

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT COURT OF ARIZONA**
401 WEST WASHINGTON ST SUITE 130 1
PHOENIX, AZ 85003
602-322-7200

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AUG 15 2025	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY _____	DEPUTY

SANDRA MILENA ARATECO MUNOZ

A# _____

Petitioner,

v.

Pamela R. Bondi

US ATTORNEY GENERAL;

Kristi Noem,

SECRETARY OF DEPARTMENT OF
HOMELAND SECURITY;

John E. Cantu,

FIELD OFFICE DIRECTOR

Fred Figueroa,

Warden of Eloy Detention Center,

Respondents,

CV25-02951-PHX-MTL--ESW

THIS DOCUMENT IS NOT IN PROPER FORM ACCORDING
TO FEDERAL AND/OR LOCAL RULES AND PRACTICES
AND IS SUBJECT TO REJECTION BY THE COURT.

REFERENCE

hccwp 514
(Rule Number/Section)

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

Petitioner, SANDRA MILENA ARATECO MUNOZ, brings this habeas petition seeking relief pursuant to 28 U.S.C. § 2241 challenging the lawfulness of his ongoing detention by Immigration and Customs Enforcement ("ICE") without an individualized bond hearing on the ground that it has exceeded the presumptively reasonable six-month period established under the due process standards set forth by the United States Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). *Diouf II* requires the Government to provide a bond hearing to any alien detained under §



1231(a)(6) whose detention becomes prolonged and whose release or removal is not imminent, *Diouf II*, 634 F.3d at 1088 (citing *Clark*, 543 U.S. at 380-81).

Petitioner seeks immediate release from custody or a prompt new bond hearing, where Respondents must prove by clear and convincing evidence that continued detention is justified, the adjudicator must meaningfully consider alternatives to imprisonment and Petitioner's ability to pay if setting a monetary bond. In support of this petition and complaint for injunctive relief Petitioner alleges a follows:

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at the **Eloy Detention Center** in **Eloy, Arizona** ICE has contracted with **Eloy Detention Center** to house immigration detainees such as Petitioner. Petitioner is under the direct control of Respondents and their agents. Petitioner was transfer to ICE custody on **December 24, 2024**.

JURISDICTION

2. This action arises under the constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. 1101 et seq. as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. 701 et seq.

3. This court has jurisdiction under 28 U.S.C. 2241: art. I 9, cl. 2 of the United States Constitution ("Suspension Clause"); and 28 U.S.C. 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in



violation of the Constitution, law, or treaties of the United State. This court may grant relief pursuant to 28 U.S.C. 2241, 5 U.S.C. 702, and the All Writs Act, 28 U.S.C. 1651.

4. Petitioner has exhausted any and all administrative remedies to the extend require by law.

VENUE

5. Pursuant to Braden v. 30th Judicial Circuit Ct., 410 U.S. 484, 495-96, 93 S. Ct. 1123, 35 L. Ed. 2d 443 (1973); Roman v. Ashcroft, 340 F.3d 314, 318-20 (6th Cir. 2003). Thus, because the petition indicates that Petitioner is currently incarcerated at Eloy Detention Center, the proper venue for this action is the United States District Court for the District of Arizona, the judicial district in which Petitioner resides.

PARTIES

6. Petitioner is a native and citizen of COLOMBIA. Petitioner was taken into ICE custody on December 24, 2024, and has remained in ICE custody continuously since that date. Petitioner is subject to a final order or removal from 2023.

7. Respondent James Mchenry and Lisa Monaco is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Nationality Act (INA). As such, James Mchenry and Lisa Monaco has ultimate custodial authority over Petitioner.

8. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. He is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Nationality Act (INA). As such, Kristi Noem is the legal custodian of Petitioner.



9. Respondent John E. Cantu is one of the ICE Field Director and is Petitioner's immediate custodian who has signed Petitioner's continued Detention Letters. See Vasquez v. Reno 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001).

10. Respondent Fred Figueroa Warden of Eloy Detention Center, where Petitioner is currently detained under the authority of ICE, alternatively, may be considered to be Petitioner's immediate custodian.

FACTUAL ALLEGATIONS

11. Petitioner, SANDRA MILENA ARATECO MUNOZ, is a native and citizen of COLOMBIA. Petitioner has been in ICE custody since December 24, 2024. Petitioner is subject to a final order or removal from 2023. An Immigration Judge denied Petitioner application for withholding of removal and deferral of removal under the convention against torture on August 5, 2025. Petitioner reserved right to appeal and filed the appeal on time August 20, 2025. The appeal is pending.

12. Petitioner entered the United States on December 24, 2025 after she presented herself at the port of entry of Nogales, AZ for a CBP-one appointment.

13. Petitioner mother is LPR and her sister is U.S. Citizen and 4 U.S. citizen nephews. Petitioner mother filed an I-130 petition for alien relative application on her behalf on January 06, 2025 which is currently pending.

14. Petitioner applied for humanitarian parole on February and May. Both petitions were denied by the ICE field office director without a reason or explanation.

15. Petitioner has never been arrested or charged of any crime in the United States or any other country.



FACTUAL AND PROCEDURAL BACKGROUND

I. STATUTORY FRAMEWORK

16. In *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001), the Supreme Court applied the canon of constitutional avoidance to § 1231(a)(6) and held that six months was a presumptively reasonable length of detention and that, after that period, once an alien provides good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future, the Government must provide evidence to rebut that showing. In *Diouf v. Napolitano*, 634 F.3d 1081 (9th Cir. 2011) (*Diouf II*), a three-judge panel of this court applied the canon to construe § 1231(a)(6) as requiring an individualized bond hearing before an IJ for an alien detained for six months or longer when the alien's release or removal is not imminent.

17. In this circuit, detention pursuant to § 1231(a)(6) "encompasses aliens . . . whose collateral challenge to [a] removal order (or a motion to reopen) is pending in the court of appeals, as well as to aliens who have exhausted all direct and collateral review of their removal orders but who, for one reason or another, have not yet been removed from the United States." *Diouf II*, 634 F.3d 1085; see also *Diouf I*, 542 F.3d at 1230 (explaining that the removal period in § 1231(a)(1) will commence even if a stay of removal is entered while a federal court reviews an alien's habeas petition pursuant to 28 U.S.C. § 2241 or considers a petition for review of a denial by the Board of Immigration Appeals of an alien's motion to reopen).

18. The INA also authorizes the government to reinstate a prior removal order against an alien who the government believes has unlawfully reentered the United States,

with the order "reinstated from its original date." 8 U.S.C. § 1231(a)(5). Aliens with reinstated removal orders may pursue limited forms of relief from removal, including withholding of removal and protection pursuant to the Convention Against Torture. *Andrade-Garcia v. Lynch*, 828 F.3d 829, 831 (9th Cir. 2016). In this circuit, aliens with reinstated removal orders, including those who pursue these limited forms of relief, are treated as detained pursuant to § 1231(a)(6). *Padilla-Ramirez v. Bible*, 862 F.3d 881, 884-87 (9th Cir. 2017), amended by, 882 F.3d 826, 830-33 (9th Cir. 2018).

II. PROCEEDINGS IN THIS CASE

19. Petitioner is native and citizens of Colombia. The Government reinstated prior removal orders against her in 2022 but placed her in withholding-only removal proceedings after asylum officers determined that she has a reasonable fear of persecution or torture in Colombia. She requested a bond hearing before an IJ after 180 days in detention. However, the IJ denied the requests. Petitioner filed the complaint and petition for a writ of habeas corpus.

20. Petitioner challenges his detention as a violation of due process, The Immigration and Nationality Act, the Administrative Procedure Act and the U.S. Constitution's Fifth Amendment Due Process Clause. Petitioner relies on *Diouf II* to allege that Defendants have denied her bond hearing "[d]espite clear Ninth Circuit precedent establishing the right to a bond hearing for petitioner upon their detention becoming prolonged" as aliens detained pursuant to § 1231(a)(6). Petitioner further allege that Singh requires the Government to bear a clear and convincing evidentiary burden of



proof at such a bond hearing. Alternatively, Plaintiffs claim that constitutional due process requires these protections.

III. STATUTORY VIOLATION

21. Petitioner re-alleges and incorporates by reference paragraphs 1 through 20 above.

22. The Fifth Amendment's Due Process Clause prevents the Government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const, amend. V. "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, 690 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). It is well established that this protection extends to noncitizens, including in removal proceedings. Reno v. Flores, 507 U.S. 292, 306, 113 S. Ct. 1439, 123 L. Ed. 2d 1 (1993). Moreover, "due process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake... are both particularly important and more substantial than mere loss of money. " Cooper v. Oklahoma, 517 U.S. 348, 363, 116 S. Ct. 1373, 134 L. Ed. 2d 1 (1996).

23. There are "serious constitutional concerns" with the government's 180-day review process (i.e., detention lasting six months) because the regulations "do not provide for an in-person hearing, they place the burden on the alien rather than the government and they do not provide for a decision by a neutral arbiter such as an immigration judge. In the context of this discussion, this circuit explained for the first time that "[a]s a general matter, detention is prolonged when it has lasted six months and is expected to

continue more than minimally beyond six months." *Id.* at 1092 n.13; see also *Rodriguez III*, 804 F.3d at 1069 ("In *Diouf II*, the circuit also adopted a definition of 'prolonged' detention . . . for purposes of administering the Casas[-Castrillon] bond hearing requirement." (citing *Diouf II*, 634 F.3d at 1092 n.13)). Alluding to *Zadvydas*, the circuit explained that the "private interests at stake are profound" at six months of detention, such that "a hearing before an immigration judge is a basic safeguard for aliens facing prolonged detention under § 1231(a)(6)." *Diouf II*, 634 F.3d at 1091-92.

24. Here, the presumptively reasonable six month period began running on **December 24, 2024** the date petitioner was taken into custody. The six-month period has expired on **June 24, 2025**. Petitioner claims she is entitled to procedural safeguards against prolonged detention. Thus, Petitioner 8 month's detention violates status, regulations and the constitution.

25. Further, Petitioner has signaled that he will continue to appeal his case should the BIA sustain the IJ's decision. This increases the likelihood that his period of detention will be extensive. In sum, Petitioner "face[s] the prospect of months-long detention, a severe deprivation of liberty that is countenanced in only limited circumstances outside of the criminal context." *Al-Sadeai*, 540 F. Supp. 3d 983, 2021 WL 1978474, at *5 (citing *Zadvydas*, 533 U.S. at 690).

CONCLUSION

Petitioner asks the Court to direct respondents to immediately release her from custody on his own recognizance, or under reasonable conditions of supervision or, in the alternative, order that Petitioner receive an individualized hearing before an impartial

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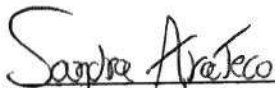
adjudicator at which respondents bear the burden of proving, by clear and convincing evidence, that his continued detention is justified.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Grant Petitioner a writ of habeas corpus directing Respondents to immediately release Petitioner from custody or a prompt new custody redetermination hearing;
3. Award Petitioner attorney's fees and cot under Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. 504 and 28 U.S.C. 2412 and on any other basis justified under law; and
4. Grant any other and further relief that this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.



Petitioner

08/05/25
Date executed

SANDRA MILENA ARATECO MUNOZ
A# 
ELOY DETENTION CENTER
1705 E HANNA ROAD
ELOY, AZ 85131