

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

GARCIA-REYNOSO, Patricia
Petitioner,

v.

Jason STREEVAL, *in his*
official capacity as Warden of Stewart
Detention Center, and Todd LYONS,
in his official capacity as Acting
Director of Immigration and Customs
Enforcement, and Ladeon
FRANCIS, *Field Office Director ICE*
Atlanta Field Office, and Kristi NOEM,
Secretary of Homeland Security, Pamela
BONDI, *in her official capacity as Attorney*
General, United States Department of
Justice

Respondents.

Case No. _____

**PETITION FOR
WRIT OF HABEAS CORPUS**

Alien File No.



I. INTRODUCTION

1. Petitioner, Patricia Garcia-Reynoso (“Ms. Garcia”), is a 50-year old Mexican national who has lived in Atlanta, Georgia, for approximately 19 years. She is the single mother of five children, four of whom being United States citizens by birth.
2. On July 29, 2025, the Immigration Judge ordered that Petitioner be released upon payment of a \$4,000 bond, finding that she is not a danger to the community nor a significant flight risk. No additional conditions were imposed.
3. Later that same day, Immigration and Customs Enforcement (“ICE”) filed form EOIR-43, placing an automatic stay on the judge’s bond order under 8 C.F.R. § 1003.19(i)(2) for a period of ten days, that period being extended upon subsequent filing of a Notice of Appeal.

4. On August 5, 2025, ICE filed a Notice of Appeal in Ms. Garcia's bond case, triggering an extension of the automatic stay until a decision is reached on appeal.
5. The automatic-stay regulation exceeds any authority Congress conferred in the Immigration and Nationality Act ("INA") and violated the Fifth Amendment's Due Process Clause. Detention under this regulation is unlawful.
6. Petitioner therefore seeks a writ of habeas corpus directing her immediate release.

II. VENUE AND JURISDICTION

7. This Court has jurisdiction under 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the Constitution (Suspension Clause).
8. Venue lies in this Division because Petitioner is detained at Stewart Detention Center, within the Columbus Division, and Respondent Dickerson is her immediate custodian. See 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

9. Petitioner Reynoso is a 50-year old Mexican national who resides in Atlanta, Georgia. She is currently detained at the Stewart Detention Center in Lumpkin, Georgia.
10. Respondent Jason Streeval is the Warden of Stewart Detention Center. As such, Respondent Streeval is responsible for the operation of the Detention Center where Petitioner is detained. Because ICE contracts with private prisons such as Stewart to house immigration detainees such as Ms. Garcia, Respondent Streeval has immediate physical custody of the Petitioner.

11. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (hereinafter “ICE”). As such, Respondent Lyons is being sued in his official capacity.
12. Respondent Ladeon Francis is the Atlanta Field Office Director for Immigration and Customs Enforcement (hereinafter “FOD”). As such, Respondent Francis is responsible for the oversight of ICE operations at the Stewart Detention Center. Respondent Sterling is being sued in his official capacity.
13. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (hereinafter “DHS”). As Secretary of DHS, Secretary Noem is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Noem is being sued in her official capacity.

IV. EXHAUSTION OF REMEDIES

14. No statutory exhaustion requirement applies. Moreover, ICE’s refusal to honor the IJ’s bond order leaves no administrative avenue to secure release; additional agency steps would be futile.
15. Petitioner has exhausted her administrative remedies to the extent required by law, and her only remedy is by way of this judicial action.

V. STATEMENT OF FACTS

16. Petitioner entered the United States without inspection in 2006 and has remained in the country since that entry.
17. Petitioner is the single mother of five children, four of which are U.S. citizens: [REDACTED]
[REDACTED] arcia, born [REDACTED] in Los Angeles, CA; [REDACTED] Martinez-
Garcia, born [REDACTED] in Decatur, GA; [REDACTED] arcia, born

[REDACTED] in Roswell, GA; and [REDACTED] Garcia, born [REDACTED]
[REDACTED] in Atlanta, GA. See **Exhibit A**, *Birth certificates for Ms. Garcia's children*

18. Ms. Garcia's 14-year old son, [REDACTED] Garcia, underwent heart surgery in June of 2022 to insert a pacemaker due to an enlarged heart.
19. On June 16, 2025, Petitioner was arrested for Driving Without a License and was subsequently transferred to ICE custody at the Stewart Detention Center in Lumpkin, Georgia.
20. On July 22, 2025, Petitioner filed a bond redetermination request asking that the Immigration Judge release her on a reasonable bond.
21. At a bond hearing on July 29, 2025, ICE argued that the Immigration Judge lacked jurisdiction to grant Petitioner bond based on an entirely novel legal argument which contradicts decades of precedent and recent published decisions by the Board of Immigration Appeals.
22. At the conclusion of the bond hearing, the Immigration Judge granted Petitioner a \$4,000 bond. The Immigration Judge found that he had jurisdiction to consider the bond and that Petitioner was not a danger to the community nor a significant flight risk. See **Exhibit B**, *Order of the Immigration Judge*. In that decision the Immigration Judge noted that Petitioner's criminal history consists only of traffic violations, that she has worked and paid taxes during her nearly twenty years in the U.S., and that she is eligible for relief from deportation in the form of Cancellation of Removal.
23. That same day, ICE filed a form E-43 Notice of ICE Intent to Appeal Custody Redetermination, purporting to invoke an automatic stay of the Immigration Judge's bond order under 8 C.F.R. § 1003.19(i)(2). See **Exhibit C**, *Form E-43 filed by ICE*.

24. On August 5, 2025, ICE filed a form E-26 Notice of Appeal with the Board of Immigration Appeals (“BIA”). See **Exhibit D**, *Form E-26 filed by ICE*.
25. ICE proposes that, under this regulation, that by simply filing this form E-43 and subsequent notice of appeal, they have triggered an automatic stay of the Immigration Judge’s decision for up to 90 days while the BIA considers their appeal, despite the Immigration Judge’s considered factual and legal findings.
26. As of August 28, 2025, Petitioner has been detained for 72 days since her arrest and remains confined at Stewart Detention Center solely because ICE asserts that their unilateral invocation of the automatic-stay regulation overrides the IJ’s bond determination.
27. Petitioner’s continued detention is causing extreme hardship to her five children, as her eldest daughter struggles to act as a parent to her four younger siblings and to provide for them financially without Ms. Garcia’s support.

VI. LEGAL FRAMEWORK

28. Habeas corpus relief extends to a person “in custody under or by color of the authority of the United States,” if the person can show she is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner’s claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).
29. “[H]abeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that “[t]he court shall . . . dispose of [] as law and justice require,” 28 U.S.C. § 2243. “[T]he court’s role was most extensive in cases of pretrial and noncriminal detention.” *Boumediene v. Bush*, 553 U.S. 723, 779-80 (2008) (citations omitted). “[W]hen

the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner's release." *Id.* at 787.

VII. CAUSES OF ACTION
COUNT ONE
THE REGULATION IS *ULTRA VIRES*

30. Petitioner incorporates paragraphs 1 through 28 as if fully set out herein.
31. The Immigration and Nationality Act, 8 U.S.C. § 1226(a), authorizes discretionary detention subject to an Immigration Judge's bond decision; it does not authorize Immigration and Customs Enforcement to nullify that judicial decision by administrative fiat.
32. Regulation 8 C.F.R. § 1003.19(i)(2) purports to impose an automatic stay that takes effect the moment ICE files – or merely states an intention to file – a notice of appeal, without any neutral review or individualized findings.
33. By turning discretionary custody into de facto mandatory detention for detainees not subject to 8 U.S.C. § 1226(c), § 1003.19(i)(2) exceeds the statutory power of Congress delegated and violates the principle of separation of powers.
34. Detention premised solely on this ultra vires regulation is “not in accordance with law,” “in excess of statutory jurisdiction,” and “arbitrary [and] capricious” under 5 U.S.C. § 706(2), entitling petitioner to immediate release.

COUNT TWO
(PROCEDURAL DUE PROCESS)

35. Petitioner incorporates paragraphs 1 through 28 as if fully set out herein.

36. The Fifth Amendment forbids a deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision-maker.
37. Subsection 1003.19(i)(2) strips Petitioner of that protection by allowing the prosecuting agency – after losing at the bond hearing – to veto the Immigration Judge’s order with a one-page notice that requires no showing of danger, flight risk, or likelihood of success on appeal.
38. Applying the analysis set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), Petitioner’s liberty interest is paramount; the risk of erroneous deprivation is extreme considering the Immigration Judge’s determination that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c), is not a significant flight risk, and does not pose a danger to the community. Likewise, the risk of erroneous deprivation of liberty is great due to the lack of a non-independent adjudicator. *Marcello v. Bonds*, 39 U.S. 302, 305-306 (1955). In filing the Form EOIR-43, ICE is assuming the role of both prosecutor and adjudicator. Lastly, the interest of the government in being able to invoke the challenged regulation is minimal, as there is a substitute administrative provision available. Under 8 C.F.R. § 1003.19(i)(1), ICE may request an emergency stay from the BIA on the merits of the Immigration Judge’s decision to release Petitioner on bond.

**COUNT THREE
(SUBSTANTIVE DUE PROCESS)**

39. Petitioner incorporates paragraphs 1 through 28 as if fully set out herein.
40. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.

41. The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be ... deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. This vital liberty interest is at stake when an individual is subject to detention by the federal government.
42. Under the civil detention framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny, the Government may deprive a non-citizen of physical liberty only when the confinement serves a legitimate purpose – such as ensuring appearance or protecting the community – and is reasonably related to, and not excessive in relation to, that purpose.
43. Once the Immigration Judge found Petitioner neither dangerous nor a significant flight risk and set a bond, the Government’s lawful objectives were satisfied; continued confinement therefore bears no reasonable, non-punitive relationship to any legitimate aim and is unconstitutionally arbitrary under *Zadvydas*.
44. The regulation is also excessive because an alternative provision enables ICE to seek an emergency stay of the immigration judge’s release order on the merits. The “emergency stay” provision at 8 C.F.R. § 1003.19(i)(1) permits ICE to file an emergency request for a stay of release with the BIA, just as in any other proceedings in which the losing party seeks appellate review of an adverse decision and a stay pending appeal.
45. The continued detention of Petitioner pursuant to the “automatic stay” regulation violates her due process rights. *See Mohammed H. v. Trump*, No. 25-1576 (JWB/DTS), 2025 U.S. Dist. LEXIS 117197, at *15 (D. Minn. June 17, 2025); *Günaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 2025 U.S. Dist. LEXIS 99237 (D. Minn. May 21, 2025). But for intervention by this Court, Petitioner has no means of release pending ICE’s appeal.

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 her from custody, under reasonable conditions of supervision;
- 3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody;
- 4) Order Respondents to file a response within 3 days of the filing of this petition;
- 5) Award attorneys' fees to Petitioner; and
- 6) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct. Respectfully submitted this 7th day of September, 2025.

/s/ Jessica Calmes
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Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Jessica Calmes

Date: September 7, 2025