

Raed Gonzalez, Esq.
GONZALEZ OLIVIERI, LLC
9920 Gulf Freeway, Suite 100
Houston, Texas 77034
Tel: 713-481-3040
Fax: 713-588-8683
Counsel of Record for Petitioner

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

**NUVIA YESSENIA MARTINEZ-
VENTURA,**
Petitioner,

v.

KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security; **U.S.
DEPARTMENT OF HOMELAND
SECURITY; TODD LYONS**, Acting
Director of the US. Immigration and
Customs Enforcement; **PAMELA BONDI**,
Attorney General of the United States;
BRET BRADFORD, Director of the
Houston Field Office of U.S. Immigration
and Customs Enforcement; and **MARTIN
FRINK**, Warden, Houston Contract
Detention Facility, in their official
capacities,
Respondents.

Case No. 4:25-cv-3118

**PETITION FOR WRIT OF
HABEAS CORPUS**

Date: July 3, 2025

**PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

TO THE HONORABLE UNITED STATES DISTRICT COURT JUDGE:

Petitioner, Nuvia Yessenia Martinez-Ventura, by and through the undersigned counsel, respectfully petitions this Honorable Court for a Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2241 and Article I, § 9, Clause 2 of the United States Constitution, to remedy her unconstitutional detention at the Houston Contract Detention Facility (“CDF”). Petitioner files this writ because she is not getting treatment for her well-documented medical conditions, her detention is causing catastrophic and ongoing harm to her children, and her removal is not reasonably foreseeable as her case is currently stayed by an order of the Board of Immigration Appeals (“BIA”), pending the examination of her Motion to Reopen. Her continued detention means that both she and her children will be without adequate medical help for some time. Furthermore, because of the stay order, any continued detention rises to the level of punishment and is a violation of her due process rights. It is vital that this petition be granted because Petitioner needs to get treatment to preserve her health and also to protect and preserve the health and lives of her five minor children.

The Petitioner files the instant petition against the following Respondents: Kristi Noem, Secretary of the U.S. Department of Homeland Security (“DHS”); Todd Lyons, Acting Director of Immigration and Customs Enforcement (“ICE”); Pamela Bondi, Attorney General of the United States, Bret Bradford, Field Office Director of Houston Enforcement and Removal Operations (“ERO”); and Martin

Frink, Warden of the Houston CDF.

CUSTODY

1. Petitioner is currently detained at the CDF in Houston, Texas. This detention, Petitioner maintains, is “under or by color of the authority of the United States,” and is in violation of the “Constitution or laws” of the United States. 28 U.S.C. §§ 2241(c)(1), (3). Accordingly, Petitioner is in custody for purposes of this Writ of Habeas Corpus.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343, and 2241, and Article I, § 9, Clause 2 of the United States Constitution (the “Suspension Clause”).
3. Venue is proper in the Southern District of Texas because Petitioner is detained at the CDF, which is located in this District. *See* 28 U.S.C. § 2242. Moreover, a substantial part of events giving rise to Petitioner’s claim arose in this district. *See* 28 U.S.C. § 1391(b), (e)(1).

PARTIES

4. Petitioner, Nuvia Yessenia Martinez-Ventura, is a 30-year-old woman who is a native and citizen of El Salvador. She is currently detained at the Houston Contract Detention Facility in Houston, Texas.

5. Respondent, Kristi Noem, is the Secretary of the DHS. She has responsibility over the administration of U.S. immigration laws, has authority over ICE and its offices, and has the authority to release the Petitioner. She has legal custody of the Petitioner. She is sued in her official capacity.
6. Respondent, Todd Lyons, is the Acting Director of ICE. He is responsible for the policies, practices, and procedures of ICE, including those related to detaining individuals. He has legal custody of the Petitioner. He is sued in his official capacity.
7. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (“DOJ”). In that capacity, she has the authority to adjudicate removal cases and oversees the Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and the BIA.
8. Respondent, Bret Bradford, is the Field Office Director for ICE ERO at the Houston Field Office. He exercises control and custody over all detainees held at the CDF. He has legal custody of the Petitioner. He is sued in his official capacity.

9. Respondent, Martin Frink, is the Warden of the CDF, where Petitioner is detained. Therefore, he has immediate physical custody of the Petitioner. He is sued in his official capacity.

STATEMENT OF FACTS

10. Petitioner Nuvia Yessenia Martinez-Ventura is a 30-year-old national of El Salvador who entered the U.S. in 2016 with her two children, S.M.V. and M.M.M., after their father, an ex-soldier, was murdered by gangs outside of their home. *See Exhibit 1 – Petitioner’s Statement.*
11. Petitioner hired an attorney to help her with an asylum application, but that attorney did not effectively represent her nor did he file an appeal even though he had been contracted and paid to do so. Petitioner was unaware that there was a removal order in her case. *Id.*
12. Petitioner later hired another attorney to help her children and discovered that her first case had been closed due to the attorney’s failure to file a brief. *Id.* Petitioner’s current attorney has filed a Motion to Reopen pursuant to *Matter of Lozada*, 19 I&N Dec 637 (BIA 1988) and the Board issued a Stay Order of her removal, on June 20, 2025, while her motion to reopen is pending review. *See Exhibit 2 – BIA Stay Order.*

13. Petitioner was detained on June 11, 2025 when she went to a routine check-in appointment with the government. *See* Exhibit 1.

14. Petitioner seeks release so that she may obtain proper medical attention for her condition and so that she may care for her children's complex and urgent health needs. *Id.*

Petitioner's health concerns:

15. Petitioner has several chronic medical conditions, including Type 2 Diabetes. *See* Exhibit 3 – Petitioner's health record. She has not received any medical attention for that diagnosis since she was taken into custody despite numerous requests and notifications to Respondents. *See id.*; *see also* Exhibit 4 – Emails from Attorney Amoachi's office to ICE.

16. Petitioner has also suffered from persistent headaches, dizziness, and vision problems. She was going to be evaluated by a neurologist but was not able to do so, due to her detention. *See* Exhibit 1.

17. When first taken into custody on June 11, 2025, Petitioner was held at 26 Federal Plaza in New York before being transferred to Houston CDF on June 17, 2025. While at 26 Federal Plaza, Petitioner was only given one cookie and one glass of water a day. She had to sleep on the very cold floor and did not receive any

medical care or medication despite her attorney repeatedly notifying the officers there of her medical condition, to wit, Type 2 Diabetes. *See* Exhibits 1, 4.

18. Petitioner was transferred to the Houston CDF on June 17, 2025. Once transferred, she was seen by a doctor and given medication for headaches and to use the bathroom but was still not given any medication for her diabetes. *See* Exhibit 1.

19. Petitioner's attorney has submitted multiple notifications to the Houston field office and to the facility about her diabetes and lack of treatment; however, Petitioner is still not receiving the medication necessary to treat her diabetes. *See* Exhibits 1, 4.

Petitioner's children's health concerns

20. Petitioner is the mother of five children, ages 11, 10, 9, 4, and 3. Three of her children are U.S. Citizens and all but one has diagnosed disabilities. Petitioner is their sole caregiver, and their health has been declining since she was taken into custody.

21. The oldest child, S.V.M., is also named on the underlying removal order that is the subject of the BIA's stay order. S.V.M. filed an I-360 Petition for Special Immigrant Juvenile Status ("SIJS") on March 2, 2022, and it was approved on October 15, 2022 by the government. *See* Exhibit 5 – S.V.M.'s approval.

22.S.V.M. suffers from multiple chronic health conditions including Type 1 Insulin Dependent Diabetes Mellitus with Retinopathy and requires around-the-clock monitoring, insulin administration (including bolus dosing), and nighttime glucose checks. *See Exhibit 6 – S.V.M.’s medical information.*

23.Petitioner is the only person trained to provide care to S.V.M.. *See Exhibit 1.*

24.Three days after Petitioner was detained, S.V.M.’s blood sugar levels became so dangerously high that he was hospitalized. He remained there for five days. A pediatric hospitalist issued a letter stating, in relevant part, that “his blood sugars and his Diabetes have not been managed properly for the last 4 days, as mother Nuvia Yesenia Martinez Ventura has been detained by Immigration. S.V.M.’s father has passed away, and his family members at bedside are not at all familiar with how to manage his diabetes....Short term effects of increasing high blood sugars includes ketoacidosis, coma, and possible death. Long term effects of consistently elevated blood sugar levels includes, but not limited to: loss of sight (retinopathy), loss of limb (vascular insufficiency), numbness of extremities (neuropathy).” *See Exhibit 6.*

25.M.M.M., age 10, is also named on the underlying removal order that is the subject of the BIA’s stay order. M.M.M. filed an I-360 Petition for SIJS on March 2,

2022, and that Petition was similarly approved by the government on October 18, 2022. *See* Exhibit 7 – M.M.M.’s approval.

26.M.M.M. has been diagnosed with a Learning Disability and requires her mother’s care. *See* Exhibit 8 – M.M.M.’s IEP diagnosis.

27.U.A.M., age 4, is a U.S. Citizen. U.A.M. is diagnosed with Autism, Developmental Delay, and a cardiac murmur. *See* Exhibit 9 – U.A.M.’s evaluation.

28.U.A.M.’s evaluation states that he should receive speech therapy 5x/week, physical therapy and occupational therapy 2-3x/week, and parent training 2x/month and that “all services should be in a 12 month program without reduction for summer due to risk of delays and regressions.” *Id.*

29.Petitioner is the only person who is trained and available to assist U.A.M. with his recommended therapies. *See* Exhibit 1.

30.T.A.M., age 3, is a U.S. Citizen. T.A.M. is diagnosed with Autism Spectrum Disorder with a verbal delay. The evaluator opined that “early intervention services are warranted at this time.” *See* Exhibit 10 – T.A.M.’s evaluation.

31.Again, Petitioner is the only person who is available to assist T.A.M. with his therapies. *See* Exhibit 1.

32. Petitioner's continued detention considering the BIA's Stay Order and the catastrophic and ongoing harm to her children's health is unreasonable and unnecessary.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

33. 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.

34. Immigrants who are detained are civil detainees who are entitled to the same Fifth Amendment due process rights as pretrial detainees. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("government detention violates th[e] [due process] Clause unless the detention is ordered in a criminal proceeding with adequate procedural protections...or, in certain special and 'narrow' nonpunitive 'circumstances'"); *Edwards v. Johnson*, 209 F.3d 772, 778 (5th Cir. 2000) ("We consider a person detained for deportation to be the equivalent of a pretrial detainee; a pretrial detainee's constitutional claims are considered under the due process clause instead of the Eighth Amendment.") (citing *Ortega v. Rowe*, 796 F.2d 765, 767 (5th Cir. 1986)).

35. Immigrant detainees are entitled to “more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish.” *Youngberg v. Romeo*, 457 U.S. 307, 322 (1982).

36. The government violates the Due Process Clause when it imposes conditions on a civil detainee that “amount[s] to punishment.” *Garza v. City of Donna*, 922 F.3d 626, 632 (5th Cir. 2019), *cert. denied sub nom. Garza v. City of Donna, Texas*, 140 S. Ct. 651 (2019). “If ‘the condition of confinement is not reasonably related to a legitimate, non-punitive governmental objective,’ it is assumed that ‘by the [defendant’s] very promulgation and maintenance of the complained-of condition, that it intended to cause the alleged constitutional deprivation.’” *Cadena v. El Paso Cty.*, 946 F.3d 717, 727 (5th Cir. 2020) (quoting *Scott v. Moore*, 114 F.3d 51, 53 (5th Cir. 1997)).

Petitioner’s removal is not reasonably foreseeable

37. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

38. Since the BIA has issued a stay in her underlying removal case, her removal is not reasonably foreseeable and continued detention violates her due process rights. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510,

523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

39. In *Zadvydas*, the Supreme Court held that “the statute, read in light of the Constitution’s demands, limits [a noncitizen’s] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen’s] removal from the United States.” 533 U.S. at 689. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

40. The Court’s ruling in *Zadvydas* is rooted in due process’s requirement that there be “adequate procedural protections” to ensure that the government’s asserted justification for a noncitizen’s physical confinement “outweighs the ‘individual’s constitutionally protected interest in avoiding physical restraint.’” *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification.

41. The first justification of preventing flight, however, is “by definition . . . weak or nonexistent where removal seems a remote possibility.” *Zadvydas*, 533 U.S. at

690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is “no longer practically attainable, detention no longer ‘bears [a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). As for the second justification of protecting the community, “preventive detention based on dangerousness” is permitted “only when limited to specially dangerous individuals and subject to strong procedural protections.” *Zadvydas*, 533 U.S. at 690–91.

42. Thus, under *Zadvydas*, “if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.” *Id.* at 699–700.

Detainees are entitled to Due Process to protect them from serious illness or death

43. Petitioner re-alleges and incorporates by reference paragraphs 1 through 42 above as though fully set forth herein.

44. Civil detainees possess a constitutional right to adequate medical care and deliberate indifference to their health can constitute punishment. *Hare v. City of Corinth*, 74 F.3d 633, 643 (5th Cir. 1996) (en banc).

45. For a detainee to establish that the conditions of confinement rise to the level of

punishment, the detainee need not show “actual intent to punish...because intent may be inferred from the decision to expose a detainee to a unconstitutional condition.” *Shepherd v. Dallas Cty.*, 591 F.3d 445, 452 (5th Cir. 2009); *see also Hare*, 74 F.3d at 644 (““[E]ven where a State may not want to subject a detainee to inhumane conditions of confinement or abusive jail practices, its intent to do so is nevertheless presumed when it incarcerates the detainee in the face of such known conditions and practices.”).

46. If there is a “pervasive pattern of serious deficiencies” resulting in an alien detainee being exposed to serious injury, illness, or death, then that “amounts to punishment.” *Shepherd*, 591 F.3d at 454.

47. Continuing to detain Petitioner while a stay is pending and she is being denied medical care is unconstitutional even if it “is not alleged that the likely harm would occur immediately...” *Helling v. McKinney*, 509 U.S. 25, 33 (1993).

Respondents are violating Petitioner’s due process rights

48. Petitioner re-alleges and incorporates by reference paragraphs 1 through 47 above as though fully set forth herein.

49. Due process mandates that the nature and duration of a noncriminal confinement bear “some reasonable relation to the purpose for which the individual is committed.” *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *see also Brown v.*

Taylor, 911 F.3d 235, 243 (5th Cir. 2018). In the immigration context, the only legitimate purposes for detention are to prevent the detainee from fleeing and ensure their appearance for their court hearing, or to prevent any danger to the community. *Zadvydas*, 533 U.S. at 699.

50. In Petitioner's view, detention while there is a BIA stay order in place and particularly in light of the seriousness of her medical conditions and those of her children has no "reasonable" relation to the purpose of enforcing the immigration laws of the United States.

51. Petitioner's due process rights are also being violated because her health has been placed at imminent risk, as Respondents are deliberately failing to treat her for diabetes. *See* Exhibits 1, 4. In effect, the Respondents are punishing Petitioner by keeping her detained and not allowing her to get medical treatment or to oversee her children's medical treatment, even though there has been a documented risk of serious harm. *See* Exhibits 4, 6.

52. Petitioner's attorney has made several requests for parole and ICE has not responded to any of those requests. *See* Exhibit 4.

53. Presently Petitioner has no other avenues of release. The only thing that can correct her unconstitutional detention during this time is her release on some form of supervision, while her motion before the BIA is pending.

54. ICE has a variety of ways in which it can release an individual and ensure he or she does not flee or abscond. For example, through its Intensive Supervision Appearance Program (“ISAP”), ICE can require an alien to wear an ankle monitor, consistently report to immigration officials, and visit their homes or places of employment. As per one government evaluation, 99% of those individuals who are asked to report in this manner appear for their immigration hearings and 95% appear for their final hearings.
55. In this case, Petitioner has a serious medical issue—she has Diabetes and she *needs* treatment. *See* Exhibit 1, *supra*. She therefore needs to be released on some type of supervisory program, in order to obtain life-saving treatment.
56. Petitioner’s children also have serious medical issues and Petitioner is the only one who is capable and available to monitor their treatment. She therefore needs to be released on some type of supervisory program in order to ensure their well-being and safety. *See* Exhibits 1, 3, 6 and 8—10.
57. Continuing to detain Petitioner at this time is incredibly dangerous not only to her health, but the health and safety of her minor children.
58. Petitioner herein maintains that her release is warranted because her ongoing detention violates her Fifth Amendment due process rights.

This Court retains the authority to order ICE to release Petitioner from detention and release is warranted here

59. Petitioner re-alleges and incorporates by reference the paragraphs 1 through 58 above as though fully set forth herein.

60. Courts have broad authority to release individuals from detention when the individual's constitutional rights have been violated. *Hutto v. Finney*, 437 U.S. 678, 687 n.9 (1978); *see also Brown v. Plata*, 563 U.S. 493, 511 (2011) (finding that “[w]hen necessary to ensure compliance with a constitutional mandate, courts may enter orders placing limits on a prison’s population”); *Duran v. Elrod*, 713 F.2d 292, 297-98 (7th Cir. 1983), *cert. denied*, 465 U.S. 1108 (1984) (finding that Courts have authority to release pretrial detainees, if it is necessary to reach a prison’s population cap).

61. In this case, Petitioner’s continued detention is punitive, and thus, a violation of her Fifth Amendment due process rights, immediate release is warranted.

62. If Petitioner continues to be detained by Respondents, without being afforded any type of medical treatment, then she is going to be continuously harmed and subjected to unconstitutional punishment. Therefore, the only course of action is release at this time.

63. Because there is a stay order in place, Petitioner's removal is not reasonably foreseeable. Petitioner asks that this Court find her continued incarceration is unreasonable and to order her immediate release.

64. Despite her stay of removal, Petitioner has remained in custody. Her incarceration has continued in spite of the fact that Petitioner is neither a danger to the community nor a flight risk. An alien generally is not and should not be detained... except on a finding that he is a threat to the national security, *Carlson v. Landon*, 243 U.S. 524, (1952), or that he is a poor bail risk, *Matter of Moise*, 12 I&N Dec. 102 (BIA 1967); *Matter of S-Y-L*, 9 I&N Dec. 575 (BIA 1962).

65. Additionally, less restrictive means exist for Respondents to maintain authority over the Petitioner in order to seek removal, should all appeals be exhausted or the stay be resolved.

COUNT TWO
Violation of 8 U.S.C. § 1231(a)

66. Petitioner re-alleges and incorporates by reference the paragraphs 1 through 65 above as though fully set forth herein.

67. The Immigration and Nationality Act at 8 U.S.C. § 1231(a) authorizes detention "beyond the removal period" only for the purpose of effectuating removal. 8 U.S.C. § 1231(a)(6); *see also Zadvydas*, 533 U.S. at 699 ("[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by

statute.”). Because Petitioner’s removal is not reasonably foreseeable, her detention does not effectuate the purpose of the statute and is accordingly not authorized by § 1231(a).

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Declare that Petitioner’s ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1231(a);
- (3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (4) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (5) Grant any further relief this Court deems just and proper.

DATED: July 3, 2025

Respectfully submitted,

s/ Raed Gonzalez

Raed Gonzalez, Esq.

Texas Bar No. 24010063

SDTX Bar No. 23689

GONZALEZ OLIVERI, LLC

9920 Gulf Freeway, Suite 100

Houston, Texas 77034

Tel: 713-481-3040

Fax: 713-588-8683

Counsel of Record for Petitioner

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