

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO**

Leanny Sorelbis HERNANDEZ TORREALBA

Petitioner-Plaintiff,

V.

U.S. DEPARTMENT OF HOMELAND SECURITY; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; Robert LYNCH,

Immigration and Customs Enforcement

Field Office Director, in his official capacity;

Scott A. HILDENBRAND,

Geauga County Sheriff, in his official capacity,

Respondents-Defendants.

Case No. 1:25-cv-1864

PETITION FOR WRIT OF HABEAS CORPUS

Expedited hearing requested

INTRODUCTION

1. This is a petition for a writ of habeas corpus on behalf of Leanny Sorelbis Hernandez Torrealba (Ms. Hernandez), a 27-year woman who fled Venezuela. In August 2022, she came to the United States seeking refuge and asylum. She is presently detained at the Geauga County Jail in Chardon, Ohio by Respondent U.S. Immigration and Customs Enforcement (ICE), a component agency of Respondent Department of Homeland Security (DHS) following the purported issuance of an expedited removal order by Respondent ICE pursuant to 8 U.S.C. § 1225(b). Ms. Hernandez Torrealba's detention by Respondent ICE is unlawful for at least two reasons; first, because, by law, expedited removal orders cannot issue to individuals, like Petitioner, who have been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under § 212(a)(6)(C) or 212(a)(7) of Immigration and Nationality Act (INA), 8 U.S.C. §§ 1182(a)(6)(C) or 1182(a)(7),

and second, because Respondent ICE had no authority to issue the purported expedited removal order during pendency of Ms. Hernandez Torrealba's ongoing removal proceedings under 8 U.S.C. § 1229a (and a person cannot be in two types of removal proceedings at the same time).

2. Accordingly, to vindicate Hernandez Torrealba's statutory, constitutional, and regulatory rights, this Court should grant the instant petition for a writ of habeas corpus pursuant to 8 U.S.C. § 1252(e)(4) and find that there is no lawful expedited removal order issued against Ms. Hernandez Torrealba. Moreover, this Court should find that the Respondents' decision to detain Ms. Hernandez Torrealba is arbitrary and capricious and in violation of the law, and grant the instant petition for a writ of habeas corpus ordering her release.

JURISDICTION

3. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

4. This Court has habeas jurisdiction under 8 U.S.C. § 1252(e)(2) (habeas corpus proceedings), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Under 8 U.S.C. § 1252(e)(2)(B), this Court has jurisdiction to determine whether, in fact, the removal order against Ms. Hernandez Torrealba was lawful such that she was "ordered removed under [8 U.S.C. § 1225(b)(1)]."

5. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1361 (Mandamus Act). The government has waived its sovereign immunity pursuant to 5 U.S.C. § 702.

6. The Court may grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201-02 (Declaratory Judgment Act), 5 U.S.C. §§ 702, 706, 28 U.S.C. § 1361, and 28 U.S.C. § 1651.

VENUE

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e), because this is a civil action in which Respondents are officers or employees of the United States, acting in their official capacity, and Ms. Hernandez Torrealba is currently detained at the Geauga County Jail in Chardon, Ohio, which is within the jurisdiction of this District; a substantial part of the events or omissions giving rise to her claims occurred in this District, and no real property is involved in this action.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

8. With respect to Ms. Hernandez Torrealba's habeas claim, the Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to Respondents "forthwith," unless Ms. Hernandez Torrealba is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

9. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

10. Ms. Hernandez Torrealba is "in custody" for the purpose of 28 U.S.C. § 2241 because she is arrested and detained by Respondents.

PARTIES

11. Petitioner Leanny Sorelbis Hernandez Torrealba is native of Venezuela and resident of Columbus, Ohio. She is currently detained at the Geauga County Jail in Chardon, Ohio.

12. Respondent U.S. Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the Immigration and Nationality Act. DHS oversees its component agencies, including U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), and U.S. Citizenship and Immigration Services (USCIS).

13. Respondent U.S. Immigration and Customs Enforcement (ICE), as relevant here, is a component of DHS and the federal agency responsible for the detention of noncitizens.

14. Respondent Robert Lynch is the Field Office Director of the ICE office in Detroit, Michigan. Mr. Lynch is a legal custodian of Ms. Hernandez Torrealba. He is sued in his official capacity.

15. Respondent Scott A. Hildenbrand is the Sheriff of Geauga County and, in this capacity is the head of the Geauga County Jail, has physical custody of Ms. Hernandez Torrealba and is a legal custodian of her. He is sued in his official capacity.

LEGAL FRAMEWORK

Expedited Removal

16. The expedited removal statute provides that the process begins—and often effectively concludes—with an inspection by an immigration officer. The officer must, first, determine if the individual is a noncitizen who is inadmissible because they have engaged in certain kinds of fraud or misrepresentation to procure admission or other immigration benefits, 8 U.S.C. § 1182(a)(6)(C), or lacks valid entry documents, 8 U.S.C. § 1182(a)(7). *See* 8 U.S.C. §§ 1225(b)(1)(A)(i), (iii) (citing 8 U.S.C. § 1182(a)(6)(C), (a)(7)). No other person may be subjected to expedited removal. 8 C.F.R. § 235.3(b)(1), (b)(3). Among that set, only two categories of noncitizens are eligible for expedited removal: (1) noncitizens “arriving in the United States,” and (2) noncitizens who “ha[ve] not been admitted or paroled into the United States” and cannot affirmatively show that they have been “physically present in the United States continuously for the 2-year period immediately prior to the

date of the determination of inadmissibility.” 8 U.S.C. § 1225(b)(1)(A)(i)–(iii).

17. At any time during the expedited removal process, the officer may permit the individual to withdraw her application for admission and allow the person to depart the country without issuing an expedited removal order. 8 U.S.C. § 1225(a)(4). For those who express a fear of return to their countries of origin, the expedited removal statute provides a limited additional screening. But the additional screening does not remotely approach the type of process that asylum seekers receive in regular immigration proceedings before an immigration judge under 8 U.S.C. § 1229a.

18. During the inspection process, if an individual indicates an intention to apply for asylum or expresses fear of return to his or her country of origin, the immigration officer must refer the individual for a rudimentary screening interview with an asylum officer, referred to as a “credible fear” interview, to determine whether the individual should be able to apply for asylum and related humanitarian relief. 8 U.S.C. § 1225(b)(1)(A)(ii), (B); 8 C.F.R. §§ 235.3(b)(4), 208.30(d)–(e).

19. To prevail at the credible fear interview, the applicant must show “a significant possibility, taking into account the credibility of the statements made by the [noncitizen] in support of the [noncitizen’s] claim and such other facts as are known to the officer, that the [noncitizen] could establish eligibility for asylum.” 8 U.S.C. § 1225(b)(1)(B)(v).

20. Applicants who satisfy the credible fear standard have their expedited removal orders cancelled by operation of law and are placed into regular removal proceedings under 8 U.S.C. § 1229a, where they have the opportunity to apply for asylum and other relief from removal, present and cross-examine evidence before an immigration judge (IJ), preserve objections, and appeal any adverse decision to the Board of Immigration Appeals and court of appeals. 8 C.F.R. § 208.30(f); *see also* 8 U.S.C. § 1225(b)(1)(B)(ii). Noncitizens seeking asylum are guaranteed Due Process under the Fifth

Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

21. Applicants who do not pass the credible fear interview may request review of the decision by an IJ, but do not receive a full hearing or any subsequent administrative appellate review. 8 U.S.C. § 1225(b)(1)(B)(iii)(II)-(III); *see also* 8 C.F.R. § 208.30(g)(1).

22. An expedited removal order comes with significant consequences beyond removal itself. Noncitizens with expedited removal orders are subject to a five-year bar on admission to the United States unless they qualify for a discretionary waiver. 8 U.S.C. § 1182(a)(9)(A)(i); 8 C.F.R. § 212.2.

23. Congress provided limited habeas review in individual cases. Relevant here, a federal district court may review whether the individual “was ordered removed under 8 U.S.C. § 1225(b)(1). *See* 8 U.S.C. § 1252(e)(2)(B). Although the statute provides that such review must be limited to “whether such an order in fact was issued and whether it relates to the petitioner” and may not include review of whether a noncitizen “is actually inadmissible or entitled to any relief from removal,” *see* 8 U.S.C. § 1252(e)(5), if the Court finds in the petitioner’s favor, the court can order placement in removal proceedings under 8 U.S.C. § 1229a, *see* U.S.C. § 1252(e)(4)(B).

24. In *DHS v. Thuraissigiam*, 591 U.S. 103 (2020), the Supreme Court upheld a lack of habeas jurisdiction where the noncitizen petitioner entered the United States without inspection and then challenged flaws in the credible fear proceeding and sought a “new opportunity to apply for asylum” and “the opportunity to remain lawfully in the United States.” 591 U.S. at 115, 119. Concurring in the judgement, Justice Breyer expressed concern about future readings of the decision to foreclose *all* habeas claims, including a claim of “natural-born U.S. citizen[ship],” “a claim that rogue immigration officials forged the record of a credible-fear interview that . . . never happened,” or a claim that an asylum officer made a “dead-wrong legal

interpretation.” *Id.* at 151 (Breyer, J., concurring in the judgment).

ICE’s detention authority

25. During the inspection and credible fear stages of expedited removal, DHS detains the noncitizen. *See* 8 U.S.C. §§ 1225(b)(1)(B)(ii), (iii)(IV); 8 C.F.R. § 235.3(b)(2)(iii). In *Jennings v. Rodriguez*, the Supreme Court held that individuals in expedited removal who demonstrate a credible fear are not statutorily eligible for bond hearings. 583 U.S. 281, 297-303 (2018).

26. The second detention statute, 8 U.S.C. §§ 1225(b)(2)(A) provides that, “in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.” Applicant for admission is defined as “[a]n alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters).” 8 U.S.C. § 1225(a)(1).

27. The third detention statute, 8 U.S.C. § 1226(a) authorizes that “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.” INA § 236(c) then “carves out a statutory category of aliens who may *not* be released under INA § 236(a).” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). It mandates detention for a noncitizen “who falls into one of several enumerated categories involving criminal offenses and terrorist activities.” *Id.*

28. During decades, the agency applied discretionary detention under INA § 236(a) to inadmissible noncitizens residing in the United States. *See* 62 Fed. Reg. 10312-01 (“Despite

being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.”).

29. On July 08, 2025, Respondent ICE, “in coordination with the Department of Justice”, issued a new policy entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” requiring all noncitizens who entered the United States without inspection to be subject to mandatory detention without bond. *Exhibit A*. “The policy applies this detention framework to any noncitizen regardless of when or where they are apprehended.” *Lopez-Campos v. Raycraft*, -- F.Supp.3d. --, 2025 WL 2496379 at *2 (E.D. Mich. Aug. 29, 2025).

30. On September 5, 2025, the Board of Immigration Appeals issued a precedent decision *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In this decision. The BIA fully supports the new ICE’s policy dated July 8, 2025, holding that “[u]nder the plain reading of the INA, we affirm the Immigration Judge’s determination that he did not have authority over the bond request because aliens who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings.

31. The decision in *Matter of Yajure Hurtado* clearly contradicts the decisions of numerous federal courts that rejected this exact conclusion. *See, e.g., Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, WL 1869299 (D. Mass. July 7, 2025) (Slip Op.); *Martinez v. Hyde*, --- F. Supp. 3d. --, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rocha Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (Slip Op.); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D. NY Aug. 13, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Gonzalez et al. v. Noem et al.*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. Aug. 13, 2025); *Dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug.

14, 2025); *Maldonado v. Olson*, — F.Supp.3d —, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Romero v. Hyde, et al.*, — F.Supp.3d — 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Benitez et al. v. Noem et al.*, No. 5:25-cv-02190-RGK-AS (C.D. Cal. Aug. 26, 2025); *Kostak v. Trump et al.*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, -- F.Supp.3d --, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025).

Prudential exhaustion

32. The requirement of administrative exhaustion can be either statutorily or judicially imposed as a matter of prudence. *Puga v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007). “Where Congress specifically mandates, exhaustion is required.” *McCarthy v. Madigan*, 503 U.S. 140 (1992). “Prudential exhaustion is a judge-made doctrine that enables courts to require administrative exhaustion even when the statute or regulations do not.” *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 747 (6th Cir. 2019).

33. The Sixth Circuit has not formally adopted a standard for determining when prudential exhaustion applies; however, other courts in this district have applied the three-factor test, established by the Ninth Circuit (the *Pruga* factors):

(1) agency expertise makes agency consideration necessary to generate a proper record and reach a proper decision; (2) relaxation of the requirement would encourage the deliberate bypass of the administrative scheme; and (3) administrative review is likely to allow the agency to correct its own mistakes and to preclude the need for judicial review.

Puga, 488 F.3d at 815(citations omitted). See, e.g., *Villalta v Greene, et al.*, Case No. 4:25-CV-1594 (N.D. Ohio 2025), *Lopez-Campos v. Raycraft*, -- F.Supp.3d --, 2025 WL 2496379 (E.D. Mich. 2025).

34. Bond appeals before the BIA, on average, take six months to complete. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025).

STATEMENT OF FACTS

35. Ms. Hernandez Torrealba entered the United States on August 19, 2022 near Eagle Pass, Texas, seeking refuge and asylum. Respondent DHS arrested Ms. Hernandez Torrealba, *Exhibit B*, and then, based on the individualized facts in her case, Respondent DHS released Ms. Hernandez Torrealba on Form I-220A Order of Release on Recognizance pursuant to 8 U.S.C. § 1226(a). *Exhibit C*.

36. The same day, on August 21, 2022, Respondent DHS issued Form I-862 Notice to Appear, charging Ms. Hernandez Torrealba with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as noncitizen who is present in the United States without being admitted or paroled. There was no determination of inadmissibility under 8 U.S.C. § 1182(a)(6)(C) or (a)(7)) required for expedited removal proceedings. *Exhibit D*.

37. On August 02, 2023, Ms. Hernandez Torrealba timely filed her application for asylum with the Cleveland Immigration Court. She was granted employment authorization and assigned a social security number. *Exhibit E*. She opened a bank account, rented an apartment, and was gainfully employed.

38. On May 27, 2025, during the first hearing before the immigration judge, ICE moved orally for dismissal in order to place Ms. Hernandez Torrealba in expedited removal proceeding, and the immigration judge (IJ) dismissed the proceedings over the objection of Ms. Hernandez Torrealba who was unrepresented. At that point, Ms. Hernandez Torrealba had 30 days within which to file an appeal of the IJ's order. *See* 8 C.F.R. § 1003.38(b). *Exhibit F*.

39. When Ms. Hernandez Torrealba left the courtroom, Respondent ICE apprehended and detained her.

40. The same day, during questioning, ICE officers created Form I-867A (Record of Sworn Statement) from Ms. Hernandez Torrealba. *See* 8 C.F.R. §§ 235.3(b)(2), (b)(4). But that

document was not served on Ms. Hernandez Torrealba. *Exhibit G.*

41. Concurrently, ICE issued Form I-860 (Notice and Order of Expedited Removal) alleging that Ms. Hernandez Torrealba is subject to expedited removal under 8 U.S.C. § 1225(b)(1) for being inadmissible under 8 U.S.C. § 1182(a)(7) for lacking a valid entry document. *Exhibit H.* Form I-860 was not served on Ms. Hernandez Torrealba that day. On information and belief, Respondents did not afford Petitioner an opportunity to be heard before issuing her the purported expedited removal order, depriving her of due process.

42. On June 25, 2025, Ms. Hernandez Torrealba appealed the IJ's decision to dismiss her removal proceedings to the Board of Immigration Appeals.

43. On or about June 25, 2025, an asylum officer conducted a credible fear interview with Ms. Hernandez Torrealba. Also on July 1, 2025, the asylum officer determined that Ms. Hernandez Torrealba did not have credible fear of persecution in Venezuela. Ms. Hernandez Torrealba requested review by an immigration judge.

44. Respondent ICE served the Record of Sworn Statement (Form I-867A) and purported expedited removal order (Form I-860), both prepared on May 27, 2025, on Ms. Hernandez Torrealba and her counsel on July 1, 2025, over a month after ICE prepared and issued them.

45. The purported expedited removal order on Form I-860 given to Ms. Hernandez Torrealba is signed neither by an issuing officer nor by a supervisory officer.

46. On July 17, 2025, the immigration judge conducted bond proceedings of Ms. Hernandez Torrealba in the Cleveland Immigration Court. Relying on the new policy dated July 8, 2025, the IJ denied Ms. Hernandez Torrealba's request for custody redetermination due to lack of jurisdiction. *Exhibit I.*

47. On July 23, 2025, Ms. Hernandez Torrealba appealed the IJ's decision to deny

bond to the Board of Immigration Appeals.

48. On August 4, 2025, Ms. Hernandez Torrealba filed a Petition under 28 U.S.C. § 2241 for Writ of Habeas Corpus in the United States District Court for the Northern District of Ohio. Case No. 1:25-CV-01621. On August 25, 2025, the district court dismissed, without prejudice, the Petition finding that “Petitioner must exhaust her administrative remedies before obtaining federal district court review of the claims set forth in her Petition.” *Exhibit J*.

49. On August 26, 2025, Ms. Hernandez Torrealba filed her subsequent motion for custody redetermination, and on August 28, 2025, Respondent ICE filed motion to vacate bond proceedings which was granted.

50. *Matter of Yajure Hurtado* effectively precludes any appeal of the IJ’s decision denying bond to Ms. Hernandez Torrealba on the grounds of lack of jurisdiction due to her being an “applicant for admission”, and makes it futile.

51. Ms. Hernandez Torrealba has no criminal record.

52. As of today, Ms. Hernandez Torrealba has been detained for more than 100 (one hundred) days.

CLAIMS FOR RELIEF

COUNT I

Violation of Fifth Amendment Right to Due Process Procedural Due Process

53. The allegations in the above paragraphs are realleged and incorporated herein.

54. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*,

533 U.S. 678, 693 (2001).

55. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

56. “[A]liens receive constitutional protections when they have come within the territory of the United States and developed substantial connections with the country.” *Martinez-Aguero v. Gonzalez*, 459 F.3d 618 (5th Cir. 2006) (quoting *United States v. Verdugo-Urquidez*, 494 U.S. 259, 271 (1990)).

57. It is undisputed that Respondent DHS has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b). However, this discretion is not “unlimited” and must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698; *see also Trump v. J.G.G.*, 604 U.S. ____ (2025).

58. On May 27, 2025, almost three years after Respondent DHS released Ms. Hernandez Torrealba under 8 U.S.C. § 1226(a), Respondent ICE re-detained her in an arbitrary manner and not based on a rational and individualized determination of whether she is a safety or flight risk, in violation of due process. Because no circumstances have changed to command re-detention of Ms. Hernandez Torrealba, Respondents have violated her right to procedural due process.

COUNT II

Violation of 8 U.S.C. § 1225(b), and implementing regulations, and Administrative Procedure Act

59. The allegations in the above paragraphs are realleged and incorporated herein.

60. Pursuant to 8 U.S.C. § 1225(b)(1)(A)(iii)(II), DHS cannot apply the expedited removal statute to a noncitizen who “has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph [i. e. under 8 U.S.C. §§ 1182(a)(6)(C) or (a)(7)].” *See*

also 90 Fed. Reg. 8139, 8139 (Jan. 24, 2025).

61. Ms. Hernandez Torrealba has been continually physically present in the United States since August 19, 2022. Thus, ICE had no authority to issue an expedited removal order after making inadmissibility determination under 8 U.S.C. §§ 1182(a)(7) on May 27, 2025, i. e. after more than two years of her continuous physical presence in the United States.

62. ICE had no authority to issue the purported expedited removal order under 8 U.S.C. § 1225(b)(1) while Ms. Hernandez Torrealba's removal proceedings were ongoing. In so doing, ICE's action was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," "contrary to constitutional right, power, privilege, or immunity," "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right," and "(D) without observance of procedure required by law" in violation of 5 U.S.C. § 706(2)(A)-(D). "ICE cannot manipulate the removal proceedings in its favor by substituting expedited proceedings for immigration proceedings already in progress before the immigration court. It is an abuse of process." *Valdez v. Joyce*, 2025 WL 1707737, at *4 (S.D.N.Y. June 18, 2025).

63. The purported expedited removal order issued by ICE against Ms. Hernandez Torrealba is not signed at all, let alone by a senior supervisory officer.

64. Accordingly, the Court should find that no expedited removal order exists.

PRAYER FOR RELIEF

Wherefore, Ms. Hernandez Torrealba respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this habeas petition should not be granted within three days;
- (3) Declare that 8 U.S.C. § 1226(a) – and not 8 U.S.C. § 1225(b)(2)(A) – is the

appropriate statutory provision that governs Ms. Hernandez Torrealba's detention and eligibility for bond;

(4) Declare that re-detention of Ms. Hernandez Torrealba without an individualized determination violates the Due Process Clause of the Fifth Amendment;

(5) Issue a Writ of Habeas Corpus ordering Respondents to release Ms. Hernandez Torrealba from custody;

(6) Declare that Ms. Hernandez Torrealba was not ordered removed under 8 U.S.C. § 1225(b)(1);

(7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(8) Grant any further relief this Court deems just and proper.

Respectfully submitted on this 8 day of September, 2025,

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