

**UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT**

YEISON EDUARDO MOLINA TREJO	)	Case No. 25-842
	)	
Petitioner,	)	
	)	
v.	)	<b>PETITION FOR WRIT</b>
	)	<b>OF HABEAS CORPUS</b>
	)	
PATRICIA HYDE, in her official capacity as	)	
Acting Boston Field Office Director,	)	
Immigration and Customs Enforcement;	)	
TODD M. LYONS, in his official capacity as	)	
Acting Director, U.S. Immigration and Customs	)	
Enforcement;	)	
PETE R. FLORES, in his official capacity as	)	
Acting Commissioner For U.S. Customs and	)	
Border Protections;	)	
KRISTI NOEM, in her official capacity as	)	
Secretary of the United States Department of	)	
Homeland Security;	)	
MARCO RUBIO, in his official capacity as	)	
Secretary of State;	)	
PAMELA BONDI, in her official capacity as	)	
U.S. Attorney General;	)	
GREG HALE, in his official capacity as	)	
Superintendent Of Northwest State	)	
Correctional Facility; and	)	
DAVID W. JOHNSTON, in his official capacity	)	
as Vermont Sub-office Director of Immigration	)	
and Customs Enforcement;	)	
	)	
	)	
Respondents.	)	
	)	

**Response to Federal Respondents' Opposition to Petition for Habeas Corpus**

Petitioner Yeison Eduardo Molina Trejo respectfully submits this response to Respondents' opposition to Petitioner's petition for writ of habeas corpus.

**I. Petitioner's Transfer Would Violate the Fifth Amendment**

Respondents state that Petitioner's claim that their detention violates the Fifth Amendment is not valid because "Petitioner's detention falls well within the six-month time period during which detention pursuant to 8 U.S.C. § 1231(a) is presumptively reasonable." However, Respondents incorrectly assume that just because Petitioner's claim does not fall under *Zadvydas*, that Petitioner's claim to their detention being a violation of Due Process is invalid. If the Government transfers Petitioner to an ICE detention facility, it will present multiple glaring substantive due process issues given their non-binary identity, mental health needs, and physical health needs.

**II. Petitioner's Unmet Medical Need is a Constitutional Violation**

**a. Petitioner has serious unmet medical needs.**

As explained in their Declaration submitted with the Memorandum, Petitioner suffers from multiple physical and mental ailments that require daily medications, including neuropathy, migraines, anxiety, PTSD, and depression. Doc. 13-7 at para. 4, 6-7. Additionally, Petitioner is suffering from severe chronic pain due to an untreated ankle injury caused by torture from  in Mexico. *Id.* at para. 22. The chronic pain is severe enough that they regularly go into "pain crises" requiring emergency intervention. *Id.* at para 23. In the facility, they have only been able to access Tylenol for pain and it is both not safe for Petitioner to take long-term due to their prior liver cancer and not enough to manage the severity of the pain. *Id.* at para 25.

Petitioner has a history of suicidal ideation and repeated suicidal attempts. *Id.* at para 26. Petitioner's anxiety and depression symptoms are worsening each day that they are detained,

such that they feel that they are relying on their medications “just to get by.” *Id.* Petitioner fears what will happen to their mental health if they are placed in solitary confinement and feel that they “could not handle it.” *Id.*

**b. Mental health issues such as Petitioner’s disproportionately affect transgender and non-binary individuals.**

People who are transgender and non-binary constitute a small minority of people who are systemically marginalized throughout societies, and who often suffer abuse at the hands of people who do not accept them or wish to take advantage of them. This means that detention often has an outsize impact on transgender and non-binary individuals, who suffer further marginalization, harassment, abuse, and non-acceptance within detention facilities, in addition to heightened gender dysphoria due to being placed in all-female or all-male facilities that often do not align with their gender identities. *See Ex. J, JJS v. Pliler*, 19-CV-02020 (VSB)(SN), 2022 WL 16578124 at \*7-8, (S.D.N.Y. Aug. 3, 2022); *see also Ex. K, Salgado v. Francis*, No. 25-CV-6524 (VEC), at \*12 (S.D.N.Y. Oct. 1, 2025).

People who are transgender and non-binary often have preexisting psychiatric disabilities stemming from complex trauma related to past mistreatment and abuse. Compounding the problem, detention itself often causes people to decompensate and experience worsening mental health due to the pure fact that they are incarcerated. The adverse conditions of confinement can worsen chronic conditions and increase the risk of suicidality and self-harm.

Ex. C, Complaint Underscoring Why People Who Are Transgender and Nonbinary Should Not be Detained in Civil Immigration Detention at pg. 8.

Petitioner’s profile matches that as described above, as Petitioner suffered years of past mistreatment and abuse, resulting in their mental health issues including PTSD and depression. Doc. 13-7 at para. 2-3, 5-7. Respondents claim that the correct remedy for a Constitutional violation based on medical need should be appropriate treatment rather than release. However, in

at least one recent case in the Second Circuit, a Court determined that the appropriate treatment for a transgender individual suffering from mental anguish was release because subjecting her to detention in an ICE facility “would serve only to worsen her mental health.” *JJS v. Plier*, No. 25-CV-6524 (VEC), at \*12 (S.D.N.Y. Oct. 1, 2025). In Petitioner’s case, while release would be appropriate for their situation, given their removal order we are merely asking that Petitioner not be transferred to ICE detention, where the conditions have been clearly shown to worsen mental health states of transgender and non-binary individuals. *See Ex. C.*

### **III. Petitioner’s Faces a Reasonable Certainty of Harm in ICE Detention, Making their Lack of Safety a Constitutional Violation**

The Southern District of New York determined in a case on point with Petitioner’s that the petitioner’s request for release pending adjudication of her writ for habeas corpus should be granted based on their transgender status. Ex. K, *Salgado v. Francis*, 25-CV-6524 (VEC), at \*7, (S.D.N.Y. Oct. 1, 2025). The petitioner in that case was a Honduran transgender woman who was a repeated victim of attacks in Honduras due to her gender identity. She suffered from well-documented mental health problems, including bipolar disorder and post-traumatic stress disorder (“PTSD”). She was detained at the 26 Federal Plaza ICE processing center, and ICE wished to transfer her to an ICE detention center. The court in *Salgado* found that petitioner’s status as a transgender female, held in custody within an all-male prison, sufficiently constituted extraordinary circumstances and was apt to aggravate petitioner’s well-established mental health problems. *Id.* at 14-15. Indeed, the court held that “[w]hen it is reasonable to conclude that detention would worsen a petitioner’s health, extraordinary circumstances are present.” *Id.* at 15-16. The court specifically noted that solitary confinement in an all-male prison was not a reasonable accommodation of petitioner’s medical needs. *Id.* at 17.

“To determine whether to release a habeas petitioner pending adjudication of her claims, courts consider whether: (1) the petition raises substantial claims; (2) extraordinary circumstances exist[]; and (3) those circumstances make the grant of bail necessary to make the [habeas] remedy effective.” *Salgado v. Francis* at 7, quoting *Elkimya v. Dep't of Homeland Sec.*, 484 F.3d 151, 154 (2d Cir. 2007) (quoting *Mapp*, 241 F.3d at 230) (internal quotation marks omitted). Even facing the heightened standard for release pending adjudication of a habeas petition, the Court determined that release was appropriate for the petitioner.

The Court determined that Petitioner had successfully raised “at least one substantial claim” in asserting that detention violated her rights to substantive due process because she did not present a danger to the community or a flight risk. *Id.* at 8. The Court also determined that extraordinary circumstances were present where detention would continue to worsen the petitioner’s health, here her mental health as a transgender woman being held in detention. *Id.* at 12. The Court acknowledged that her mental health would suffer from being placed in an all-male facility when her mental health issues (including bipolar disorder and post-traumatic stress disorder) stemmed from “a history of emotional, physical, and sexual abuse inflicted on her by men due to her gender identity, resulting in suicidal ideations and other symptoms.” *Id.* at 13. The Court determined that solitary confinement, the “safety measure” proposed by DHS to guarantee the petitioner’s safety, was not a reasonable accommodation of the petitioner’s medical needs. *Id.* at 13-14. Finally, the Court determined that release was necessary to make the habeas remedy effective given the “significant risk that her mental health will decompensate if she is held in custody as planned by the Government” i.e. in a men’s ICE detention facility. *Id.* at 16.

Here, Mx. Molina Trejo faces the very same harm discussed at length in *Salgado*. The egregious nature of the abuse suffered by Mx. Molina Trejo, as it pertains to their gender identity, renders them particularly vulnerable to harm within the context of an all-male custodial facility. The very fact that Mx. Molina Trejo has already, in the short time that they have thus been detained, been harassed, inappropriately propositioned, and made to fear for their own safety, should come as no surprise to this Court. Mx. Molina Trejo's mental and physical health have and will continue to deteriorate as a result of their wholly inappropriate and inhumane detention in an all-male facility. There exists no room to question the fact that extraordinary circumstances exist in the instant matter. Fundamental notions of human decency necessitate the recognition that Mx. Molina Trejo's continued detention, in an all-male facility, as a visibly non-binary individual with an egregious history of trauma and abuse at the hands of men, is unethical. Mx. Molina Trejo's circumstances are, to put it mildly, extraordinary. Again, while release is the reasonable relief for a person in Mx. Molina Trejo's position, Petitioner is merely asking that they be kept at NWSCF until their deportation, rather than be sent to an ICE detention facility where conditions for transgender and non-binary individuals are horrific, involving abuse, sexual assault, forced labor, and long-term solitary confinement. *See Exs. C-G.*

A similar case in the Southern District of New York, *JJS v. Pliler*, concerned the case of a transgender woman who was housed in men's state and federal correctional facilities, where she experienced sexual assault, attempted sexual assault, threats of harm for reporting assault, placement in solitary confinement under "protective custody," further sexual assault by prison employees, denials of requests to be moved to a women's facility, and rape by a male prisoner. *JJS v. Pliler*, 19-CV-02020 (VSB)(SN), 2022 WL 16578124 at \*7-8, (S.D.N.Y. Aug. 3, 2022). The lack of ability to receive the medical care she needed to effectively treat her gender

dysphoria led her to high risk of suicide. *Id.* at 9. She requested for years to be transferred to a women's facility for her safety and mental health. *See id.* Despite receiving generally consistent hormone medication and therapy, the Court determined that the Federal Bureau of Prison's refusal to transfer her to a women's facility was a violation of her Eighth Amendment rights. *Id.* at 21. Similar, in *JMH v. Freden*, a judge in the Western District of New York determined that a detained transgender woman from Honduras was owed a bond hearing despite her mandatory detention because of the strength of her liberty interest and the high risk of erroneous deprivation of her liberty were she not granted a bond hearing. *See Ex. L, JMH v. Freden*, 24-CV-875-LJV (W.D. N.Y. Jan 13, 2025).

Petitioner is suffering from deteriorating mental health due to being in an all-men's facility where they are being regularly harassed after years of suffering rape, assault, sexual assault and abuse from men on account of their sexuality and gender identity. Doc. 13-7 at para. 2-3, 5-7. They are regularly being harassed, including being propositioned in the shower and having men show them their genitals against their will. Doc. 13-7 at para. 16. They have suffered from suicidal ideation in the past, and their mental health is deteriorating in detention such that they are "relying on their medication each day to get by." Doc. 13-7 at para. 26. Petitioner is also suffering deteriorating physical health due to their untreated ankle injury, a severe chronic pain issue requiring more intensive care than over-the-counter pain management medication, which is what Petitioner has been prescribed. Doc. 13-7 at para. 22-25. Petitioner needs to be released in order to seek out appropriate medical care and to stabilize their mental health, which continues to dangerously deteriorate in detention. However, given their final removal order, Petitioner merely asks to be kept where they are to avoid the much greater dangers that ICE detention would present for them.

**IV. There is a Reasonable Certainty that Petitioner, as a Non-binary Person, Would be Harmed in ICE Detention**

If transferred to an ICE detention center, Petitioner is most likely to be sent to a detention center in Louisiana, Florida, or Texas, based on the patterns of how ICE transfers people from Vermont's Northwest State Correctional Facility (NWSCF) to ICE detention centers. There is ample documentation demonstrating the systemic mistreatment of LGBTQ people in ICE detention, especially those situated in the regional South of the United States. A complaint filed in 2024 by American Immigration Council details how transgender and non-binary people have been making complaints about mistreatment in ICE detention for over a decade. Ex. \_\_\_, Complaint Underscoring Why People Who are Transgender and Nonbinary Should Not be Detained in Civil Immigration Detention. Systemically, transgender and non-binary people are denied appropriate medical care, locked in solitary confinement "for their safety," harassed, and discriminated against. *See id.* The complaint explains in detail how transgender and non-binary people are treated in the Aurora ICE detention facility, "which is promoted as the premier place to be detained in the country for people who are transgender and nonbinary." Ex. \_\_\_, Transgender and Nonbinary People Describe Discrimination, Harassment, and Mistreatment at Aurora Detention Facility in New Civil Rights Complaint. People in the Aurora facility are placed into solitary, where they face isolation, abuse by guards, and medical neglect. *See* Ex. \_\_\_, Aurora complaint. The treatment of transgender and non-binary people across ICE facilities is documented to be so egregious that the complaint alleges ICE is incapable of providing appropriate care to transgender and non-binary individuals.

Our clients and medical experts reveal that ICE cannot safely and humanely incarcerate people who are transgender and nonbinary ("TNB"). Immigration detention negatively impacts their mental health, impedes timely access to gender affirming care, and triggers prior trauma. Discrimination and mistreatment within ICE custody exacerbates the harm people who are TNB face.

ICE detention fundamentally disrupts access to justice because people are ping-ponged from different jurisdictions, facilities, and hospitals, which results in delays in judicial proceedings. As a result, we call for an end to the practice of detaining people who are TNB in civil immigration detention.

Ex \_\_\_, Aurora complaint at pg. 1.

On September 15, 2025, Robert F. Kennedy Human Rights and the American Civil Liberties Union of Louisiana filed complaints against ICE detailing sexual abuse, sexual harassment, physical assault, forced labor, and more of LGBTQ people detained at the South Louisiana ICE Processing Center. Ex. C, Complaint to Office of Civil Rights and Civil Liberties, Office of the Inspector General, and Office of Immigration Detention Ombudsman. Such abuse included forced oral sex, forced hard labor for trans individuals, and regular stalking and sexual harassment by an assistant warden employed there. Ex. D, Queer and Trans Immigrants Allege Forced Labor and Sexual Assault in ICE Facility. The complaint details how the detainees were retaliated against after making complaints in the facility about the abuse they were suffering.

***Retaliation and Solitary Confinement***

All complainants faced retaliation after filing grievances or PREA complaints. They were placed in solitary confinement for minor or fabricated infractions. Mario was beaten, handcuffed, and placed in solitary for 14 days. Monica and Jane Doe were similarly segregated without due process.

***Physical Abuse and Excessive Force***

Officers physically assaulted detained people at AW Reyes' direction. Mario was handcuffed and beaten by a group of officers after asking to report his abuse to the Warden.

***Medical Neglect and Disability Discrimination***

Mario, with epilepsy and nerve damage, was denied medical consistent treatment. Monica's chemical burns and injuries were untreated due to fear of retaliation. Jane Doe, with epilepsy and spinal injury, was denied seizure medications, neurologist care, and emergency care after repeated seizures. She collapsed and was forced to walk post-seizure without support, worsening her conditions.

***Failure of Oversight and Accountability***

Multiple PREA complaints to ICE were dismissed as 'unsubstantiated.' Grievances and OIG hotline calls were ignored. FBI interviews occurred, but SLIPC retaliated against those who spoke.

Ex. C at pgs. 4-5.

Petitioner faces a reasonable certainty of harm if transferred from NWSCF to an ICE detention facility. In fact, based on the data provided, it is more likely than not that Petitioner will suffer inordinate amounts of harm in the forms of sexual assault, forced labor, and solitary confinement, purely by virtue of being non-binary, if transferred to an ICE detention center.

**V. Conclusion**

Given the high and specific risks of sexual assault and abuse that Petitioner would face in an ICE detention facility without redress, Petitioner humbly requests an order granting them a preliminary injunction keeping them in the NWSCF until the time that ICE effectuates their deportation order.

Dated: November 7, 2025

Respectfully submitted,

/s/ Jill Martin Diaz, Esq.  
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\*Admission pending.

CERTIFICATE OF SERVICE

I, Jill Martin Diaz, Esq., hereby certify that on November 7, 2025, I filed the foregoing Response to Respondents' Opposition using the CM/ECF system, which will send notification to all counsel of record.

/s/ Jill Martin Diaz Jill

Martin Diaz, Esq.