

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

Kenia Jackeline MERLOS,

Plaintiff,

v.

KRISTI NOEM, Secretary of U.S. Department  
of Homeland Security, in her official  
Capacity, U.S. Department of Homeland  
Security; RODNEY SCOTT; Commissioner  
of U.S. Customs and Border Protection; U.S.  
CUSTOMS AND BORDER PROTECTION;  
Erik JOHNSON, ICE/ERO Seattle Field  
Office Director; IMMIGRATION AND  
CUSTOMS  
ENFORCEMENT/ENFORCEMENT AND  
REMOVAL OPERATIONS,

Defendants.

NO.

**COMPLAINT AND PETITION FOR  
HABEAS CORPUS**

**I. INTRODUCTION**

1. **Kenia Jackeline MERLOS is currently at risk of IMMEDIATE REMOVAL  
by CBP and/or ICE/ERO tonight, July 13, 2025.**

2. Kenia Jackeline MERLOS has been held in the custody of U.S. Customs and Border  
Protection (CBP) with her four U.S. Citizen children for nearly two weeks.

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3. Kenia Jackeline MERLOS has purportedly been transferred to Immigration and Customs Enforcement/Enforcement and Removal Operations (ICE/ERO) custody for purposes of removal today, July 13, 2025.

4. Despite repeated attempts by attorneys at my office to meet with Kenia Jackeline MERLOS for the purpose of conferring regarding options to address her detention and pending voluntary return or deportation, including going to the facility where Kenia Jackeline MERLOS was purportedly held, counsel Jill Nedved, has been refused access to meet with Kenia Jackeline MERLOS, Plaintiff.

5. In fact, knowing that counsel was attempting to contact Plaintiff, CBP moved Plaintiff to a different facility, and subsequently transferred plaintiff to ICE/ERO custody.

6. Plaintiff has the First and Fifth Amendment right to counsel and CBP and ICE/ERO are violating that right by continually restricting her access to counsel.

## II. PARTIES

7. Kenia Jackeline MERLOS is an immigrant held in civil detention under the custody of U.S. Customs and Border Protection (“CBP”) via ICE/ERO in an unknown location.

8. Defendant Kristi Noem is the Secretary of the U.S. Department of Homeland Security (“DHS”). As Secretary, Defendant Noem is responsible for DHS’s policies, practices and procedures, including those relating to the detention of immigrants. In this capacity, Defendant Noem is the legal custodian of Plaintiff. Defendant Noem is sued in her official capacity.

9. Defendant DHS is a federal executive agency responsible for, among other things, enforcing federal immigration laws and overseeing immigration to the United States. Defendant DHS is the legal custodian of Plaintiff.

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1           10. Defendant Rodney Scott is the Commissioner of Customs and Border Protection.  
2 As Commissioner, Defendant Scott is responsible for CBP's policies, practices and procedures,  
3 including those relating to the detention of immigrants. In this capacity, Defendant Scott is the  
4 legal custodian of Plaintiff. Defendant Scott is sued in his official capacity.

5           11. Defendant U.S. Customs and Border Protection ("CBP") is a federal law  
6 enforcement agency within the Department of Homeland Security. CBP is a federal agency  
7 responsible for securing U.S. borders and facilitating legal trade and travel. Defendant CBP is the  
8 legal custodian of Plaintiff.

9           12. Defendant Erik Johnson is the Field Office Director for the Seattle ICE/ERO office,  
10 and is responsible for Enforcement and Removal Operations relating to the removal and detention  
11 of immigrants. In this capacity, Defendant Johnson is the temporary custodian of Plaintiff.  
12 Defendant Erik Johnson is sued in his official capacity.

13           13. Defendant Immigration and Customs Enforcement/Enforcement and Removal  
14 Operations ("ICE/ERO") is a federal law enforcement agency within the Department of Homeland  
15 Security. ICE/ERO is a federal agency responsible for arrest and removal of aliens who are subject  
16 to removal. Defendant ICE/ERO is the temporary legal custodian of Plaintiff.

### 17                                   III. JURISDICTION AND VENUE

18           14. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. §  
19 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (declaratory  
20 relief), and Article I, section 9, clause 2 of the U.S. Constitution (Suspension Clause), as Plaintiff  
21 is presently in custody under or by color of the authority of the United States, and she challenges  
22 her custody as in violation of the Constitution, laws, or treaties of the United States.

23           15. The federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear  
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1 habeas claims by individuals challenging the lawfulness of their detention. *Demore v. Kim*, 538  
2 U.S. 510 (2003); *Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018).

3 16. Venue is proper in the Western District of Washington, pursuant to 28 U.S.C. §§  
4 1391 and 2241(d), because Plaintiff is being detained on information and belief in this District in  
5 the Bellingham or Seattle area.

6 17. The Court may grant relief pursuant to the Declaratory Judgment Act, 28  
7 U.S.C. § 2201 *et seq.*, 28 U.S.C. § 1331, and the Court's inherent equitable powers.

8 18. Venue is proper pursuant to 28 U.S.C. § 1391(e)(1) because Defendants  
9 are agencies of the United States or officers of agencies of the United States, Defendants reside in  
10 this District, and a substantial part of the events or omissions giving rise to Plaintiffs' claims  
11 occurred in this District.

#### 12 IV. FACTS

13 19. On June 28, 2025, Plaintiff was detained at the Canadian Border with her four U.S.  
14 Citizen children.

15 20. She has been detained by CBP up until today.

16 21. Counsel has learned at some point today, July 13, 2024, she may have been  
17 transferred sometime into ICE/ERO Custody. Counsel cannot confirm for certain at this time.

18 22. Attorneys of Gonzales Gonzales & Gonzales were hired to represent Kenia  
19 Jackeline MERLOS, along with her husband, children and parents on July 5, 2025.

20 23. Since that time our office, including an attorney employed by Gonzales, Gonzales  
21 & Gonzales, Jill Nedved, has made several attempts to locate and contact Kenia Jackeline  
22 MERLOS.

23  
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1           24.     Jill Nedved made several calls on July 7, 2025 to Customs and Border offices at the  
2 Blaine Station, Blaine Port of Entry and the CBP Sector for Public Affairs. An officer at the Blain  
3 Station supervisor line took down her contact information and client information and was told  
4 someone would get back to her. She did not receive a call back

5           25.     On July 8, 2025, Ms. Nedved made calls again to CBP locations and was informed  
6 no information could be provided via telephone and was told to contact CBP via email at  
7 [blwintelintake@cbp.dhs.gov](mailto:blwintelintake@cbp.dhs.gov). Ms. Nedved provided a G-28 Notice of Attorney representation to  
8 that email on July 8, 2025 and again on July 9, 2025.

9           26.     Gonzales Gonzales & Gonzales received contact from U.S Congresswoman  
10 Maxine Dexter's office on Wednesday July 9, 2025, whose office offered assistance in locating  
11 Kenia Jackeline MERLOS at the request for assistance by Ms. MERLOS' family.

12           27.     On July 10, 2025, Ms. Nedved was informed through Congresswoman Dexter's  
13 office Ms. MELOS was located at the Seattle Field Office for ICE/ERO in Tukwila, Washington.

14           28.     Ms. Nedved went to the location and was informed Kenia Jackeline MERLOS was  
15 not there.

16           29.     Ms. Nedved spoke to CBP agents on July 10, 2025 at the King County Regional  
17 Airport who informed her to contact the previously provided email.

18           30.     Our office was then informed Kenia Jackeline MERLOS was in CBP custody in  
19 Bellingham.

20           31.     Our office was later informed Kenia Jackeline MERLOS and her children were at  
21 the Ferndale, Washington CBP location.

22           32.     Ms. Nedved drove to the CBP location at 1431 Sunset Ave, Ferndale, WA 98248,  
23 on Friday, July 11, 2025, to speak to Ms. MERLOS. Kenia Jackeline MERLOS was purportedly

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1 not at that location and was in route to Seattle, Washington. Ms. Nedved was denied access to  
2 speak to Ms. MERLOS should she return and was informed by CBP officials that Ms. MERLOS  
3 had requested a voluntary return and had no right to counsel. Ms. Nedved was provided no  
4 documentation by CBP and was denied access to the purported Voluntary Return document.

5 33. Kenia Jackeline MERLOS has a pending U- Visa and was granted Deferred Action  
6 based on her pending U- Visa application. Her deferred status. Ms. MERLOS was granted work  
7 authorization by DHS through USCIS on January 15, 2025 until January 14, 2029.

8 34. Kenia Jackeline MERLOS has purportedly accepted a voluntary return but was not  
9 provided with her right to see an immigration judge. Ms. MERLOS has rights to additional  
10 applications for relief in front of an immigration judge given her length of residence in the United  
11 States and qualifying relatives of her U.S. Citizen Children, including the right to file for  
12 Cancellation of Removal. The Client has been given no opportunity to understand her rights or  
13 make guidance regarding any decision.

14 35. On July 8, 2025, Kenia Jackeline MERLOS contacted long-time family friend,  
15 Mimi Lettunich, via text message saying "Mimi I need an attorney" and "They wan[t] [sic] to send  
16 us to Honduras."

17 36. On July 10, 2025, Kenia Jackeline MERLOS contacted her pastor, Josue Guerra,  
18 around 6:45am and informed him she would not sign any paperwork and had not signed any  
19 paperwork that she had been given.

20 37. Undersigned counsel has specific concerns as to whether the purported voluntary  
21 return was signed and whether it was in fact voluntary.

22 38. Kenia Jackeline MERLOS should have right to be granted access to counsel given  
23 these circumstances.

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1 39. Kenia Jackeline MERLOS' pending U-Visa and attached waiver may be affected  
2 by her decision, yet she may have been confused.

3 40. CBP informed Ms. Nedved it was their understanding her application would not be  
4 affected. It is unclear if this was told to Kenia Jackeline MERLOS directly.

5 41. Any waiver under these circumstance would be affected by the interaction with  
6 CBP, and would need to be amended.

7 42. Kenia Jackeline MERLOS was only deprived of her right to counsel because of  
8 CBP custody. Both Kenia Jackeline MERLOS' mother and husband have been granted access to  
9 counsel. Kenia Jackeline MERLOS' husband and mother have had no contact with her since she  
10 was detained by CBP.

11 **V. CLAIMS FOR RELIEF**

12 **COUNT I: Violation of First Amendment Rights**

13 43. The First Amendment guarantees Plaintiff the right to communicate with the  
14 outside world.

15 44. The First Amendment also guarantees Plaintiff the right to hire, consult, and  
16 communicate with an attorney. The government may not unreasonably restrict this right.

17 45. By unreasonably depriving Plaintiff of the ability to retain, consult, and  
18 communicate with counsel, Defendants have violated and continue to violate their rights under the  
19 First Amendment.

20 46. Plaintiff has suffered and will imminently suffer irreparable injury as a result of  
21 Defendants' policies, practices, and failure to act and are entitled to injunctive relief to avoid any  
22 further injury.

23 **COUNT II: Violation of Fifth Amendment Right to Due Process**

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1 47. Plaintiff has a due process right not to be subjected to punitive conditions of  
2 confinement, which includes the right not to be held without access to counsel.

3 48. Plaintiff experiences a denial of access to counsel substantially worse than that  
4 experienced by those serving time in prison for a criminal conviction in the United States.

5 49. The limitations on attorney access that Plaintiff faces are not rationally related to a  
6 non-punitive purpose and are excessive.

7 50. Defendants could accomplish their non-punitive objectives in alternative and less  
8 harsh methods than the limitations they have placed on access to counsel for Plaintiff.

9 51. Defendants have subjected Plaintiff to punitive conditions of confinement.

10 52. Plaintiff has substantial liberty interests in pursuing legal options available to her.

11 53. Defendants' denial of attorney access has deprived Plaintiff of her liberty interest  
12 and creates a substantial risk that they will face delayed or wrongful denial of relief. Allowing  
13 attorney access would cause only minor fiscal and/or administrative burdens.

14 54. Plaintiff has suffered and will imminently suffer irreparable injury as a result of  
15 Defendants' policies, practices, and failure to act and are entitled to injunctive relief to avoid any  
16 further injury.

## 17 VI. PRAYER FOR RELIEF

18 WHEREFORE, Plaintiffs ask the Court to:

19 55. Enter judgment for Plaintiffs and the proposed class and against Defendants.

20 56. Declare that Defendants' actions violate Plaintiff's First Amendment right to retain,  
21 consult, and communicate with attorneys and their Fifth Amendment due process rights.

22 57. Order Defendants not to remove Kenia Jackeline MERLOS from the Western  
23 District of Washington until she has the opportunity to consult with counsel.

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1           58.     Order Defendants forthwith to permit and ensure that Plaintiff can meet and confer  
2 with counsel in scheduled, timely, free, confidential, unmonitored, and unrecorded attorney-client  
3 conversations, in person, and via videoconferencing or telephone, with accommodations for  
4 interpretation, without intimidation, retaliation, or revocation, in order for counsel to advise them  
5 of their legal rights and to provide them with legal assistance.

6           59.     Order Defendants to provide and ensure a method for Plaintiff to place timely, free,  
7 confidential, unmonitored, and unrecorded outgoing legal calls without intimidation, retaliation,  
8 or revocation, and to individually provide Plaintiff with clear instruction and process for doing so  
9 in both Spanish and English.

10          60.     Order Defendants to provide and ensure a method for timely and confidential legal  
11 document exchange and signature, including via fax, email or electronic signature platforms,  
12 courier service, and mail.

13          61.     Award Plaintiffs attorney fees and other litigation costs pursuant to the Equal  
14 Access to Justice Act and/or any other applicable law.

15          62.     Grant such other relief as the Court deems just and proper.

16 Dated: July 13, 2025

17                   Respectfully submitted,

18                   Jeffrey C. Gonzales  
19                   Gonzales Gonzales & Gonzales  
20                   1000 SW Broadway, Ste 2300  
21                   Portland, OR 97205  
22                   Phone: 503-274-1680; Fax: 503-274-1214  
23                   **ATTORNEYS FOR PETITIONER**

24                   By:   
                          Jeffrey C. Gonzales  
                          WA State Bar No. 13864

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