

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOSELYN CHIPANTIZA-SISALEMA,

*Petitioner,*

v.

LaDeon FRANCIS, in his official capacity as Acting Field Office Director of New York, Immigration and Customs Enforcement; Kristi NOEM in her official capacity as Secretary of Homeland Security; Pam BONDI, in her official capacity as Attorney General.

*Respondents.*

Case No. 1:25-cv-05528

**FIRST AMENDED  
PETITION FOR  
WRIT OF HABEAS  
CORPUS**

**INTRODUCTION**

Petitioner Joselyn Chipantiza-Sisalema is a high school student in New York City and an asylum seeker from Ecuador who was detained suddenly following an immigration court hearing in Manhattan on June 24, 2025. Respondents then kept her in deplorable conditions inside a Manhattan federal building for nearly ten days. From the time she was detained until she arrived at a detention facility in Louisiana a week and a half later, she was detained in a foul-smelling holding area with no beds or showers, which was so overcrowded that she had to sleep sitting up; she was provided very little food, which exacerbated her gastritis and caused her hunger and stomach pain; she was not allowed to call anyone but her parents, whom she called only three times for under two minutes each during the course of ten days; and throughout she remained in the same clothes in which she was detained, unable to brush her teeth or bathe. Ms. Chipantiza's initial detention and her incommunicado confinement are unlawful and she bring this Petition

seeking immediate release. She also asks this Court to enjoin her transfer out of the New York City area and to immediately provide her unfettered access to counsel.

**PARTIES**

1. Petitioner Joselyn Chipantiza-Sisalema is citizen of Ecuador who lives in New York City. At the time of filing, she was detained at 26 Federal Plaza in New York, New York. A copy of the ICE locator is attached to the instant petition. *See* Exh. A to Austin Decl.

2. Respondent LaDeon Francis is named in his official capacity as the Acting Field Office Director of the New York Field Office for Immigration and Customs Enforcement (“ICE”) within the United States Department of Homeland Security. In this capacity, he is also responsible for the administration of immigration laws and the execution of detention and removal determinations and is a legal custodian of Petitioner. Respondent Joyce’s address is New York ICE Field Office Director, 26 Federal Plaza, 7th Floor, New York, New York 10278.

3. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Eastern District of New York; is legally responsible for pursuing any effort to remove the Petitioner; and as such is a legal custodian of the Petitioner. Respondent Noem’s address is U.S. Department of Homeland Security, 800 K Street N.W. #1000, Washington, District of Columbia 20528.

4. Respondent Pam Bondi is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review (“EOIR”), pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Eastern District of New York and is legally

responsible for administering Petitioner's removal and custody proceedings and for the standards used in those proceedings. As such, she is the custodian of Petitioner. Respondent Bondi's office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530.

### **JURISDICTION**

5. The federal district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Petitioner was detained by Respondents on June 24, 2025.

6. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas); 28 U.S.C. § 1331 (federal question); and Article I, § 9, cl. 2 of the United States Constitution. This Court has authority to grant declaratory and injunctive relief. 28 U.S.C. §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

### **VENUE**

7. Venue is proper in this Court because Petitioner was detained by Respondents in Manhattan at the time of filing. *See* Exh. A to Austin Decl.

### **SPECIFIC FACTS ABOUT PETITIONER**

8. Ms. Chipantiza-Sisalema is a 20-year-old high school student in New York City. In 2022, when she was 16 years old, Ms. Chipantiza-Sisalema's family were nearly killed in Ecuador by individuals her father had met through his business and as a result her parents and younger brother fled the country. Ortiz Juan Decl. at ¶ 4. They left Ms. Chipantiza-Sisalema to live with

her grandparents in another region of Ecuador. After she eventually returned to her hometown, she too faced threats and had to flee. *Id.*

9. Upon entry to the U.S., Ms. Chipantiza-Sisalema was detained by Respondents, charged with removability under 8 U.S.C. § 1182(a)(6)(A)(i), and released from custody on her own recognizance on or about May 7, 2024. *See* Exh. B to Austin Decl.

10. Ms. Chipantiza-Sisalema has lived with her parents and younger brother in Queens, New York since that time. She attended high school beginning in October 2024. The same month, she was arrested following a domestic dispute with her father. Chipantiza-Andagana Decl. at ¶ 5. The charges against her were dismissed in January 2025.

11. Ms. Chipantiza-Sisalema's father describes her as facing significant difficulty stemming from the persecution which caused her family to flee Ecuador. *Id.* at ¶ 2-4. A psychological evaluation from 2024 concluded she suffered significant mental health issues as a result of her and her family's experiences, including anxiety; fear; depression; and hypervigilance. However, her father also describes her as doing much better in recent months due to her strong support system at school and her growing acceptance of the situation her family had faced. *Id.* at ¶ 6.

12. On June 24, Ms. Chipantiza-Sisalema attended an initial master immigration hearing at 26 Federal Plaza in Manhattan and was given a future court date in 2026. However, as she left that hearing, she was suddenly detained by Respondents. She remained detained at 26 Federal Plaza, which is a short-term holding facility without beds, showers or basic sanitation, for over nine days.

13. During that time, Ms. Chipantiza-Sisalema was able to call her parents only three times for under two minutes each time. *Id.* at ¶ 8. She told her parents that her conditions of

confinement were extremely distressing: she was sleeping on the floor, she was in the same clothes she was detained in, and the food she was provided is inadequate. *Id.* at ¶ 8-9.

14. When Ms. Chipantiza-Sisalema finally spoke to counsel for the first time, on July 5, she reiterated the horror of the conditions at Federal Plaza. She stated that she was extremely hungry throughout her time there due to inadequate food and that she has gastritis which was exacerbated by the lack of food and became increasingly painful. Ortiz Juan Decl. at ¶ 7. She stated that she asked the guards for medicine but was told there were too many people and she would need to wait for medical attention. She slept upright, on the floor, without a real blanket and said she was extremely cold at night. *Id.* at ¶ 5, 8. The room was overcrowded and smelled of sewage. *Id.* at ¶ 5.

15. She further stated that her calls were monitored and that she asked to speak with an attorney but was told that was not allowed until her hearing. *Id.* at ¶ 8.

16. Although she is now detained at a normal detention facility in Louisiana, Ms. Chipantiza-Sisalema continues to have extremely limited access to counsel due to the unavailability of legal calls. The next available legal call is not until July 11, 2025. *Id.* at ¶ 9.

### **CAMPAIGN OF DETENTIONS**

17. On or about May 20, 2025, Respondents began a nationwide campaign to seek dismissal of removal proceedings for people present in the U.S. for under two years and, irrespective of the outcome of that motion, to detain individuals immediately after their appearance in immigration court.

18. In New York City, this campaign has led to a large number of detentions in all three Manhattan immigration courthouses. The detentions are not individualized: on information and belief, Respondents create lists of individuals to be detained and then proceed to detain every

single one, even in the face of protests such as that the person has minor children or medical conditions or cannot lawfully be subject to expedited removal.

19. Once detained, New Yorkers targeted by this campaign are held incommunicado for several days or in some cases, like Petitioner's, even longer. Family members often not hear from them for days and the ICE locator, an online portal, often does not reflect their location or reflects a detention center at which (according to facility staff there) detainees are not actually present. Respondents will not confirm detainees' location during this time.

20. Public reporting has indicated that, like Petitioner, hundreds of people are regularly being held for prolonged periods in rooms inside Manhattan federal buildings that are intended as temporary holding areas for a much smaller number of people.

21. The conditions inside 26 Federal Plaza are inhumane. Individuals detained do not have access to beds, regular meals, or communication with loved ones or counsel. Like Petitioner, detainees also report that they are not able to bathe or change clothes; that the temperature can be extremely hot or cold; and that medical care is not provided. Detainees are also not given access to counsel. *See* Exh. C to Austin Decl. (articles documenting conditions).

### **LEGAL FRAMEWORK**

22. The INA provides for removal proceedings to be the "sole and exclusive" procedures for removing people from the United States, subject to a few narrow exceptions. 8 U.S.C. 1229a. Section 1229a(a)(3) states that "[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be

admitted to the United States or, if the alien has been so admitted, removed from the United States.”<sup>1</sup>

23. Ms. Chipantiza-Sisalema is currently in removal proceedings under section 1229a. Her proceedings remain pending, with a next court date in March 2026.

24. Congress has authorized civil detention of noncitizens in removal proceedings for specific, non-punitive purposes. *See Jennings v. Rodriguez*, 138 S.Ct. 830, 833 (2018); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). For individuals who are arriving in the U.S. or who are subject to expedited removal because they have been present under two years and meet certain other requirements, mandatory detention is authorized by 8 U.S.C. § 1225(b)(2). For individuals who are in removal proceedings following entry without inspection and who are not subject to mandatory detention based on criminal history, detention is normally authorized by 8 U.S.C. § 1226(a). Individuals with a final order of removal may be subject to mandatory or discretionary detention pursuant to 8 U.S.C. § 1231(a).

25. In May 2025, the Board of Immigration Appeals held that “an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a).” *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025). As a result of this new decision, many individuals who were encountered or presented themselves to immigration authorities shortly after entering the U.S. and who previously qualified for release on bond now no longer do.

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<sup>1</sup> “Attorney General” in Section 1254a now refers to the Secretary of the Department of Homeland Security. *See* 8 U.S.C. § 1103; 6 U.S.C. § 557.

26. Although civil immigration detention is authorized by statute, that detention serves only two legitimate purposes: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *Velasco Lopez v. Decker*, 978 F.3d 842, 854 (2d Cir. 2020).

27. DHS makes initial custody determinations pursuant to 8 C.F.R. § 1236.1(c)(8), which requires that noncitizens be released from custody *only* “if they demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.” *See Velesaca v. Decker*, 458 F. Supp. 3d 224, 241 (S.D.N.Y. 2020) (“8 U.S.C. § 1226(a) and its implementing regulations require ICE officials to make an individualized custody determination”).

28. A person’s liberty cannot be infringed upon without “adequate procedural protections.” *Zadvydas*, 533 U.S. at 690-91. The Second Circuit has held that the *Mathews v. Eldridge* balancing test is applicable to determine the adequacy of process in the context of civil immigration confinement. *Velasco Lopez*, 978 F.3d at 851 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). This test requires process sufficient to mitigate the risk of erroneous deprivation of a liberty interest. Revocation of conditional release from confinement, even civil immigration confinement, infringes on a protected liberty interest. The liberty interest in even conditional release is well-established in the context of parole; probation; and freedom from civil immigration confinement. *See Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at \*3 (S.D.N.Y. June 18, 2025) (finding immigration petitioner’s “liberty interest is clearly established”); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) (applying case law from the probation and parole contexts to conclude that the non-citizen petitioner had a “liberty interest in remaining out of [immigration] custody”).

29. As to process, at a minimum, in the context of revocation of civil release, “an individual whose release is sought to be revoked is entitled to due process such as notice of the alleged grounds for revocation, a hearing, and the right to testify at such a hearing.” *Villiers v. Decker*, 31 F.4th 825, 833 (2d Cir. 2022).

30. Despite these baseline requirements, Respondents now regularly re-detain individuals notwithstanding an earlier determination to release them and do so without according any notice or process whatsoever.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE** **VIOLATION OF THE DUE PROCESS CLAUSE** **OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION** **(Redetention and Conditions of Confinement)**

31. Ms. Chipantiza-Sisalema repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

32. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

33. Petitioner’s detention violates the Due Process Clause. She was determined not to pose danger or flight risk when she was released from custody in 2024. She was not accorded sufficient process prior to her sudden re-detention by ICE in June 2025. She received neither notice nor an opportunity to be heard as to whether a change in custody status was warranted. *See Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at \*4 (S.D.N.Y. June 18, 2025) (ordering release of petitioner re-detained after an immigration court hearing and concluding “Respondents ongoing detention of Petitioner with no process at all, much less prior

notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights.”); *Lopez v. Sessions*, No. 18 CIV. 4189 (RWS), 2018 WL 2932726, at \*12 (S.D.N.Y. June 12, 2018) (“Petitioner’s re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment”).

34. Respondents are likely to now contend in administrative proceedings that Ms. Chipantiza-Sisalema is ineligible for bond under *Matter of Q Li*, 29 I. & N. Dec. 66 (BIA 2025). Mandatory detention without access to a bond hearing violates her right to due process.

35. Respondents detained Ms. Chipantiza-Sisalema for nine days in inhumane conditions not fit for long-term habitation. They did not allow her to have sufficient access to family or to legal counsel.

36. Respondents’ actions violate Ms. Chipantiza-Sisalema’s right to due process.

**COUNT TWO**  
**VIOLATION OF THE FIFTH AMENDMENT, FIRST AMENDMENT,  
ADMINISTRATIVE PROCEDURE ACT AND IMMIGRATION AND NATIONALITY  
ACT (Access to Counsel)**

37. Ms. Chipantiza-Sisalema repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

38. The Immigration and Nationality Act guarantees noncitizens the right to counsel. 8 U.S.C. § 1362; *see also* 8 U.S.C. § 1229a(b)(4)(A). Ms. Chipantiza-Sisalema also has a constitutional right to speak with counsel.

39. Respondents have denied Ms. Chipantiza-Sisalema’s access to counsel.

**COUNT THREE**  
**VIOLATION OF THE FOURTH AMENDMENT (Redetention)**

40. Ms. Chipantiza-Sisalema repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

41. Ms. Chipantiza-Sisalema was detained by federal immigration officials as removable when she entered the United States. The government exercised its discretion under the Immigration and Nationality Act to release her while she litigated that charge in immigration court. At the time of Ms. Chipantiza-Sisalema's arrest, she had been living at liberty pursuant to that determination by federal immigration authorities.

42. The government lacked reliable information of changed or exigent circumstances that would justify her arrest after federal immigration authorities had already decided she could pursue his claims for immigration relief at liberty. Her re-arrest based solely on the fact that she is subject to removal proceedings is unreasonable and therefore violates the Fourth Amendment.

**COUNT FOUR**  
**RELEASE PENDING ADJUDICATION**

43. Ms. Chipantiza-Sisalema repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

44. Pursuant to *Mapp v. Reno*, this Court has the "inherent authority" to set bail pending the adjudication of a habeas petition when the petition has raised (1) substantial claims and (2) extraordinary circumstances that (3) "make the grant of bail necessary to make the habeas remedy effective." 241 F.3d 221, 226 (2d Cir. 2001).

45. Ms. Chipantiza-Sisalema presents substantial claims; her prolonged confinement in inhumane conditions without access to family or counsel present extraordinary circumstances; and she requests immediate release pending adjudication of the instant petition.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioners respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Enjoin Petitioner's transfer out of the New York City area;
3. Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;
4. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment; and the Immigration and Nationality Act and implementing regulations;
5. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody without restraints on her liberty;
6. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
7. Grant such further relief as this Court deems just and proper.

Dated: July 9, 2025

/s/ Paige Austin  
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**CERTIFICATE OF SERVICE**

I certify that on July 9, 2025, I electronically filed the attached the foregoing First Amended Petition for Writ of Habeas Corpus and accompanying Exhibits with the Clerk of the Court for the United States District Court for the Southern District of New York using the CM/ECF system. Service will therefore be effected by the CM/ECF system.

/s/ Paige Austin

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