obtained the permit he presented. The subject stated she got it "here". CBPO D Martinez noticed anomalies in the aspect of the document presented and saw the port issued code indicated it was allegedly issued at the Paso Del Norte Port of Entry. CBPO D Martinez suspected that the subject presented a counterfeit entry document, and referred the subject to Passport Control Secondary for further inspection.

In Passport Control Secondary, the subject was patted down by CBPO C Macias, witnessed by CBPO C Balkovec, authorized by SCBPO Birdseye. Pat down of the subject yielded negative results. The subject admitted to CBP Salgado that he had purchased the documents for $600 U.S. dollars and that she is a citizen and national of Mexico not in possession of any legal documents with which to enter the United States. The subject was served with Form I-214 Notice of Rights in the Spanish language, which the subject read and understood. The subject signed the form indicating he was willing to give a statement and waive his right to counsel. The subject stated to have knowledge that the document was counterfeit and that it was against the law to attempt to enter in this manner. The subject stated her intentions for entering the United States were to seek unauthorized employment in the El Paso, Texas area. The subject claimed that she had previously lived in the United States since she was approximately eight years of age. The subject stated she lived in San Benito, Texas where she went to school and worked selling cellular phones. The subject stated that approximately five months ago she left the United States to go to Mexico because her mother became ill and she wanted to help her.

The subject is in violation of Section 212(a)(6)(C)(i) of the INA, as amended, and may be prosecuted under 18 USC 1028 for reentry after deportation. The subject was paroled into the United States and transported to the El Paso County Detention Facility where she will await criminal proceedings. El Paso County Sheriff's office was served with Form I-247 Immigration Detainer to ensure the subject's return to CBP custody. A sworn statement was taken in which the subject expressed no fear of her return to Mexico. All queries negative except as noted above. [redacted] alerts completed and placed in subjects file. [redacted] were created in [redacted]

ADDENDUM: August 5, 2008

On or about August 4, 2008, Yahaira Edith GOVEA-Estrada was convicted of "knowingly possess a false identification document, with the intent such document be used to defraud the United States" in violation of 18 USC 1028(a)(4) and (b)(6) in the United States District Court for the Western District of Texas, El Paso Division. She was sentenced to time served, Fine $0 and Assessment $0 by

Magistrate Judge Michael S. McDonald.

Maria Alvarez, CBP Enforcement Officer

Margarita Lopez, Acting Supervisory CBP Enforcement Officer

ADDENDUM

August 8, 2008

On this date the subject was remanded to Service custody at Passport Control Secondary at the Paso Del Norte Port of Entry in El Paso, Texas. Subject was processed for Expedited Removal for 5 years with the concurrence of the shift supervisor. A sworn statement was taken on July 27, 2008 in which the subject expressed no fear of persecution if returned to Mexico. Forms I-860 and I-296 were completed and served to the subject. Subject's Parole I-94 #07094736011 was terminated. [redacted] alerts were generated. Departure to Mexico was verified.

CBPO Orlando Alvarez

SCBPO Edward Sinderson

B

C

United States District Court

FILED

WESTERN DISTRICT OF TEXAS, EL PASO DIVISION

JUL 29 2008

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY________ DEPUTY CLERK

UNITED STATES OF AMERICA
V.
Yahaira Edith Govea-Estrada

CRIMINAL COMPLAINT

CASE NUMBER: 08-4094

I, the undersigned complainant, being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about July 27, 2008 in El Paso county, in the Western District of Texas defendant(s) did, (Track Statutory Language of Offense)

knowingly possess a false identification document, with the intent such document be used to defraud the United States,

in violation of Title 18 United States Code, Section(s) 1028 (a)(4) and (b)(6)

I further state that I am a(n) Customs and Border Protection Enforcement Officer and that this complaint is based on the following facts: That on or about July 27, 2008, the DEFENDANT, Yahaira Edith Govea-Estrada, a native and citizen of Mexico, attempted to enter the United States coming from Mexico at the Bridge of the Americas Port of Entry located in El Paso, Texas, via pedestrian primary. The DEFENDANT presented to Customs and Border Protection (CBP) Officer David Martinez a service Form I-94, bearing a counterfeit Temporary I-551 Stamp, proof of Lawful Admission for Permanent Residence with the DEFENDANT'S photograph and bearing the name of Silvia Avila Sanchez. Officer Martinez asked the DEFENDANT where she obtained the document she presented and stated that she obtained at the Bridge of the Americas. Officer Martinez asked the DEFENDANT where she was going and she responded that she worked for a lady in El Paso cleaning her house. Officer Martinez suspected that the document the DEFENDANT presented was counterfeit and he did not admit the DEFENDANT but escorted her to the Passport Control Secondary (PCS) office for further interview and inspection. At PCS, the DEFENDANT stated that she purchased the document she presented for $ 600.00 US Dollars and that she is citizen of Mexico and does not possess documents to enter the United States. CBP Officer Jesus Salgado served the DEFENDANT with Form I-214, Warning of Rights (Spanish Version), which she read, stated she understood and voluntarily signed, informing Officer Salgado she was willing to answer any questions without the presence of an attorney. The DEFENDANT then stated that she had been living in the United States since she was 8 years old. She further stated that her intentions upon entering the United States were to seek employment in El Paso, Texas.

Continued on the attached and made a part hereof: ☐ Yes ☒ No

Signature of Complainant
Federico Guerrero, Jr.
Customs and Border Protection
Enforcement Officer

Sworn to before me and subscribed in my presence,

July 29, 2008
Date

at El Paso, Texas
City and State

Michael S. McDonald
United States Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

STATUTE VIOLATED	PLACE OF VIOLATION	DATE
18 USC 1028(a)(4) and (b)(6)	Bridge of the Americas Port of Entry El Paso, Texas	July 27, 2008

VIOLATION

The DEFENDANT, Yahaira Edith Govea-Estrada, did knowingly possess a false identification document with the intent such document be used to defraud the United States.

DEFENDANT

The DEFENDANT is a native and citizen of Mexico. She claims birth to be in Nuevo Leon, Mexico. She also claims that her parents are citizens of Mexico.

DETENTION STATUS

The DEFENDANT was transported to the El Paso County Detention Facility, El Paso, Texas, pending initial hearing before a United States Magistrate Judge.

FACTS

That on or about July 27, 2008, the DEFENDANT, Yahaira Edith Govea-Estrada, a native and citizen of Mexico, attempted to enter the United States coming from Mexico at the Bridge of the Americas Port of Entry located in El Paso, Texas, via pedestrian primary. The DEFENDANT presented to Customs and Border Protection (CBP) Officer David Martinez a service Form I-94, bearing a counterfeit Temporary I-551 Stamp, proof of Lawful Admission for Permanent Residence with the DEFENDANT'S photograph and bearing the name of Silvia Avila Sanchez. Officer Martinez asked the DEFENDANT where she obtained the document she presented and stated that she obtained at the Bridge of the Americas. Officer Martinez asked the DEFENDANT where she was going and she responded that she worked for a lady in El Paso cleaning her house. Officer Martinez suspected that the document the DEFENDANT presented was counterfeit and he did not admit the DEFENDANT but escorted her to the Passport Control Secondary (PCS) office for further interview and inspection. At PCS, the DEFENDANT stated that she purchased the document she presented for $ 600.00 US Dollars and that she is citizen of Mexico and does not possess documents to enter the United States. CBP Officer Jesus Salgado served the DEFENDANT with Form I-214, Warning of Rights (Spanish Version), which she read, stated she understood and voluntarily signed, informing Officer Salgado she was willing to answer any questions without the presence of an attorney. The DEFENDANT then stated that she had been living in the United States since she was 8 years old. She further stated that her intentions upon entering the United States were to seek employment in El Paso, Texas.

CRIMINAL AND IMMIGRATION RECORD

CRIMINAL RECORD

None could be established at this time.

IMMIGRATION RECORD

DATE	AGENCY	LOCATION	ACTION	Disposition

None could be established at this time.

EXHIBITS

Exhibit "A"- Form I-214, Warning of Rights, read and signed by the DEFENDANT on July 27, 2008.
Exhibit "B"- Form I-213, Record of Deportable/Inadmissible Alien, dated July 27, 2008.
Exhibit "C"- Form I-867 A/B, Record of Sworn Statement in Proceedings, dated July 27, 2008.
Exhibit "D"- Service Form I-94, bearing a counterfeit Temporary I-551 Stamp, proof of Lawful Admission for Permanent Residence presented by the DEFENDANT on July 27, 2008.

D

UNITED STATES DISTRICT COURT
Western District of Texas
EL PASO DIVISION

FILED

AUG 07 2008

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY ________
DEPUTY CLERK

UNITED STATES OF AMERICA

v.

YAHAIRA EDITH GOVEA-ESTRADA

Defendant.

Case Number EP:08-M-4094MC
USM Number:

JUDGMENT IN A CRIMINAL CASE
Short Form

The defendant was represented by counsel Jorge Luis Rivas, Jr.

The defendant pled guilty to the complaint on August 4, 2008. Accordingly, the defendant is adjudged guilty of the following offense(s):

Title & Section	Nature of Offense	Date of Offense
18 USC 1028(a)(4)	Fraud in connection with identification documents	July 27, 2008

As pronounced on August 4, 2008, the defendant is hereby committed to the custody of the United States Bureau of Prisons for a term of **7 days.** The defendant shall remain in custody pending service of sentence.

The special assessment imposed pursuant to 18 U.S.C. § 3013 is hereby remitted pursuant to 18 U.S.C. § 3573 because reasonable efforts to collect this assessment are not likely to be effective.

Signed this the 4th day of August, 2008.

MICHAEL S. MCDONALD
United States Magistrate Judge

E

FINS: [redacted]

U.S. Department of Justice
Immigration and Naturalization Service

Notice to Alien Ordered Removed/Departure Verification

File No: [redacted]

Date: 07/27/2008

Alien's full name: Yahaira Edith GOVEA-ESTRADA

You have been found to be inadmissible to the United States under the provisions of section 212(a) of the Immigration and Nationality Act (Act) or deportable under the provisions of section 237 of the Act as a Visa Waiver Pilot Program violator. In accordance with the provisions of section 212(a)(9) of the Act, you are prohibited from entering, attempting to enter, or being in the United States

☒ for a period of 5 years from the date of your departure from the United States as a consequence of your having been found inadmissible as an arriving alien in proceedings under section 235(b)(1) or 240 of the Act.

☐ for a period of 10 years from the date of your departure from the United States as a consequence of your having been ordered removed in proceedings under any section of the Act other than section 235(b)(1) or 240, or of your having been ordered excluded under section 236 of the Act in proceedings commenced prior to April 1, 1997.

☐ for a period of 20 years from the date of your departure from the United States as a consequence of your having been found Inadmissible and of your having been previously excluded, deported, or removed from the United States.

☐ at any time because in addition to having been found inadmissible, you have been convicted of a crime designated as an aggravated felony.

After your deportation or removal has been effected, if you desire to reenter the United States within the period during which you are barred, you must request and obtain permission from the Attorney General to reapply for admission to the United States. You must obtain such permission before commencing your travel to the United States. Application forms for requesting such permission may be obtained by contacting any United States Consulate or office of the United States Immigration and Naturalization Service.

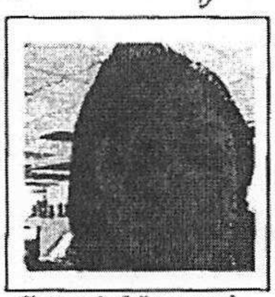
WARNING: Title 8 United States Code, Section 1326 provides that it is a crime for an alien who has been removed from the United States to enter, attempt to enter, or be found in the United States without the Attorney General's express consent. Any Any alien who violates this section of law is subject to prosecution for a felony. Depending on the circumstances of the removal, conviction could result in a sentence of imprisonment for a period of from 2 to 20 years and/or a fine of up to $250,000.

SALGADO, Jesus	CBP OFFICER	BOA
(Signature of officer serving warning)	(Title of officer)	(Location of INS office)

Verification of Removal

(Complete this section for file copy only)

Departure date	Port of departure	Manner of departure
08/08/2008	Paso Del Norte	Afoot
Signature of verifying officer	Title of Officer	
	CBP officer	



Photograph of alien removed

[redacted]

Right index fingerprint of alien removed

(Signature of alien whose fingerprint and photograph appear above)

(Signature of official taking fingerprint)

Form I-296 (6-1-97)N

F

SSN: **N/A**
Juvenile Verified: **N/A**
Occupation: **unemployed**
TSC Log #: **N/A**
NUIN #: **N/A**
SEN #: **N/A**
TECS Subject #: **N/A**
U.S. Veteran Status: **N**
Relationship to U.S. Veteran(s): **N/A**

Age: **41**
Age at Encounter: **41**
Height: **62**
Weight: **157**
Speak/Understand English: **N/A**
Read/Write English: **N/A**
Primary Language: **SPANISH**
Family Members: **N/A**

Site: **ATL**
Landmark [redacted]
Arrest At/Near: **Atlanta, Ga**
Juvenile Status: **N/A**
CBP Family Unit ID: **N/A**
CBP Separation Reason: **N/A**
Accompanying Family Member Relation: **N/A**
Accompanying Family Member Subject ID: **N/A**
Consequence Delivery System Selection: **N/A**
ICE Family ID: **N/A**

I-213 Narrative

Narrative 1 : Created Date: 05/14/2025 11:09 AM

ENCOUNTER / METHOD OF APPREHENSION:
ICE/ERO Atlanta encountered GOVEA-ESTRADA, Yahaira (A#[redacted] at the Gwinnett County Jail. On 05/08/2025, GOVEA-ESTRADA was arrested by the Gwinnett County Police Department and charged with 1) Probation Violation. GOVEA-ESTRADA was screened through the CAP Program. No lawful admissions were found for GOVEA-ESTRADA and no record could be found to establish that GOVEA-ESTRADA was lawfully present in the United States. [redacted] identified GOVEA-ESTRADA as a positive biometric match to FBI number [redacted]. ICE Officer B. Watkins made the positive identification of the alien. An Immigration Detainer - Notice of Action (I-247 A) was placed at the Gwinnett County Jail.

GOVEA-ESTRADA was arrested at the Gwinnett County Jail and transferred to the ICE/ERO Atlanta Field Office. GOVEA-ESTRADA was advised of her administrative and Miranda rights. GOVEA-ESTRADA was processed in [redacted]

VIOLATION:
On 05/14/2025, GOVEA-ESTRADA freely admitted to being a citizen and national of Mexico by nature of her birth in Mexico. GOVEA-ESTRADA further admits to being illegally present in the United States without proper documents that would allow her to enter into, remain in, or pass through the United States.

IMMIGRATION HISTORY:
GOVEA-ESTRADA stated to ICE Officer Watkins that she is a citizen and national of Mexico.

GOVEA-ESTRADA stated to ICE Officer Watkins that she last entered into the United States at an unknown location at an unknown time.

GOVEA-ESTRADA was not admitted or paroled after inspection by an Immigration Officer.

GOVEA-ESTRADA stated to ICE Officer Watkins that she resides at an unknown address.

GOVEA-ESTRADA stated to ICE Officer Watkins that she is unemployed.

GOVEA-ESTRADA stated to ICE Officer Watkins that she did not utilize fraudulent documents to enter the United States.

ICE system check queries yielded negative results for recently filed, approved, denied or pending immigration benefits.

FAMILY / DERIVATIVE CITIZENSHIP:
GOVEA-ESTRADA stated to ICE Officer Watkins that both of her parents are natives and citizens of Mexico.

GOVEA-ESTRADA stated to ICE Officer Watkins that she is not married.

GOVEA-ESTRADA does not derive and does not claim United States Citizenship.

CRIMINAL HISTORY:
Arrested on 08/24/2009
Arresting Agency: Gwinnett County Sheriffs Office
Charge: Theft by Taking
Disposition: Deferred

Arrested on 05/08/2025

Arresting Agency: Gwinnett County Police Department
Charge: Probation Violation
Disposition: Pending

APPEALS CHECK: None found.

HEALTH & HUMANITARIAN:
GOVEA-ESTRADA stated to ICE Officer Watkins that she is not currently under any medical treatment, medications, but states that she have a mental condition.

PROSECUTORIAL DISCRETION:
GOVEA-ESTRADA does not appear eligible for DACA.

CONSULATE NOTIFICATION:
GOVEA-ESTRADA was advised of her right to contact her consular official; however, she declined.

HISTORY OF U.S. MILITARY SERVICE
GOVEA-ESTRADA stated to ICE Officer Watkins that she has not served in any branch of the U.S. Military.

DISPOSITION:
GOVEA-ESTRADA entered the United States illegally and remains unlawfully present in the United States at this time. She is an inadmissible alien pursuant to section:

Section 212(a)(9)(A)(i) of the Immigration and Nationality Act, as amended, as an alien who has been ordered removed under section 240, or any other provision of law, and who enters or attempts to reenter the United States without being admitted.

CUSTODY DETERMINATION:
No bond was recommended for GOVEA-ESTRADA.

ONLINE DETAINEE LOCATOR SYSTEM PRIVACY NOTICE (ODLS):
GOVEA-ESTRADA was served with a copy of the Online Detainee Locator System Privacy Notice.

FREE LEGAL SERVICES:
GOVEA-ESTRADA was provided a list of free legal service providers.

GANG AFFILIATION:
GOVEA-ESTRADA does not claim membership or affiliation with any gangs. Upon visual and physical inspection of the subject there are no identifiable tattoos or markings that indicate membership or affiliation with a gang.

ASYLUM CLAIM:
GOVEA-ESTRADA expressed no fear of returning to her country of citizenship.

G

U.S. Department of Homeland Security

Notice of Intent/Decision to Reinstate Prior Order

File No. [redacted]

Event No: [redacted]

FIN #: [redacted]

Date: May 14, 2025

Name: YAHAIRA GOVEA-ESTRADA

In accordance with section 241(a)(5) of the Immigration and Nationality Act (Act) and 8 CFR 241.8, you are hereby notified that the Secretary of Homeland Security intends to reinstate the order of Deportation (Deportation / exclusion / removal) entered against you. This intent is based on the following determinations:

1. You are an alien subject to a prior order of deportation / exclusion / removal entered on July 27, 2008 (Date) at El Paso, TX (Location).

2. You have been identified as an alien who:

   ☑ was removed on July 27, 2008 (Date) pursuant to an order of deportation / exclusion / removal.

   ☐ departed voluntarily on ______ (Date) pursuant to an order of deportation / exclusion / removal on or after the date on which such order took effect (i.e., who self-deported).

3. You illegally reentered the United States on or about Unknown Date (Date) at or near unknown place (Location)

In accordance with Section 241(a)(5) of the Act, you are removable as an alien who has illegally reentered the United States after having been previously removed or departed voluntarily while under an order of exclusion, deportation or removal and are therefore subject to removal by reinstatement of the prior order. You may contest this determination by making a written or oral statement to an immigration officer. You **do not** have a right to a hearing before an immigration judge.

The facts that formed the basis of this determination, and the existence of a right to make a written or oral statement contesting this determination, were communicated to the alien in the English *language.*

B6982 WATKINS
(Printed or typed name of official)

(Signature of officer)

Deportation Officer
(Title of officer)

Acknowledgment and Response

I ☐ do ☐ do not wish to make a statement contesting this determination.

(Date)

Refused to Sign
(Signature of Alien)

Decision, Order, and Officer's Certification

Having reviewed all available evidence, the administrative file and any statements made or submitted in rebuttal, I have determined that the above-named alien is subject to removal through reinstatement of the prior order, in accordance with section 241(a)(5) of the Act.

May 14, 2025
(Date)

Atlanta, Ga
(Location)

(Signature of authorized deciding official)

B. 6059 MASON
(Printed or typed name of official)

SDDO
(Title)

Form I-871 (Rev. 08/01/07)