

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS**

**262 W. NUEVA STREET, #1-400
SAN ANTONIO, TX 78207**

FILED

JUL 29 2025

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY CLERK


Maria Glenda Tabora Arita
[Rider:  Tabora]
Petitioners,

v.

Kristi Noem, Secretary
of the U.S. Department of Homeland
Security; **U.S. DEPARTMENT OF
HOMELAND SECURITY**; Pamela
Biondi, Attorney General of
the United States; Todd Lyon, Director
of the U.S.
Immigration and Customs Enforcement
(ICE);

Respondents.

Case No. ~~24~~ 25-cv-00819-XR

Immigration File: A 

**PETITIONERS' RESPONSE TO
OPPOSITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C.
§ 2241**

ORAL ARGUMENT REQUESTED

PETITION IS NOT MOOT

Respondents contend this matter is moot because they released the petitioners from unconstitutional arrest, detention and kidnapping. Respondents knowingly and intentionally violated these petitioners' constitutional rights to freedom from unlawful arrests and seizures and to due process of the law. Respondents knowingly and intentionally violated these rights and proffer no justification for what they did. It is bad enough to unlawfully arrest a person for one minute but

to kidnap the person and lock them up for an extended period is something else. Respondents knowingly deprived petitioners of their rights and intentionally locked them up for more than 20 days and there was NO justification for what they did. Petitioners did NOTHING wrong. They complied with ALL conditions imposed on them reporting regularly to respondents while processing their asylum cases and appearing in court as scheduled. There was and is NO REMOVAL order against petitioners to execute by respondents. Petitioners do NOT fit into the category the US Supreme Court recognizes for detention – preventing flight and/or risks/dangers to community. See *Demore v Kim*, 538 US 510, 528 (2003); *Zedvydas v Davis*, 533 US 678, 690 (2001). But for the filing of the petition for habeas corpus, petitioners would still be languishing in respondents' custody because respondents were actively, intentionally doing their best to keep them unlawfully detained. As the court can see from Exhibit 2 attached to the Petition, respondents and their agents particularly the deportation officer assigned to petitioners, were absolutely unwilling to release petitioners and even as this reply is written, respondents' agents and employees at the jail where petitioners were held continue to fail and refuse to notify counsel that his clients have been released from unconstitutional custody. This lackadaisical attitude in the treatment of another human being is what the constitution aims to stop and this court must reinforce it here. There may be many like petitioners in unlawful custody and this petition might help free them from inhumane treatment.

Further, petitioners were grossly inconvenienced by being put to additional financial hardship by respondents' intent to continue to torture petitioners by failing to return them to California thus making petitioners incur further debt buying ticket out of Texas.

Furthermore, respondents claim they released petitioners from unlawful custody without giving reasons for why they were arrested falsely claiming petitioners had a removal order that does NOT exist. Mere release from custody does NOT render Petition for Habeas Corpus moot. See *Spencer v Kemna*, 523 US 1, 7 (1998).

Respondents also fail to address what condition of prior release petitioners breached however when they 'released' petitioners on July 15, 2025, per respondents' I-830E, for some inexplicable reasons, respondents clamped 'gps' monitor on petitioner. Prior to this July 2025 action by respondents, petitioner was NOT fitted with GPS ankle monitor. Why the escalation in their treatment of petitioners? This shows how capable respondents' bad acts can be easily repeated yet evading review. If respondents can willy-nilly arrest, detain, change conditions of release without justification, their argument that petitioners' petition for habeas corpus is moot, fails woefully. See *Hubbart v. Knapp*, 379 F. 3d 773, 777-8 (9th Cir. 2004); *Rosales-Garcia v. Holland*, 322 F 3d 386, 397 (6th Cir. 2003); *Leonard v. Hammond*, 804 F 2d 838, 842-3 (4th Cir. 1986).

Respondents' claim the petition is moot merely because petitioners were released from custody is without merit, incorrect and wrong.

II

PETITIONERS ENTITLED TO AWARD OF ATTORNEY'S FEES AND COSTS

Petitioners incurred attorney's fees and costs, NOT JUST cost of filing petition but cost of transporting themselves from Texas to their family in California from where respondents initiated their unconstitutional and illegal acts, as a result of respondents' UNCONSTITUTIONAL acts. For respondents to contend that they should not be made to compensate petitioners for financial hardships they intentionally imposed on petitioners is simply silly and NOT supported by law. Under Equal Access to Justice Act (EAJA) 28 USC 2412(d); 5 USC 504, et seq. attorney fees and costs incurred by petitioners as a result of respondents' unconstitutional acts are justified and awardable. Petitioners pray this court to award them attorneys fees and costs and any other as this court deems just and proper. If nothing is done, respondents will continue to infringe on the petitioners' rights. Further, petitioners also pray this court to order respondents to remove the GPS bracelet they, without justification, placed on petitioner's ankle.

DATED: July 25, 2025

Respectfully submitted,



Azu Osemene, Esq.
Attorney for Petitioners


maria g tabora arita
File #: 
Certificate of Service

CERTIFICATE/PROOF OF SERVICE

The within document, Petitioners' Reply to Respondents' Opposition Brief was on this day served by regular mail, postage prepaid, on the following:

1. Office of the Asst Chief Counsel, DHS, 6230 Van Nuys Blvd, #1011, Van Nuys, CA 91401.
2. Secretary Noem, US Dept. of Homeland Security, 2707 Martin Luther King, Jr Ave SE, Washington, DC 20528-0525
3. Director Lyons, Immigration Citizenship and Enforcement, 500 12th Street SW, Washington, DC 20536
4. Pamela Biondi, US Attorney General, 950 Pennsylvania Ave, NW, Washington, DC 20530-0001
5. Lacy McAndrew, Asst US Atty, US Attorney's Office
601 N. W. Loop 410, Ste 600, San Antonio, TX 78216

DATED: July 25, 2025


E. Sanchez

East-West Law Center
PO Box 492
Van Nuys, CA 91408

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ENFORCEMENT SECTION

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Attn: Clerk of Court

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Western District of Texas
262 W. Nueva Street, #1-400
San Antonio, TX 78207
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