

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS**

ONISS SIOMARA VARGAS ISTAMO,

*Petitioner,*

v.

ORLANDO PEREZ, in his official capacity as  
Warden of the Laredo Processing Center,

MIGUEL VERGARA, in his official capacity as  
Field Office Director of the Harlingen Field  
Office, Immigration and Customs Enforcement,

KRISTI NOEM, in her official capacity as  
Secretary of the United States Department of  
Homeland Security, and

PAMELA BONDI, in her official capacity as  
Attorney General of the United States Department  
of Justice;

*Respondents.*

**EMERGENCY PETITION FOR A  
WRIT OF  
HABEAS CORPUS**

Case No.:

**INTRODUCTION**

1. Petitioner Oniss Siomara Vargas Istamo (“Ms. Vargas Istamo”) petitions this Court on an emergency basis to issue a Writ of Habeas Corpus and release Ms. Vargas Istamo from detention, or, at minimum, order Respondents (also collectively referred to as “the government”) to show cause for her continued detention within three days, or no later than 20 days, in accordance with 28 U.S.C. § 2243. Ms. Vargas Istamo’s continued detention bears no reasonable relation to *any* legitimate government purpose, and is therefore unconstitutional and contrary to the Immigration and Nationality Act for at least the following reasons.

2. First, Ms. Vargas Istamo's detention cannot continue when the government is barred from removing her to Colombia and, after seven months, has not effectuated her removal. Second, the government cannot remove Ms. Vargas Istamo to some other country without properly giving her notice and an opportunity to be heard regarding removal to that country. Because Respondents cannot justify Ms. Vargas Istamo's continued detention under the U.S. Constitution or federal statutes and regulations, she requests that this Court grant the writ and order Respondents to immediately release her from custody. 28 U.S.C. § 2241.

### **JURISDICTION AND VENUE**

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

4. This Court has subject matter jurisdiction under Art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause); Amend. V of the United States Constitution (Due Process Clause); 28 U.S.C. § 2241 (the general grant of habeas authority to the district courts); 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 1651 (All Writs Act); and 28 U.S.C. §§ 2201-2202 (Declaratory Judgment Act).

5. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention by Immigration and Customs Enforcement ("ICE"). *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Oyelude v. Chertoff*, 125 F. App'x 543, 546 (5th Cir. 2005) (district courts retain jurisdiction to review detention "insofar as that detention presents constitutional issues, such as those raised in a habeas petition"); *Villanueva v. Tate*, No. H-25-3364, 2025 WL 2774610, at \*6 (S.D. Tex. Sept. 26, 2025) (rejecting challenge to court's jurisdiction over claim that government lacks authority to hold immigrant in detention indefinitely while it tries to find a third country that will accept him).

6. Habeas is also an appropriate means to challenge a removal process that is constitutionally or statutorily improper. *See, e.g., Heikkila v. Barber*, 345 U.S. 229, 234–35 (1953) (habeas petition appropriate to challenge deportation on constitutional due process grounds); *Trump v. J. G. G.*, 604 U.S. 670, 672 (2025) (habeas petition appropriate to challenge removal under the Alien Enemies Act).

7. This Court is not barred by 8 U.S.C. § 1252(g) from considering Ms. Vargas Istamo’s Petition because she challenges only the constitutional and statutory validity of the government’s actions taken toward her following the Immigration Judge’s decision and “do[es] not seek review of a decision that could invalidate [her] removal order[.]” *Duarte v. Mayorkas*, 27 F.4th 1044, 1055 (5th Cir. 2022); *see also Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (§ 1252(g) “applies only to three discrete actions that the Attorney General may take: her ‘decision or action’ to ‘commence proceedings, *adjudicate* cases, or *execute* removal orders’”) (quoting 8 U.S.C. § 1252(g)).

8. Similarly, this Court is not barred by 8 U.S.C. §§ 1252(a)(5) or (b)(9) from considering Ms. Vargas Istamo’s Petition because she is “‘not asking for review of an order of removal, the decision to seek removal, or the process by which removability will be determined.’” *Texas v. United States*, 126 F.4th 392, 417 (5th Cir. 2025) (quoting *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020)); *see also Duarte*, 27 F.4th at 1056 (“[W]here review of an agency determination involves neither a determination as to the validity of the [petitioner’s] deportation order[.] or the review of any question of law or fact arising from [her] deportation proceeding[.], § 1252(a)(5) and (b)(9) should not operate as a bar to the district court’s review.”).

9. Though the government may assert that the pending class-action litigation certified in *D.V.D. v. U.S. Department of Homeland Security*, 778 F. Supp. 3d 355 (D. Mass. 2025), *stay granted*, 145 S. Ct. 2153 (2025), prevents this Court from awarding Ms. Vargas Istamo the relief she individually seeks, this argument is without merit. Assuming without asserting that Ms. Vargas Istamo is a member of the *D.V.D.* class, class membership does not preclude review of her individual claims because a decision in *D.V.D.* would not grant her adequate relief, and compelling circumstances urge consideration of her claims. Ms. Vargas Istamo seeks relief from unlawful prolonged detention, which is not contemplated in the *D.V.D.* litigation. *See, e.g., Medina v. Noem*, No. 25-cv-1768-ABA, 2025 WL 2306274, at \*12 (D. Md. Aug. 11, 2025) (stay or dismissal in individual case based on *D.V.D.* inappropriate where petitioner challenged his continued detention and *D.V.D.* instead addresses certain issues with respect to removal); *cf. Sagastizado Sanchez v. Noem*, No. 25-cv-00104 (S.D. Tex. Oct. 2, 2025) (petitioner’s membership in the *D.V.D.* class does not preclude the Court from enjoining petitioner’s removal to a third country without sufficient process). Additionally, it is “counterintuitive that non-opt-out class membership, for the purposes of granting a preliminary injunction to prevent removal without due process, could prevent individuals from making their own claims for due process while that injunction is stayed on a class-wide basis.” *Sagastizado Sanchez v. Noem*, No. 25-cv-00104 (S.D. Tex. Oct. 2, 2025); *see also Baatz v. Col. Gas Transmission, LLC*, 814 F.3d 785, 793–94 (6th Cir. 2016) (“[A] district court can abuse its discretion by dismissing a case under the first-to-file rule when doing so could adversely affect a party’s interests.”); *Vaskanyan v. Janecka*, No. 25-cv-01475, 2025 WL 2014208, at \*7 (C.D. Cal. June 25, 2025) (“[N]ow that the [*D.V.D.*] preliminary injunction has been stayed, the Court is persuaded by Petitioner’s argument that Respondents may try to remove him to a third country without affording him adequate notice and opportunity to be heard.”).

10. Venue is proper under 28 U.S.C. § 2241(d) and 28 U.S.C. §§ 1391(b)(2) and (e)(1) because Ms. Vargas Istamo is presently detained at the Laredo Processing Center in Laredo, Texas, within the jurisdiction of the Southern District of Texas.


#### **REQUIREMENTS OF HABEAS 28 U.S.C. § 2243**


11. This Court should grant this application for a writ of habeas corpus “forthwith” or, at minimum, issue an order directing Respondents to show cause why the writ should not be granted. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents shall have no more than three days to file a return, unless for good cause this Court grants additional time not to exceed 20 days. *Id.*

12. Upon return, a hearing shall be set for no more than five days following the return, unless for good cause this Court permits additional time. *Id.* “The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require.” *Id.*

13. The importance of habeas as a means of protecting individuals, including noncitizens, from unlawful detention is well-established. *See Rasul v. Bush*, 542 U.S. 466, 474 (2004) (“At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.” (cleaned up)); *Ramirez v. Watkins*, No. B:10-126, 2010 WL 6269226, at \*20 (S.D. Tex. Nov. 3, 2010) (“Supervision of the reasonableness of detention through the habeas process [] provides justified protection of the [noncitizen’s] liberty interest and conserves judicial resources.”).

#### **PARTIES**

14. Ms. Vargas Istamo is a Colombian national who is detained at the Laredo Processing Center in Texas. She fled Colombia 

 On March 17, 2025, an Immigration Judge sitting in Laredo, Texas ordered that Ms. Vargas Istamo be removed to Colombia but also withheld and deferred that removal pursuant

to a grant of withholding of removal and deferral of removal under the Convention Against Torture (“CAT”). Ms. Vargas Istamo was first detained in September 2024, and has remained in detention since the IJ’s March 17, 2025 order (more than a year total in detention).

15. Respondent Orlando Perez is the Warden of the Laredo Processing Center, which detains individuals suspected of immigration violations pursuant to a contract with ICE. Respondent Perez is an immediate physical custodian responsible for Petitioner’s detention. He is sued in his official capacity.

16. Respondent Miguel Vergara is the Field Office Director of the Harlingen field office of ICE, which is responsible for ICE activities in the Harlingen Area of Responsibility, which encompasses the Laredo Processing Center. Respondent Vergara is an immediate legal custodian responsible for the arrest and detention of Ms. Vargas Istamo. He is sued in his official capacity.


17. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security, which is a cabinet-level department of the United States government. She is sued in her official capacity. In that capacity, Respondent Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103 and is ultimately responsible for ICE operations.


18. Respondent Pamela Bondi is the Attorney General of the United States Department of Justice. Respondent Bondi is sued in her official capacity. In this capacity, she is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g) and directs agencies within the United States Department of Justice, including the Executive Office for Immigration Review (EOIR), which houses the immigration courts and Board of Immigration Appeals.

## STATEMENT OF FACTS

### Ms. Vargas Istamo's Grant of Convention Against Torture Relief

19. Ms. Vargas Istamo is a 19-year-old Colombian citizen. She is not a citizen or resident of any other country and has not lived in any country other than Colombia and the United States.

20. Ms. Vargas Istamo last entered the United States in September 2024 after 

 She was detained and, after being placed into removal proceedings under 8 U.S.C. § 1229a, Ms. Vargas Istamo filed an application for asylum, withholding of removal, and relief under CAT. She remained detained at the Laredo Processing Center for the duration of her removal proceedings.

21. On March 17, 2025, an Immigration Judge ("IJ") sitting in Laredo, Texas ordered Ms. Vargas Istamo removed but granted her protection under CAT. Ex. 1 (IJ Order). The IJ's order provides that Ms. Vargas Istamo's removal to Colombia be withheld and deferred and does not designate any other country for removal. Ex. 1 at 1, 3.

22. All parties waived appeal. As such, the IJ's order of removal became final on the date it was issued, March 17, 2025. Ex. 1 at 4.

23. At the conclusion of her hearing, the IJ informed Ms. Vargas Istamo that she would likely be released the next day: March 18, 2025. Ex. 2 (Declaration of Oniss Siomara Vargas Istamo) at ¶ 7. Instead, as of this filing, 217 days of post-removal detention have passed and, despite obtaining relief, Ms. Vargas Istamo remains detained.

24. Shortly after the IJ granted Ms. Vargas Istamo CAT protection, ICE transferred her to a detention facility in Louisiana. Ex. 2 at ¶ 8. An ICE official at the Louisiana facility informed Ms. Vargas Istamo that she would be removed and, when she raised concerns that she was being scheduled for removal despite having a grant of CAT protection, instructed her to stop contacting

him. Ex. 2 at ¶ 8. ICE then transferred Ms. Vargas Istamo to an airport to be placed on a deportation flight. Ext. 2 at ¶ 10. At the airport, Ms. Vargas Istamo notified another ICE official that an IJ had granted her CAT protection. Ext. 2 at ¶ 10. This official reviewed Ms. Vargas Istamo's records and acknowledged she was not supposed to be removed. ICE then returned Ms. Vargas Istamo to the Laredo Processing Center. Ex. 2 at ¶¶ 10–11.

25. Since returning to the Laredo Processing Center, Ms. Vargas Istamo has repeatedly requested information about her prolonged detention. Ex. 2 at ¶ 14. In response, deportation officers have told her that she will either remain detained or be removed to a third country. Ex. 2 at ¶ 14. A deportation officer also informed Ms. Vargas Istamo that the 90-day custody review (which, like the 180-day custody review, ICE must conduct pursuant to 8 C.F.R. § 241.4) merely involved completing a form and would not result in her release from detention. Ex. 2 at ¶ 13. Ms. Vargas Istamo never received any additional information about her mandatory 90-day or 180-day custody review. Ex. 2 at ¶ 14.

26. Pursuant to the IJ's March 17, 2025 order, Ms. Vargas Istamo cannot be removed to Colombia. Ex. 1 at 1, 3. ICE has not identified any third country that will accept Ms. Vargas Istamo or otherwise indicated that removal is reasonably foreseeable. Ex. 1 at 3; Ex. 2 at ¶ 12.

#### **DHS and ICE Directives and Practices Regarding Third-Country Removal**

27. Upon information and belief, on February 18, 2025, ICE issued a directive encouraging the use of third country removal for individuals granted withholding of removal and CAT protection. Ex. 3.<sup>1</sup>

28. On March 30, 2025, DHS issued a memorandum concerning "Guidance Regarding Third Country Removal." Ex. 4. This memorandum sets forth a procedure for deportation to a

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<sup>1</sup> This document was filed as an exhibit in *D.V.D. v. U.S. Department of Homeland Security*, 778 F. Supp. 3d 355 (D. Mass. 2025), *stay granted*, 145 S. Ct. 2153 (2025) as Dkt. No. 1, Attachment C.



third country of noncitizens like Ms. Vargas Istamo, who were granted withholding of removal or CAT protection. Ex. 4 at 1. The memorandum provides that, if the Department of State has received a credible diplomatic assurance that, broadly speaking, a third country will not persecute or torture individuals deported to that country, then noncitizens like Ms. Vargas Istamo who were granted withholding of removal or CAT protection may be removed to that country without due process. Ex. 4 at 1–2.

29. On July 9, 2025, ICE issued a directive affirming that ICE employees should adhere to the March 30, 2025 memorandum. Ex. 5.<sup>2</sup>

30. Upon information and belief, Respondents have removed noncitizens to third countries, including El Salvador, Panama, Costa Rica, Honduras, Ghana, South Sudan, Eswatini, Uzbekistan, and Mexico. *See* Ex. 6 at 1–22.

31. Upon information and belief, the diplomatic assurances that the Department of State has obtained from third countries have not prevented those third countries from subsequently deporting noncitizens to the same countries where they fear persecution or torture and for which their removal by the United States had been withheld or deferred due to a grant of withholding of removal or CAT protection. *See* Ex. 6 at 2.

32. Ms. Vargas Istamo fears that removal to any third country will result in refoulment to Colombia. Ex. 2 at ¶ 15.

33. Ms. Vargas Istamo fears for her life and freedom if she is removed to a third country. Ex. 2 at ¶ 15.

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<sup>2</sup> This document was filed as an exhibit in *D.V.D. v. U.S. Department of Homeland Security*, 778 F. Supp. 3d 355 (D. Mass. 2025), *stay granted*, 145 S. Ct. 2153 (2025) as Dkt. No. 150.

## LEGAL FRAMEWORK

**A. The Immigration and Nationality Act (“INA”) and the Due Process Clause of the Constitution Prohibit the Government from Indefinitely Detaining Noncitizens Granted Deferral of Removal under the Convention Against Torture.**

34. The Supreme Court established in *Zadvydas* and *Clark* that both the INA and the Due Process Clause of the Constitution limit the government’s detention of a noncitizen. *See Clark v. Suarez Martinez*, 543 U.S. 371 (2005); *Zadvydas*, 533 U.S. 678.

35. The INA, 8 U.S.C. § 1231(a), authorizes the detention of a noncitizen with a final removal order during the “removal period”—the 90-day period after an Immigration Court enters an administratively final order of removal.

36. Under § 1231(a)(6), a noncitizen ordered removed and deemed inadmissible by an immigration judge “may be detained beyond the removal period” “but only for so long as is reasonably necessary to achieve removal.” *Clark*, 543 U.S. at 371.

37. Detention beyond the 90-day period is reasonable “only for a period consistent with the purpose of effectuating removal.” *Clark*, 543 U.S. at 384.

38. Further, while detention for up to six months is presumptively reasonable, “once [a noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing” to establish that detention beyond six months is reasonably necessary. *Zadvydas*, 533 U.S. at 699-701.

39. Detention is unreasonable where the government fails to demonstrate a “substantial likelihood of removal.” *Clark*, 543 U.S. at 386, 378.

40. The facts show there not a significant likelihood of removal for Ms. Vargas Istamo in the reasonably foreseeable future, and the government cannot show continued detention is reasonably necessary.

41. Neither the Immigration Court nor the government designated an alternate country for Ms. Vargas Istamo's removal, nor does Ms. Vargas Istamo have legal residence (or any other immigration status) in an alternate country. *See* Ex. 1; Ex. 2 at ¶ 3. The government also has not sought to reopen Ms. Vargas Istamo's removal proceedings to seek her removal to an alternate country. Ex. 2 at ¶ 12; *Clark*, 543 U.S. at 386 (finding that "no substantial likelihood of removal subsists despite the passage of six months" where the government is "no longer even involved in" negotiations with a potential country of removal).

42. As such, Ms. Vargas Istamo's continued detention is no longer reasonably necessary for removal and violates the INA.

43. Separately from the INA, the Due Process Clause of the Constitution prohibits detention of a noncitizen absent a legitimate government purpose for detention. *See Zadvydas*, 533 U.S. at 689–90; *see also Vazquez Barrera v. Wolf*, 455 F. Supp. 3d 330, 338 (S.D. Tex. 2020).

44. Further, under the Due Process Clause, civil detention, such as detention of an immigrant post-removal proceedings, must be non-punitive. *See Cadena v. El Paso Cty.*, 946 F.3d 717, 727 (5th Cir. 2020). Detention conditions that amount to punishment violate the immigrant's substantive due process rights. *Id.*

45. Although the "basic purpose [of] effectuating [a noncitizen's] removal" is a legitimate government purpose, *Zadvydas*, 533 U.S. at 697, detention for this purpose may only be for a "very limited time." *Demore*, 538 U.S. at 529 n.12; *Lawal v. Lynch*, 156 F. Supp. 3d 846, 853 (S.D. Tex. 2016).

46. Additionally, the Supreme Court has repeatedly affirmed that detention must be constitutional as-applied to noncitizens regardless of what is authorized, or even mandated, by a detention statute. *Jennings v. Rodriguez*, 138 S. Ct. 830, 851 (2018) (explicitly declining to reach “constitutional arguments on their merits” after finding no statutory limit on the length of mandatory immigration detention under 8 U.S.C. § 1226(c)); *see also Nielsen v. Preap*, 139 S. Ct. 954, 972 (2019) (“Our decision today on the meaning of [§ 1226(c)] does not foreclose as-applied challenges—that is, constitutional challenges to applications of the statute as we have now read it.”).

47. Accordingly, even if the government is purporting to detain a noncitizen within the period authorized by the INA, it must still show a legitimate, non-punitive government purpose; namely, that it is seeking to effectuate the noncitizen’s removal and that the noncitizen’s removal is practical and attainable.

**B. Due Process Requires DHS to Provide Notice and Opportunity to Present a Fear-Based Claim Before Deportation to a Third Country.**

48. Ms. Vargas Istamo cannot be removed to Colombia pursuant to the IJ’s order granting her protection under CAT. Ex. 1 at 1, 3–4. Moreover, no alternative countries of removal have been designated for Ms. Vargas Istamo. Ex. 1 at 3.

49. To date, the government has not identified a third country willing to accept Ms. Vargas Istamo or notified Ms. Vargas Istamo of their intention to remove her to a specific third country. Ex. 2 at ¶ 12.

50. Although there is thus no evidence establishing Ms. Vargas Istamo’s removal is substantially likely, recent events have raised concerns that, in response to this Petition, the government may now act with haste to effectuate Ms. Vargas Istamo’s removal to a third country

and that such removal would occur without adequate notice and opportunity to apply for protection.

51. Under the Due Process Clause and the INA, Ms. Vargas Istamo is entitled to receive adequate notice and an opportunity to be heard on a fear-based claim before being removed to an unidentified third country. *See* U.S. Const., Amend. V; *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985); *Mathews v. Eldridge*, 424 U.S. 319, 332-33 (1976). *See also* 8 U.S.C. 1231; 8 C.F.R. 1208.16; *Mahdejian v. Bradford*, No. 9:25-CV-00191, 2025 WL 2269796, at \*4 (E.D. Tex. July 3, 2025) (stating that the noncitizen must be provided with notice of the proposed country of removal in order to exercise his due process right to be heard); *Kuhai v. INS*, 199 F.3d 909, 913 (7th Cir. 1999) (holding that the noncitizen must be given the opportunity to brief removal to a third country when there was no indication during removal proceedings that she could be removed there); *Su Hwa She v. Holder*, 629 F.3d 958, 965 (9th Cir. 2010) (“It follows that a failure to provide notice and, upon request, stay removal or reopen the case for adjudication of [the noncitizen’s] applications as to Burma would constitute a due process violation if Burma becomes the proposed country of removal.”); *Romero v. Evans*, 280 F. Supp. 3d 835, 847 n.24 (E.D. Va. 2017) (“DHS could not immediately remove petitioners to a third country, as DHS would first need to give petitioners notice and the opportunity to raise any reasonable fear claims.”).

52. Removal to an unknown third country without an adequate opportunity to present a fear-based claim would violate Ms. Vargas Istamo’s substantive due process rights.

53. To ensure the protection of Ms. Vargas Istamo’s due process rights, Respondents should provide Ms. Vargas Istamo, her counsel, and the Court at least 10 days’ notice and the name of the proposed country of removal in writing before any removal is initiated.

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **Ms. Vargas Istamo's Indefinite Detention Violates the Immigration and Nationality Act**

54. Ms. Vargas Istamo realleges and incorporates by reference all paragraphs above as if fully set forth herein.

55. 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for “a period reasonably necessary to bring about the [noncitizen’s] removal from the United States,” and a post-removal order detention exceeding six months is presumptively unreasonable. 533 U.S. at 689, 701.

56. Ms. Vargas Istamo’s detention has already lasted for seven months, exceeding both the 90-day removal period and likewise beyond the presumptively reasonable six-month period.

57. The government cannot show that her continued detention is reasonably necessary.

58. Consequently, Ms. Vargas Istamo’s detention is not for a legitimate, non-punitive government purpose, and is therefore unconstitutional.

59. Ms. Vargas Istamo’s continued detention violates 8 U.S.C. §1231(a)(6), and she should be immediately released.

### **COUNT II**

#### **Ms. Vargas Istamo's Indefinite Detention Violates the Due Process Clause of the U.S. Constitution**

60. Ms. Vargas Istamo realleges and incorporates by reference all paragraphs above as if fully set forth herein.

61. Ms. Vargas Istamo’s detention is unreasonable and for no legitimate purpose.

62. The Due Process Clause of the U.S. Constitution authorizes civil detention only for a legitimate, non-punitive government purpose.

63. Ms. Vargas Istamo's seven-month-long post-order detention has no legitimate, non-punitive government purpose. Therefore, her continued detention violates the Due Process clause and she should be immediately released.

**COUNT III**  
**Removal to an Undisclosed Third Country Would Violate the Due Process Clause of the U.S. Constitution**

64. Ms. Vargas Istamo restates and realleges and incorporates by reference all paragraphs above as if fully set forth herein.

65. "[T]he Fifth Amendment entitles [noncitizens] to due process of law in the context of removal proceedings." *Trump v. J. G. G.*, 604 U.S. at 673 (internal quotation marks omitted). "Procedural due process rules are meant to protect" against "the mistaken or unjustified deprivation of life, liberty, or property." *Carey v. Piphus*, 435 U. S. 247, 259 (1978). The Supreme Court has long held that "no person shall be" removed from the United States "without opportunity, at some time, to be heard." *The Japanese Immigrant Case*, 189 U.S. 86, 101 (1903). Due process requires notice that is "reasonably calculated, under all the circumstances, to apprise interested parties" and that "afford[s] a reasonable time . . . to make [an] appearance." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

66. Removing Ms. Vargas Istamo without affording her notice of the country of intended removal or any opportunity to be heard on a fear-based claim would violate the Due Process Clause.

**PRAYER FOR RELIEF**

WHEREFORE, Ms. Vargas Istamo respectfully requests that this Court:

- a. Assume jurisdiction over this matter;

- b. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- c. Declare that Ms. Vargas Istamo's continued detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment;
- d. Order Respondents and individuals acting in concert with them to immediately release Ms. Vargas Istamo;
- e. Enjoin Respondents and individuals acting in concert with them from transferring Ms. Vargas Istamo out of this judicial district;
- f. Order Respondents and individuals acting in concert with them that, if Respondents intend to remove Ms. Vargas Istamo to a third country, they provide Ms. Vargas Istamo, in a language she can understand, her counsel, and the Court with 10 days' notice of the third country to which Respondents intend to remove her, in writing, before any removal is initiated;
- g. Enjoin Respondents and individuals acting in concert with them from re-detaining Ms. Vargas Istamo unless such re-detention is authorized by law, including 8 C.F.R. § 241.13; and
- h. Grant such further relief as the Court deems just and proper.



Dated: October 20, 2025

s/ Micah Doak

Micah Doak (Attorney in Charge)

Bar No. 24097607

SDTX Fed. No. 2799047

Daniel Bleiberg

Bar No. 24097392

SDTX Fed. No. 3939965

JONES DAY

717 Texas, Suite 3300

Houston, Texas 77002

Office: +1.832.239.3939

Facsimile: +1.832.239.3600

*Pro Bono Counsel for Petitioner*

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I have discussed with Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: October 20, 2025

s/ Micah Doak

Micah Doak (Attorney in Charge)  
Bar No. 24097607  
SDTX Fed. No. 2799047  
Daniel Bleiberg  
Bar No. 24097392  
SDTX Fed. No. 3939965  
JONES DAY  
717 Texas, Suite 3300  
Houston, Texas 77002  
Office: +1.832.239.3939  
Facsimile: +1.832.239.3600

*Pro Bono Counsel for Petitioner*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 20th day of October, 2025, I electronically filed the foregoing Petition for Writ of Habeas Corpus with the Clerk of the Court using the CM/ECF system, and served a copy of such filing via mail and/or electronic mail upon:

Attorney General of the United States (via mail)  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Civil Process Clerk (via mail and electronic mail)  
United States Attorney's Office, S.D. Texas  
1000 Louisiana St., Suite 2300,  
Houston, Texas 77002  
[USATXS.CivilNotice@usdoj.gov](mailto:USATXS.CivilNotice@usdoj.gov)

U.S. Department of Homeland Security (via mail)  
Office of the General Counsel  
245 Murray Lane, SW  
Mail Stop 0485  
Washington, DC 20528-0485

U.S. Immigration and Customs Enforcement (via mail)  
Office of the Principal Legal Advisor  
500 12th St. SW, Mail Stop 5900  
Washington, DC 20536-5900

s/ Micah Doak

Micah Doak (Attorney in Charge)  
Bar No. 24097607  
SDTX Fed. No. 2799047  
Daniel Bleiberg  
Bar No. 24097392  
SDTX Fed. No. 3939965  
JONES DAY  
717 Texas, Suite 3300  
Houston, Texas 77002  
Office: +1.832.239.3939  
Facsimile: +1.832.239.3600

*Pro Bono Counsel for Petitioner*

**EXHIBITS**

1. Order from IJ granting CAT Protection (March 17, 2025)
2. Declaration of Oniss Siomara Vargas Istamo
3. ICE Directive (Feb. 18, 2025)
4. DHS Memo titled “Guidance Regarding Third Country Removal” (March 30, 2025)
5. ICE Directive (July 9, 2025)
6. Letter from Senator Elizabeth Warren to Secretary Noem, Secretary Rubio and Secretary Hegseth (Sept. 24, 2025)