

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
District of Arizona

Wenjuan Wang

Petitioner

v.

FRED FIGUEROA, in his official capacity as Warden of
Eloy Detention Center et al

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. _____
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Wenjuan Wang
(b) Other names you have used: N/A
2. Place of confinement:
(a) Name of institution: DHS Eloy Detention Center
(b) Address: 1705 E. Hanna Road
Eloy, AZ 85131
(c) Your identification number: [REDACTED]
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
☐ Being held on an immigration charge
☒ Other (explain): ICE unlawfully detained Petitioner in spite of Immigration Judge's finding that she is clearly and beyond a doubt entitled to admission and is not inadmissible as changed by DHS and IJ's order to terminate removal proceedings

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)


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- ☐ Pretrial detention
- ☒ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (explain): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: Eloy Immigration Court

1705 East Hanna Rd, Suite 366, Eloy, AZ 85131

(b) Docket number, case number, or opinion number: 

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

Continued detention by ICE despite the Immigration Judge's termination of removal proceedings in Petitioner's favor

(d) Date of the decision or action: 08/22/2025

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: The Immigration Judge ruled in Petitioner's favor and terminated removal proceedings on August 22, 2025. The action being challenged is ICE's continued detention despite the termination. No administrative appeal available to contest ICE's ongoing custody

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: There is no second administrative remedy available. ICE's custody determination after the IJ's termination is not subject to further appeal by Petitioner

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: Same as response to Question 7 and 8

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

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If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☒ No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: N/A

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☒ Yes ☐ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 07/02/2025
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?
☐ Yes ☒ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: VIOLATION OF IMMIGRATION AND NATIONALITY ACT
(LACK OF STATUTORY AUTHORITY FOR DETENTION)

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Petitioner's removal proceedings have been terminated by an Immigration Judge on Aug 22, 2025
foreclosing detention under §1226; There is no final order of removal, foreclosing detention under §1231
Nor does §1225(b)(2) apply

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

GROUND TWO: VIOLATION OF IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1231(a)(6)

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Petitioner's removal is not reasonably foreseeable
Her proceedings have been terminated, and she has pending I-130 and I-485 with USCIS based on her
bona-fide marriage to a US Citizen

(b) Did you present Ground Two in all appeals that were available to you?

☒ Yes

☐ No

GROUND THREE: Violation of Administrative Procedures Act, 5 U.S.C. §§ 555, 701 et seq.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Respondents' refusal to release Petitioner following the IJ's order to terminate removal proceedings
DHS' unexplained delay in returning her \$20,000 bond
Continued detention of Petitioner without lawful authority

(b) Did you present Ground Three in all appeals that were available to you?

☒ Yes

☐ No

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**GROUND FOUR: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT
TO THE U.S. CONSTITUTION**

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Petitioner's continued detention despite the absence of statutory authority and the lack of any realistic prospect of removal constitutes an arbitrary and punitive deprivation of liberty in violation of her due process rights

(b) Did you present Ground Four in all appeals that were available to you?

☒ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:
-
-
-

Request for Relief

15. State exactly what you want the court to do:

a. Declare that Petitioner's continued detention is unlawful

b. Order Petitioner's immediate release

c. Grant attorney's fees and costs of Court to Plaintiff

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 09/10/2025

Signature of Petitioner

H. Dele Yon

Signature of Attorney or other authorized person, if any

Print

Save As...

Reset

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7 *Attorney for Plaintiff*

8 UNITED STATES DISTRICT COURT
9 DISTRICT OF ARIZONA
10 PHOENIX DIVISION

11 Wenjuan Wang,
12
13 Petitioner,
14
15 v.

Case No.

16 Fred Figueroa, in his
17 official capacity as the
18 Warden of Eloy Detention
19 Facility ("Eloy"); John E.
20 Cantú, in his official
capacity as the Field Office
Director of the ICE
Enforcement and Removal
Operations (ERO) Phoenix
Field Office; Kristi Noem, in
her official capacity as
Secretary of the U.S.
Department of Homeland
Security

DECLARATION

21 Respondents.

22
23 **DECLARATION OF COUNSEL IN SUPPORT OF PETITION FOR WRIT HABEAS**
24 **CORPUS (28 U.S.C. §2241; AO-242)**

25 I, Adele Yan, declare as follows:

- 26 1. I am counsel of record for Petitioner Wenjuan Wang in the
27 above-captioned matter.
28

1 2. I prepared the attached Petition for a Writ and Habeas
2 Corpus under 28 U.S.C. §2241 (AO-242) on Petitioner's behalf.

3 3. Since Petitioner is presently detained at Eloy Detention
4 Center, and my office is located in Pasadena, California, it
5 has not been feasible to obtain her physical signature on
6 the AO-242 form in advance of this emergency filing. Due to
7 these detention related constraints, I respectfully request
8 that the Court accept my signature in lieu of Petitioner's
9 signature for purpose of this filing.

10 4. I have reviewed the contents of the Petition with Petitioner
11 to the fullest extent possible under detention conditions.
12 Petitioner has authorized me to file this Petition on her
13 behalf.

14 5. I certify under penalty of perjury that the forgoing and
15 correct.

16
17
18 Respectfully submitted this 10th day of September, 2025, in
19 Pasadena, CA.

20
21 Paramount Law Group

22
23 

24 Adele Yan (SBN 304166)

25 Counsel for Petitioner
26
27
28

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Attorney for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA
PHOENIX DIVISION

Wenjuan Wang,

Petitioner,

v.

Fred Figueroa, in his
official capacity as the
Warden of Eloy Detention
Facility ("Eloy"); John E.
Cantú, in his official
capacity as the Field Office
Director of the ICE
Enforcement and Removal
Operations (ERO) Phoenix
Field Office; Kristi Noem, in
her official capacity as
Secretary of the U.S.
Department of Homeland
Security

Respondents.

Case No.

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

I. INTRODUCTION

1. Petitioner Wenjuan Wang ("Petitioner"), a non-citizen spouse of U.S. citizen and adjustment of status applicant, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge her unlawful and prolonged detention by ICE at Eloy

1 Detention Center.

2 2. Following the termination of removal proceedings by
3 Immigration Judge Nicolas Orechwa of the Eloy Immigration Court
4 on August 22, 2025, Petitioner remains in ICE custody, despite
5 the IJ's explicit finding that she is "clearly and beyond a doubt
6 entitled to admission to the United States and is not
7 inadmissible as charged."

8 3. ICE's stated intention to appeal to the BIA does not
9 automatically stay Petitioner's release, as the IJ's order
10 terminated proceedings rather than issuing a removal order, and
11 detention is therefore unlawful.

12 4. Petitioner is experiencing serious ongoing medical harm,
13 including hypothyroidism, anemia, hyperlipidemia, and xerosis
14 cutis, all documented by the facility, and she suffers emotional
15 hardship alongside her U.S. Citizen spouse, Michael Constatine.

16 5. Continued detention is contrary to law, and immediate
17 release is necessary to prevent further irreparable harm.

18
19 **II. JURISDICTION**

20 6. This Court has jurisdiction over this petition under 28
21 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal
22 question).

23
24 **III. VENUE**

25 7. Venue is proper in the Pheonix Division of Arizona District
26 Court because Petitioner is detained at Eloy Detention Facility,
27 which is located within the geographic jurisdiction of this
28 court.

IV. PARTIES

4. Petitioner Wenjuan Wang is a native and citizen of China, detained by ICE at its Eloy Detention Facility since July 2, 2025.

5. Respondent Fred Figueroa, is the Warden of Eloy Detention Facility ("Eloy"), operated under a contract with ICE. As Warden, he is Petitioner's immediate custodian and is responsible for overseeing Eloy's administration and management. He is sued in his official capacity.

6. Respondent John E. Cantú is the Field Office Director of the ICE Enforcement and Removal Operations (ERO) Phoenix Field Office ("Phoenix ICE") and is the federal agent charged with overseeing all ICE detention centers in Arizona. John E. Cantú is a legal custodian of Petitioner. He is sued in his official capacity.

7. Respondent Kristi Noem is the Secretary of Homeland Security (DHS). She is responsible for the overall administration and enforcement of the Immigration laws, including ICE detention. She is sued in her official capacity.

V. STATEMENT OF FACTS

8. Petitioner was last paroled into the United States on February 3, 2023, under an approved advance parole document while her Form I-485 based on a prior marriage was pending.

9. Her prior I-485 was denied by USCIS on February 26, 2025, following the dissolution of her prior marriage.

10. On June 14, 2025, Petitioner entered into a bona fide marriage with Michael A. Constantine, a United States citizen.

1 **See Exhibit A**, Copy of Marriage Certificate dated June 14, 2025
2 and bona fide marriage documents

3 11. On July 2, 2025, Petitioner was detained by ICE while
4 residing with her husband in Salome, Arizona.

5 12. On July 11, ICE issued an Expedited Removal Order. On July
6 22, 2025, the Immigration Court in Eloy granted bond in the
7 amount of \$20,000. On July 24, 2025, DHS filed a Form I-261,
8 designating Petitioner as an "arriving alien." **See Exhibit B,**
9 **Form I-261** filed by DHS. On the same day, DHS canceled the bond
10 subsequent to its acceptance of bond payment. The \$20,000 bond
11 money was not returned to Petitioner until August 26, 2025 **See**
12 **Exhibit D, Documents re Bond.**

13 13. On July 29, 2025, Petitioner's U.S. citizen spouse filed
14 Form I-130 on her behalf. On August 6, she filed Form I-485. **See**
15 **Exhibit A**, Copy of Form I-130 and I-485 Receipt Notices.

16 14. Petitioner's removal proceedings were before Immigration
17 Judge Nicolas Orechwa, who terminated proceedings on August 22,
18 2025, finding her "clearly and beyond a doubt entitled to
19 admission" and not inadmissible as charged. **See Exhibit C, IJ's**
20 **order.**

21 15. IJ further noted that the acceptance by USCIS of the
22 Petitioner's I-485 and I-830[sic, I-130] causes this court to
23 lose jurisdiction, and DHS may only refile an NTA if USCIS denies
24 her petitions.

25 16. Despite the termination order ICE has refused to release
26 Petitioner, citing only the possibility of a Department of
27 Homeland Security (DHS) appeal of the Immigration Judge's order.
28 **See Exhibit E, Correspondence with ICE.**

17. During her prolonged detention, Ms. Wang's health has deteriorated significantly, and she has developed or exacerbated several medical conditions, including hypothyroidism, anemia, hyperlipidemia, and xerosis cutis. **See Exhibit F, Medical records from Eloy Detention Center**

VI. Legal Arguments

A. PETITIONER'S CONTINUED DETENTION IS UNLAWFUL BECAUSE IT IS UNTETHERED TO STATUTORY AUTHORITY AND REMOVAL IS NOT REASONABLE FORSEEABLE

18. Petitioner's continued detention is unlawful because it lacks any valid statutory basis and contravenes the constitutional limits articulated in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

19. Immigration detention must be tethered to a specific grant of authority under the INA. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 836-37 (2018); *Demore v. Kim*, 538 U.S. 510, 527-28 (2003). Those provisions are limited to three contexts: (1) detention of applicants for admission under 8 U.S.C. §1225(b); (2) detention during removal proceedings under 8 U.S.C. §1226, and (3) detention following a final order of removal under 8 U.S.C. §1231.

20. Neither applies here. On August 22, 2025, Immigration Judge Orechwa Terminated removal proceedings, finding Petitioner "clearly and beyond a doubt entitled to admission to the United States" under 8 C.F.R. §1240.8(b)-(c). Once proceedings were terminated, there was no longer any pending removal case under §1226, nor any final order of removal under §1231. Nor does §1225(b)(2) apply, because that provision governs detention of

1 applicants for admission under the pendency of inspection or
2 removal proceedings. Without either, DHS lacks detention
3 authority. ICE's stated justification, that DHS may appeal the
4 IJ's decision, does not supply a statutory basis. The regulations
5 are clear: USCIS has exclusive jurisdiction over Petitioner's
6 adjustment application as an "arriving alien." See 8 C.F.R.
7 §245.2(a)(1); *Matter of Yauri*, 25 I&N Dec. 103(BIA 2009); *Matter*
8 *of Silitonga*, 25 I&N Dec. 89(BIA 2009). A speculative appeal
9 cannot lawfully extend custody when the Immigration Court itself
10 no longer has jurisdiction.

11 21. Even if some residual detention authorities were arguendo
12 available, *Zadvydas* prohibits continued confinement where removal
13 is not reasonably foreseeable. Here, removal is not merely
14 unforeseeable, it is practically foreclosed. Petitioner is the
15 spouse of a U.S. citizen, has a pending I-130 filed on July 29,
16 2025, and a pending I-485 accepted by USCIS on August 8, 2025. As
17 the IJ recognized, USCIS alone has jurisdiction to adjudicate her
18 adjustment, and DHS retains the ability to refile and NTA if
19 those applications are denied. In the meantime, removal is not
20 legally or practically likely to occur.

21 22. Thus, under either the statutory analysis or constitutional
22 analysis, Petitioner's detention is ultra vires and
23 unconstitutional. This Court should therefore order her immediate
24 release.

25
26 **B. FAIRNESS, EQUITY AND THE PUBLIC INTEREST STRONGLY FAVORS**
27 **PETITIONER'S RELEASE**

28 23. Petitioner's ongoing confinement is inflicting irreparable

1 physical, psychological, financial and constitutional injury. The
2 Ninth Circuit has consistently recognized that unlawful detention
3 and the deprivation of constitutional rights constitute
4 irreparable harm. See *Hernandez v. Sessions*, 872 F.3d 976, 994
5 (9th Cir. 2017) (“[I]t is well established that the deprivation
6 of constitutional rights ‘unquestionably constitutes irreparable
7 injury’”).

8 24. Petitioner has developed hypothyroidism, anemia,
9 hyperlipidemia, and xerosis cutis while detained, conditions she
10 did not suffer prior to custody. These medical harms are ongoing
11 and worsening, and continued detention threatens long-term
12 physical damage that cannot be undone by later judicial review.
13 See *Lopez-Marroquin v. Barr*, 955 F.3d 759, 765 (9th Cir. 2020)
14 (granting emergency relief in immigration detention where
15 “continued custody would cause irreparable harm to health and
16 wellbeing”). Petitioner requires immediate release for adequate
17 medical care and recovery.

18 25. Detention has also inflicted severe financial and emotional
19 hardship. on July 24, 2025, DHS canceled Petitioner’s bond after
20 accepting payment, withholding the \$20,000 funds until August 26,
21 2025. This unnecessary depletion of resources exacerbated
22 Petitioner’s confinement and imposed severe financial strain on
23 her family. The withholding of \$20,000 for over a month deepened
24 a financial and emotional hardship suffered by Petitioner and her
25 U.S. Citizen spouse.

26 26. In addition to her medical decline, detention has caused
27 profound emotional hardship to her U.S. citizen husband and
28 destabilized her family life. Every additional day of confinement

1 exacerbates this harm, stripping Petitioner of her liberty, her
2 health, and her ability to pursue adjustment of status as the
3 spouse of a U.S. citizen.

4 27. By contrast, ICE faces no comparable harm if Petitioner is
5 released. Release would not prejudice DHS's right to pursue its
6 intended BIA appeal, nor impede enforcement if USCIS ultimately
7 denies Petitioner's adjustment application. The only effect of
8 release is to prevent unlawful and injurious detention.

9 28. The public interest is always served by the protection of
10 constitutional rights and by ensuring that the government acts
11 within the bounds of lawful authority. See *Melendres v. Arpaio*,
12 695 F.3d 990, 1002 (9th Cir. 2012) ("It is always in the public
13 interest to prevent the violation of a party's constitutional
14 rights"). Here, continued detention despite an Immigration
15 Judge's termination order undermines the rule of law and erodes
16 public confidence in fair and lawful immigration enforcement.

17 29. Moreover, detention consumes scarce government resources
18 without any corresponding benefit to the public. ICE has already
19 acknowledged that its sole basis for continuing to hold
20 Petitioner is its intent to appeal the IJ's decision. Yet, as the
21 IJ expressly recognized, DHS retains full authority to refile an
22 NTA if USCIS denies Petitioner's pending I-130 or I-485. Release
23 therefore imposes no risk to the integrity of the immigration
24 system, while preventing the waste of taxpayer dollars on
25 unnecessary detention.

26 30. Finally, the public interest strongly favors family unity
27 and the avoidance of needless harm to U.S. citizens. Immigration
28 laws are designed to preserve family stability, not to needlessly

1 disrupt it when an individual has already been deemed "clearly
2 and beyond a doubt entitled to admission" by a federal
3 immigration judge, and her U.S. citizen husband continues to
4 suffer from her confinement. Equity, fairness, and the public
5 interest weigh decisively in favor of her immediate release.

6
7 **VII. CLAIMS FOR RELIEF**

8 **A. COUNT I- VIOLATION OF IMMIGRATION AND NATIONALITY**
9 **ACT(LACK OF STATUTORY AUTHORITY FOR DETENTION)**

10 31. Petitioner realleges and incorporates by reference the
11 paragraphs above.

12 32. Immigration detention must be tethered to one of the
13 narrowly grants of authority under the INA. See *Jennings*
14 *v. Rodriguez*, 138 S. Ct. 830, 836-37 (2018); *Demore v. Kim*, 538
15 U.S.510, 527-28(2003). Those provisions are limited to three
16 contexts: (1) detention of applicants for admission under 8
17 U.S.C.§1225(b); (2) detention during removal proceedings under 8
18 U.S.C.§1226, and (3) detention following a final order of removal
19 under 8 U.S.C. §1231.

20 33. Petitioner's detention falls under neither category. Her
21 removal proceedings have been terminated by an Immigration Judge,
22 foreclosing detention under §1226. Nor is there a final order of
23 removal, foreclosing detention under §1231. Nor does
24 §1225(b)(2) apply, because that provision governs detention of
25 applicants for admission under the pendency of inspection or
26 removal proceedings.

27 34. Because Petitioner is not subject to an authorized statutory
28 basis for custody, ICE lacks legal authority to continue

1 detaining her. Her detention is therefore unlawful and must be
2 immediately terminated.

3
4 **B. COUNT II- VIOLATION OF IMMIGRATION AND NATIONALITY**
5 **ACT, 8 U.S.C. § 1231(a) (6)**

6 35. Petitioner realleges and incorporates by reference the
7 paragraphs above.

8 36. Even if Respondents were to argue that Petitioner's
9 detention arises under 8 U.S.C. § 1231(a) (6), the statute permits
10 detention only for "a period reasonably necessary to bring about
11 the alien's removal from the United States." 533 U.S. at 689,
12 701(2001).

13 37. Petitioner's removal is not reasonably foreseeable. Her
14 proceedings have been terminated, and she has pending I-130 and
15 I-485 with USCIS based on her bona fide marriage to a US citizen,
16 and the Immigration Judge found her clearly entitled to
17 admission.

18 38. Therefore, continued detention violates 8 U.S.C. §
19 1231(a) (6) and the framework set forth in *Zadvydas* and she must be
20 immediately released.

21
22 **C. Count III- Violation of Administrative Procedures**
23 **Act, 5 U.S.C. §§ 555, 701 et seq.**

24 39. Petitioner realleges and incorporates by reference the
25 paragraphs above.

26 38. As discussed above and as detailed in the underlying
27 Complaint, the Respondents' refusal to release Petitioner
28 following the Immigration Judge's termination of proceedings,

1 coupled with their unexplained delay in returning her bond and
2 continued detention of Petitioner without lawful authority,
3 violates the APA because the agency action in this instant case
4 is, *inter alia*,

5 a. "unlawfully withheld or unreasonably delayed" under §
6 706(1);

7 b. "arbitrary, capricious, an abuse of discretion, or
8 otherwise not in accordance with law" under § 706(2)(A);

9 c. "without observance of procedure required by law" under
10 § 706(2)(D); and

11 d. Not concluded "[w]ith due regard for the convenience and
12 necessity of the parties, and within a reasonable time"
13 under § 555(b).

14 40. As a result, Petitioner has suffered and continues to suffer
15 irreparable harm. Pursuant to 5 U.S.C §706, this Court should set
16 aside Respondent's unlawful action and order Petitioner's
17 immediate release.

18
19 **D. Count IV - VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH**
20 **AMENDMENT TO THE U.S. CONSTITUTION**

21 41. Petitioner realleges and incorporates by reference the
22 paragraphs above.

23 42. The Fifth Amendment guarantees that no person shall be
24 deprived of liberty without due process of law.

25 43. Petitioner's continued detention, despite the absence of
26 statutory authority and the lack of any realistic prospect of
27 removal, constitutes an arbitrary and punitive deprivation of
28 liberty in violation of her due process rights.

1 44. Petitioner's confinement is excessive in relation to any
2 legitimate governmental purpose and is inflicting ongoing,
3 irreparable harm to the Petitioner.

4 45. As a remedy, this Court should conduct its own review of
5 Petitioner's custody and order Petitioner's immediate release.
6

7 **VIII. PRAYER**

8 46. Wherefore, Petitioner respectfully prays that the Court:

9 a. Declare that Petitioner's continued detention is unlawful
10 because it violates the Immigration and Nationality Act,
11 8 U.S.C. § 1231(a)(6); the Administrative Procedure Act,
12 5 U.S.C. § 706(2)(A); and/or the Due Process Clause of
13 the Fifth Amendment to the U.S. Constitution.

14 b. Order Petitioner's immediate release.

15 c. Grant attorney's fees and costs of Court to Plaintiff
16 under the Equal Access to Justice Act, 28 U.S.C. § 2412.

17 d. Grant such other and further relief as this Court deems
18 just and proper under the circumstances.
19

20 Respectfully submitted this 9th day of September, 2025
21

22 
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