

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

Devora EVORA BAEZ, A#  v. Kristi Noem, Secretary of the Department of Homeland Security; Charles Wall, Principal Legal Advisor, U.S. Department of Homeland Security/Immigration and Customs Enforcement; Francisco Venegas, Warden at El Valle Detention Facility; Miguel Vergara – Field Office Director Office of Detention of Removal, U.S. Immigration and Customs Enforcement	Case No. _____
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**PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241, and
MOTION FOR EMERGENCY HEARING**

TO THE HONORABLE JUDGE PRESIDING:

Petitioner, Devora EVORA BAEZ, A#  by and through her attorney, ANNE E. KENNEDY, respectfully applies to this Honorable Court for a Writ of Habeas Corpus pursuant 28 U.S.C. §2241. In addition, there is an independent federal question in this case pursuant 28 U.S.C. § 1331, being the constitutionality of Petitioner's continued detention. As explained in the paragraphs below, the Petitioner, a non-citizen of the United States has been granted relief from removal in the form of Withholding of Removal under INA § 241(b)(3) by the Immigration Judge in Los Fresnos, Texas. ICE waived appeal, therefore, her removal does not appear reasonably foreseeable to her home country. Thus, she should be released from custody.

RELEVANT FACTS

Petitioner, Devora Evora Baez, was born in Cuba on May 22, 1997. Ms. Evora Baez entered the country on or about December 20, 2024, without inspection through Brownsville, Texas. She was apprehended immediately upon entering by Immigration and Customs Enforcement (“ICE”) and was taken into custody. She is currently detained at the El Valle Detention Center in Raymondville, TX.

Ms. Evora Baez is currently in ICE custody. She was given a credible fear interview on January 12, 2025, where she was found to have credible fear of persecution and torture. Petitioner was issued a Notice to Appear (“NTA”) by Department of Homeland Security on January 15, 2025, where she later appeared before the Immigration Judge (“IJ”) to pursue an Application for Asylum and Withholding of Removal. On August 5, 2025, the IJ found Petitioner to have a well founded fear of persecution in Cuba based on her political opinion. She was granted Withholding of Removal under INA § 241(b)(3). A copy of the Order of the Immigration Judge is attached as **Exhibit A**.

Following the grant of Withholding of Removal, Ms. Evora Baez has remained in ICE custody in Raymondville, Texas. A request for her release on parole has been made to ICE on April 16, 2025, prior to her final hearing before the Immigration Judge. This request has not been responded to by ICE. A copy is attached as **Exhibit B**. A second request for her release on parole has been to ICE on August 6, 2025, with a copy of the Order of the Immigration Judge. A copy is attached as **Exhibit C**.

Petitioner has been detained at the El Valle Detention Center for over 229 days and counting. Petitioner’s Immigration attorney has made numerous attempts to reach ICE with

requests for a decision on the first parole request. Counsel made contact with ICE on August 6, 2025, requesting information on Petitioner's release where he was informed that Petitioner would be removed in the next couple of days to Mexico, not Cuba, her country of citizenship.

Petitioner, Devora Evora Baez, remains in ICE custody in Texas despite winning her immigration case based on findings by an Immigration Judge that she would likely face persecution in her home country. ICE refuses to release Ms. Evora Baez claiming that she will be removed to an alternative country despite her lack of citizenship or a connection to any other country. Ms. Evora Baez's continued detention is arbitrary and unlawful, and she requests this Court order his immediate release from ICE custody.

Accordingly, Petitioner requests relief from this Court.

SUMMARY OF THE ARGUMENT

This case is focused and exclusively concerned with the issue of detention only. Petitioner is currently being held at El Valle Detention Center located at 1800 Industrial Drive, Raymondville, TX 78580. Petitioner seeks a writ of habeas corpus from this Court to release him from custody because he is being held in violation of due process under the 5th and 14th Amendments of the US Constitution in violation of the Supreme Court's holding in *Zadvydas v. Davis*, 533 U.S. 678 (2001) and its progeny. She cannot be deported to her home country of Cuba because she was granted Withholding of Removal under INA 241(b)(3), and both the government and Petitioner waived the right to appeal making the decision final.

There is no good cause or constitutional basis for ICE to continue to hold Ms. Evora Baez. Petitioner is able to affirmatively show that her removal is not "reasonably foreseeable" because

she has been granted relief in Immigration Court that has been accepted as a final decision by the government and appeal waived.

In addition, Petitioner should be released as a matter of due process under the 14th Amendment.

JURISDICTION & VENUE

This district court has jurisdiction to hear this Petition for Writ of Habeas Corpus under 28 U.S.C. §2241. Petitioner satisfies the “custody” requirement of federal habeas jurisdiction in that he is detained by the Department of Homeland Security, Immigration and Customs Enforcement at its detention facility at the El Valle Detention Center located at 1800 Industrial Drive, Raymondville, Texas 78580. This Court has jurisdiction over Kristi Noem, Secretary of the Department of Homeland Security; Charles Wall, Principal Legal Advisor, U.S. Department of Homeland Security/Immigration and Customs Enforcement; Francisco Venegas, Warden at El Valle Detention Center; and Miguel Vergara – Field Office Director Office of Detention of Removal, U.S. Immigration and Customs Enforcement. Accordingly, for the reasons stated above, and because this is a challenge to Petitioner’s unlawful detention, this Court has jurisdiction to rule on this Petition for Writ of Habeas Corpus.

Venue lies in the Brownsville Division of the United States District Court for the Southern District of Texas, as one or more Respondents resides in the Southern District of Texas, and Petitioner is presently detained at the El Valle Detention Center in Willacy County, Texas.

NO EXHAUSTION OF ADMINISTRATIVE REMEDIES REQUIRED

Petitioner has a final order granting her Withholding of Removal. She has made a request for her release from ICE on two occasions from ERO Headquarters. This actually satisfies any administrative remedies available to him. Nevertheless, Petitioner makes a constitutional

challenge to her custody; and as such, there is no requirement to exhaust of administrative remedies. *See Mathews v. Eldridge*, 424 US 319 (1976).

In addition, when Congress fails to specifically mandate that exhaustion is required before a party may seek judicial review, the need for exhaustion is left to the sound discretion of the Court. *McCarthy v. Madigan*, 503 U.S. 140, 144-45, 112 S.Ct. 1081, 117 L.Ed.2d 291 (1992). The Fifth Circuit Court of Appeals has specifically stated that administrative remedies are not to be exhausted where they would be futile. *See Arce-Vences v. Mukasey*, 512 F.3d 167, 172-173 (5th Cir. 2007). In this case, ICE has specifically been informed of the intent to seek federal relief, and has informed the undersigned counsel that any further administrative plea would be futile and Petitioner will be removed to a third country where she has no ties or citizenship.

ARGUMENT

Petitioner's continued detention by ICE has become unreasonably prolonged and violates her constitutional rights to due process under the 5th and 14th Amendments of the United States.

A. Withholding of Removal and Relief under the Convention Against Torture

Non-citizens in immigration removal proceedings can seek three main forms of relief based on their fear of returning to their home country: asylum, withholding of removal, and CAT relief. Non-citizens may be ineligible for asylum for several reasons, including failure to apply within one year of entering the United States. See 8 U.S.C. § 1158(a)(2). There are fewer restrictions on eligibility for withholding of removal, *id.* § 1231(b)(3)(B)(iii), and no restrictions on eligibility for CAT deferral of removal. 8 C.F.R. § 1208.16.

To be granted CAT relief, a non-citizen must show that "it is more likely than not that he or she would be tortured if removed to the proposed country of removal." 8 C.F.R. § 1208.16(c)(2).

An applicant for CAT relief must show a higher likelihood of torture than the likelihood of persecution an asylum applicant must demonstrate. See *id.*

When an IJ grants a non-citizen withholding or CAT relief, the IJ issues a removal order and simultaneously withholds or defers that order with respect to the country or countries for which the non-citizen demonstrated a sufficient risk of persecution or torture. See *Johnson v. Guzman Chavez*, 141 S. Ct. 2271, 2283 (2021). Once withholding or CAT relief is granted, either party has the right to appeal that decision to the BIA within 30 days. See 8 C.F.R. § 1003.38(b). If both parties waive appeal or neither party appeals within the 30-day period, the withholding or CAT relief grant and the accompanying removal order become administratively final. See *id.* § 1241.1.

When a non-citizen has a final withholding or CAT relief grant, they cannot be removed to the country or countries for which they demonstrated a sufficient likelihood of persecution or torture. See 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1208.17(b)(2). While ICE is authorized to remove non-citizens who were granted withholding or CAT relief to alternative countries, see 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f), the removal statute specifies restrictive criteria for identifying appropriate countries. Non-citizens can be removed, for instance, to the country “of which the [non-citizen] is a citizen, subject, or national,” the country “in which the [non-citizen] was born,” or the country “in which the [non-citizen] resided” immediately before entering the United States. 8 U.S.C. § 1231(b)(2)(D)-(E).

If ICE identifies an appropriate alternative country of removal, ICE must undergo further proceedings in immigration court to effectuate removal to that country.¹ See *Jama v. ICE*, 543 U.S. 335, 348 (2005) (“If [non-citizens] would face persecution or other mistreatment in the country designated under § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A); [and] relief under an international

agreement prohibiting torture, see 8 CFR §§ 208.16(c)(4), 208.17(a) (2004) . . .”); *Romero v. Evans*, 280 F. Supp. 3d 835, 848 n.24 (E.D. Va. 2017) (“DHS could not immediately remove petitioners to a third country, as DHS would first need to give petitioners notice and the opportunity to raise any reasonable fear claims.”), rev’d on other grounds, *Guzman Chavez*, 141 S. Ct. 2271.

B. The 14th Amendment Requires Petitioner’s Release

The Petitioner’s case also warrants intervention of the federal court here on due process grounds. There is no legal basis for the government to detain Petitioner. There is no open removal case against her. She has been granted relief from removal that has been accepted by the Government as final. There is no requirement to exhaust administrative remedies in this because it involves improper detention, however, as stated previously, efforts have been made to request her release on parole to no avail. At the time of filing this petition, the Government is holding her in violation of the 5th and 14th amendment and Petitioner requests that this Court order her immediate release as a matter of due process.

REQUEST FOR EMERGENCY HEARING

Petitioner, DEVORA EVORA BAEZ, requests that an emergency hearing be held regarding the legality of her detention. Because Respondents are acting contrary to law, and Petitioner has been detained for over 7 months, with immigration relief granted, this is an emergency that requires immediate action by this court.

PRAYER

For the foregoing reasons, Petitioner, DEVORA EVORA BAEZ, prays, pursuant to 28 U.S.C. §§ 2241 and 2243, that the Court award her the Writ or issue an order directing the Respondents to show cause why the writ should not be granted. Petitioner further requests that

this Court grant her request and order that the Respondents release him. Petitioner further prays that the Court grant her an emergency hearing.

Respectfully Submitted,

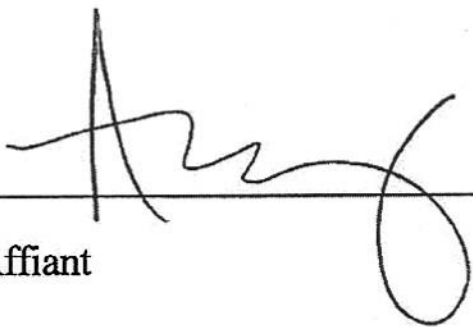
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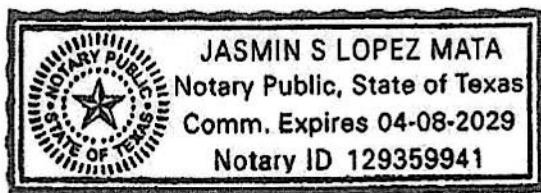
VERIFICATION

ANNE E. KENNEDY appeared in person before me today and stated under oath that she is the attorney for DEVORA EVORA BAEZ in this case and, as such, have authority to make this verification; that they have read the above PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241, and MOTION FOR EMERGENCY HEARING and that every statement regarding the facts contained in it are true and correct to the best of their personal knowledge.



Affiant

SIGNED under oath before me on August 6, 2025.





Notary Public, State of Texas