

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION

LEIDY SANCHEZ BALLESTROS

PETITIONER

v.

CIVIL ACTION NO. 3:25-CV-594-RGJ (*e-filed*)

TOM WATT, Sheriff of Grayson County  
Detention Center;

TODD M. LYONS, Acting Director, or his agent,  
United States Immigration and Customs Enforcement;

SAMUEL OLSON; Field Office Director, Chicago  
Field Office, Immigration and Customs Enforcement;  
and, KRISTI NOEM, Secretary of the United States  
Department of Homeland Security

RESPONDENTS

**RESPONDENTS' RESPONSE TO ORDER TO SHOW CAUSE**

Respondents, Todd Lyons, in his official capacity as Acting Director for U.S. Immigration and Customs Enforcement (ICE), and Samuel Olson, Field Office Director for the Chicago Field Office of ICE, and Kristi Noem, in her official capacity as Secretary for the Department of Homeland Security respond to the Court's Order to Show Cause why Petitioner's writ of habeas corpus should not be granted [Doc. 5, PageID.110].<sup>1</sup>

---

<sup>1</sup> The federal respondents are Kristi Noem, in her official capacity as Secretary for the Department of Homeland Security, and Todd Lyons, in his official capacity as Acting Director for U.S. Immigration and Customs Enforcement (ICE), and Samuel Olson, in his official capacity as Field Office Director, Chicago Field Office, U.S. Immigration and Customs Enforcement. 28 U.S.C. § 517 allows the Office of the United States Attorney to make appearances in court to attend to the United States' interests, and consistent with that statute and *Roman v. Ashcroft*, 340 F.3d 314, 319-20 (6th Cir. 2003), this filing attends to the United States' interests to the extent that the petition names Tom Watt, Sheriff of Grayson County as a party. It should be noted, however, that Tom Watt appears to be the Sheriff of Grayson County, Texas, not Grayson County, Kentucky. Furthermore, Jason Woosley is the Jailer of Grayson County, Kentucky.

## INTRODUCTION

Respondents only learned of Petitioner's Petition two days ago, on Friday, September 19, 2025, at approximately 2:00 p.m. The Court's Order to Show Cause of the same date provided less than the statutory minimum of three days to show cause, 28 U.S.C. § 2243, so Respondents filed a motion for extension of time that is currently pending. Consequently, this response is being filed with extremely little information and Respondents expressly reserve the right to amend their response after they obtain and review additional information and documents.

## RELEVANT FACTUAL AND LEGAL BACKGROUND

- Petitioner bears the burden to show that her detention is unlawful. *Freeman v. Pullen*, 658 F. Supp. 3d 53, 58 (D. Conn. 2023) (quoting *McDonald v. Feeley*, 535 F. Supp. 3d 128, 135 (W.D.N.Y. 2021)).
- She also bears the burden of showing the Court has subject matter jurisdiction, which Respondents do not concede in this matter.
- Petitioner, a citizen of Colombia, entered the United States with her current spouse without authorization or inspection and not at a port of entry on or about April 25, 2024, near El Paso, Texas, which is on the United States/Mexico border.
- Petitioner was notified on or around April 25, 2024, that she was subject to removal under 8 U.S.C. § 1182(a)(6)(A)(i).

- Plaintiff was not admitted or paroled after inspection by an Immigration Officer, but rather was released on her own recognizance due to humanitarian reasons and lack of detention space and was ordered to appear in Newark, New Jersey, on May 1, 2028.

- By I-589 dated January 13, 2025, Petitioner expressed her desire for asylum indicating that she was afraid of that the father of her two eldest daughters will harm her if she is forced to return to Columbia. According to the document, Petitioner fled Columbia and lived in Ecuador from approximately June 2020 to February 2024. She did not seek any lawful status while living in Ecuador or in any of the countries through which she traveled to reach the United States.

- On June 9, 2025, Petitioner was detained by ICE after she appeared before an immigration judge and her full removal proceedings were terminated on ICE's motion. Petitioner has appealed that decision to the Board of Immigration Appeals.

- On that same day, ICE transferred Petitioner to expedited removal proceedings under 8 U.S.C. § 1225(b)(1)(A).

- "DHS may place aliens arriving in the United States in either expedited removal proceedings under § 235(b)(1) of the INA, 8 U.S.C. § 1225(b)(1), or full removal proceedings under § 240 of the INA, 8 U.S.C. § 1229a." *Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025).

- An alien placed in expedited removal proceedings should be removed from the United States "without further hearing or review unless the alien indicates either an intention to apply for asylum . . . or a fear of persecution." 8 U.S.C. § 1225(b)(1)(A)(i).

- Because Petitioner has a credible fear claim pending, her removal is temporarily stayed so her credible fear claim can be considered.
- While Petitioner's credible fear claim is pending, 8 U.S.C. § 1225(b)(1)(b) mandates her detention: "Applicants 'shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed.' § 1225(b)(1)(B)(iii)(IV). Applicants who are found to have a credible fear may also be detained pending further consideration of their asylum applications." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 111 (2020) (citing § 1225(b)(1)(B)(ii)); see also *Kolesnikov v. Noem*, 2025 U.S. Dist. LEXIS 113058, at \*2-3 (D. Ariz. June 13, 2025); *Zelaya-Gonzalez v. Matuszewski*, 2023 WL 3103811, 2023 U.S. Dist. LEXIS 72761, at \*8-10 (S.D. Cal., Apr. 25, 2023).
- But even if Petitioner had remained in full removal proceedings under 8 U.S.C. § 1229a and continued to seek asylum, then "8 U.S.C. § 1225(b)(2)(A) mandates detention 'until removal proceedings have concluded.'" *Matter of Q. Li*, 29 I&N at 68 (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018)); see also *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 111 (2020) ("Whether an applicant who raises an asylum claim receives full or only expedited review, the applicant is not entitled to immediate release.").

### CONCLUSION

Petitioner's detention is authorized.

Respectfully submitted,

KYLE G. BUMGARNER  
United States Attorney

/s/ Michael D. Ekman  
Michael D. Ekman  
Timothy D. Thompson  
Assistant United States Attorney  
717 W. Broadway  
Louisville, KY 40202  
502.625.7102  
502.625.6110 (fax)  
Michael.Ekman@usdoj.gov  
Timothy.thompson@usdoj.gov

**CERTIFICATE OF SERVICE**

I hereby certify that on September 21, 2025, I filed this document via CM/ECF,  
which will automatically provide service to all counsel of record.

KYLE G. BUMGARNER  
United States Attorney

Western District of Kentucky

/s/ Michael D. Ekman

Michael D. Ekman

Assistant United States Attorney