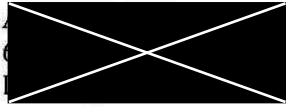


**UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND**

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Damari CHAVEZ DE VASQUEZ



Petitioner

v.

Kristi Noem, et al.

Respondents

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Case Number: **8:25-cv-03657-SAG**

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

INTRODUCTION

1. Mrs. Damari CHAVEZ DE VASQUEZ is a 31-year-old native and citizen of El Salvador. Petitioner CHAVEZ DE VASQUEZ entered the United States with her husband and three minor children on January 29, 2024. On January 22, 2025, Petitioner timely filed her asylum application (as a derivative application on her husband's asylum application) with U.S. Citizenship and Immigration Services. (A copy of Petitioner's I-589 Receipt Notice is attached hereto and made a part hereof as Exhibit 1). Petitioner attended all requested biometrics appointments and has not yet been scheduled for an asylum interview.
2. Petitioner was regularly receiving calls from ICE/ISAP to check in on her. On November 4, 2025, Petitioner received a call from ICE/ISAP stating that she needed to present herself for a check-in in person to ICE in Silver Spring, which she did. ICE/ISAP arrested her without a warrant, detained her, and then transferred her to the Baltimore ICE office upon her arrival. Petitioner was held at the Immigration and Customs Enforcement Baltimore Field Office at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201, in deplorable conditions. Petitioner has since been transferred to Richwood Correctional Center, 180 Pine Bayou Cir., Richwood, LA 71202. Petitioner was transferred after a Petition for a Writ of Habeas Corpus was filed with this Court.
3. Pursuant to this Court's directive, Petitioner sought a custody redetermination before the Immigration Court in Hyattsville, Maryland. On November 14, 2025, however, the immigration judge denied bond, finding Petitioner to be a purported flight risk based solely on speculation and hearsay of twelve alleged ATD violations, despite DHS submitting no evidence whatsoever to substantiate those alleged violations. Petitioner disputes that she

ever violated the ATD agreement. Therefore, Petitioner was afforded no due process when Respondents did not submit any proof to support their allegations.

4. Petitioner CHAVEZ DE VASQUEZ petitions this Court to issue a Writ of Habeas Corpus seeking relief to remedy her unlawful arrest and detention by Respondents pursuant to 28 U.S.C. § 2241. She fears her continued detention and/or removal from the United States without due process protections.
5. Ms. Damari CHAVEZ DE VASQUEZ has very strong family and community ties in Maryland, including her husband and three minor children, and local immigration counsel. Moreover, importantly, Petitioner has no criminal record in the United States or anywhere in the world.

#### CUSTODY

6. Petitioner is in the physical custody of Respondents. Petitioner was detained by ICE at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201, and has now been transferred to Richwood Correctional Center, 180 Pine Bayou Cir., Richwood, LA 71202. Petitioner is under the direct control of Respondents and their agents.

#### JURISDICTION AND VENUE

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (APA), 5 U.S.C. § 701, et seq. 4. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I § 9, cl. 2 of the United States Constitution (Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in custody under alleged color of authority of the United States, and such custody is in violation of the Constitution, laws, and/or treaties of the United States.

This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.

8. Venue is proper in the District of Maryland because that is where Petitioner was detained at the time of the filing of her initial petition for habeas corpus, and that is where Petitioner resides. *See* 28 U.S.C. § 1391(b); *Kholyavskiy v. Achim*, 443 F.3d 946 (7th Cir. 2006).

#### THE PARTIES

9. Petitioner Damari CHAVEZ DE VASQUEZ is a citizen and national of El Salvador who has a pending asylum application with USCIS. Moreover, she had never been in removal proceedings before an immigration court until her unlawful arrest and detention.
10. Defendant Krisiti Noem is the Secretary of the Department of Homeland Security in Washington, D.C. Ms. Noem is responsible for the enforcement of the U.S. immigration laws, including those governing the admissibility of foreign nationals in the U.S. Ms. Noem and agents acting under her direction are at present detaining the Petitioner. Ms. Noem is being sued in her official capacity only.
11. Defendant Todd Lyons is the Acting Director of Immigration and Customs Enforcement in Washington, D.C. Mr. Lyons is responsible for the enforcement of the U.S. immigration laws, and the agents holding Mrs. CHAVEZ DE VASQUEZ are under his direction. Mr. Lyons is being sued in his official capacity only.
12. Defendant Nikita Baker is the current Acting Deputy Director of the ICE Baltimore Field Office, the facility where Petitioner is currently detained. Ms. Baker is responsible for ICE operations in the Maryland area. Mrs. CHAVEZ DE VASQUEZ was held by ICE agents under Ms. Baker's direction. Ms. Baker is being sued in her official capacity only.

**FACTUAL ALLEGATIONS**

13. Petitioner is a national and citizen of El Salvador who entered the United States on or about January 29, 2024, with her husband and three minor children.
14. Petitioner timely filed her asylum application on or about January 22, 2025, as a derivative applicant of her husband with U.S. Citizenship and Immigration Services. Petitioner attended all requested biometrics appointments and has not yet been scheduled for an asylum interview. Further, Petitioner had never been in removal proceedings before an immigration court until her recent arrest and detention.
15. Petitioner was regularly receiving calls from ICE/ISAP to check in on her. On November 4, 2025, Petitioner received a call from ICE/ISAP stating that she needed to present herself for a check-in in person to ICE in Silver Spring, which she did. ICE/ISAP arrested her without a warrant, detained her, and then transferred her to the Baltimore ICE office upon her arrival. Petitioner was held at the Immigration and Customs Enforcement Baltimore Field Office at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201, in deplorable conditions. Petitioner has since been transferred to Richwood Correctional Center, 180 Pine Bayou Cir., Richwood, LA 71202. Petitioner was transferred after a Petition for a Writ of Habeas Corpus was filed with this Court.
16. Pursuant to this Court's directive, Petitioner sought a custody redetermination before the Immigration Court in Hyattsville, Maryland. On November 14, 2025, however, the immigration judge denied bond, finding Petitioner to be a purported flight risk based solely on speculation and hearsay of twelve alleged ATD violations, despite DHS submitting no evidence whatsoever to substantiate those alleged violations. Petitioner disputes that she

ever violated the ATD agreement. Therefore, Petitioner was afforded no due process when Respondents did not submit any proof to support their allegations.

17. Petitioner has no criminal record and lived with her husband and three minor children in Lanham, Maryland.

### **LEGAL BACKGROUND**

#### **A. Statutory and Constitutional Limits for Immigration Arrest and Detention**

18. The Fourth Amendment to the U.S. Constitution provides that The Fourth Amendment to the United States Constitution guarantees that individuals shall be free from unreasonable searches and seizures, and it prohibits the government from arresting a person without a warrant absent probable cause supported by specific, articulable facts. U.S. Const. Amend. IV.

19. The Fifth Amendment to the U.S. Constitution provides limits on detention. As the Supreme Court has noted, "[i]t is well-established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Hyung Joon Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of liberty," that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678,690 (2001). This fundamental due process protection applies to all noncitizens, even if they are removable or inadmissible. *See id.* at 721 (Kennedy, J., dissenting) ("[B]oth removable and inadmissible aliens are entitled to be free from detention that is arbitrary or capricious."). Under these due process principles, detention must "bear [a] reasonable relation to the purpose for which the individual [was] committed." *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

20. Due process, therefore requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690 (internal quotations omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 538.
21. Following *Zadvydas*, *supra* and *Demore*, *supra*, most circuit courts to confront the issue have protected the due process rights of people detained in civil immigration detention by requiring a custody hearing for noncitizens subject to unreasonably prolonged detention pending removal proceedings. *See Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199 (11th Cir. 2016); *Reid v. Donelan*, 819 F.3d 486 (1st Cir. 2016); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015); *Rodriguez v. Robbins (Rodriguez III)*, 804 F.3d 1060 (9th Cir. 2015); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011); *Ly v. Hansen*, 351 F.3d 263 (6th Cir.2003).
22. In addition to the amount of time in detention, courts weigh the following factors when assessing reasonableness: (1) how long the detention will likely continue in the absence of judicial relief; (2) the nature and extent of removal proceedings, including whether any delays are attributable to the government or the immigrant; (3) the conditions of detention; and (4) the likelihood that the proceedings and judicial review will end with a removal order. *See Jamal*, 358 F. Supp. 3d at 859-60.

**FIRST CLAIM FOR RELIEF**

**VIOLATION OF THE DUE PROCESS CLAUSE OF THE U.S. CONSTITUTION**

23. Petitioner re-alleges and incorporates by reference the paragraphs above.
24. Petitioner's detention violates substantive and procedural due process guarantees of the U.S. Constitution. Upon information and belief, Petitioner complied with all requirements of ICE's Alternatives to Detention (ATD) program, including reporting when instructed. On November 4, 2025, Petitioner received a call from ICE stating that she needed to present herself for a check-in in person to ICE in Silver Spring, which she did. ICE arrested, detained, and transferred her upon her arrival. It is a violation of due process and unjustified for Respondents to have arrested and detained her when she presented herself for an in-person ATD check-in as directed, and where Respondents had not obtained an arrest warrant in violation of due process.
25. Moreover, the denial of Petitioner's bond request constituted a clear violation of due process. The immigration judge accepted DHS's assertion of twelve alleged ATD violations without any evidentiary submission to support any of those allegations, effectively crediting unproven allegations over the fundamental requirement that the government submit credible evidence to support its allegations. By relying on unsupported assertions rather than an actual evidentiary record, the immigration court deprived Petitioner of a fair hearing and rendered a decision that was arbitrary, capricious, fundamentally unfair, and contrary to the basic tenets of due process guaranteed under the Fifth Amendment.
26. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. Amend. V.

27. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [non-U.S. citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas, supra* at 693 (2001). For this reason, even “removable and inadmissible [non-U.S. citizens] are entitled to be free from detention that is arbitrary and capricious,” *Id.* at 721 (Kennedy, J., dissenting). That Constitutional protection is unaffected by the government’s authority to make rules for “admission” that regulate the immigration status of noncitizens. *See* 8 U.S.C. § 1101(a)(13)(A) (defining admission as “the lawful entry of the alien”).
28. “A statute permitting indefinite detention of a [non-U.S. citizen] would raise a serious constitutional problem” under the Fifth Amendment’s Due Process Clause. *Id.* at 690.
29. A person like Petitioner, with a meritorious claim for asylum pending before USCIS, withholding of removal, and protection under CAT, and who is not presently in removal proceedings, is entitled to be free from arbitrary and capricious detention under the Due Process Clause.
30. Petitioner’s detention is unreasonable based on the facts and circumstances of Petitioner’s case, including her current pending asylum application, strong family and community ties, and lack of criminal record. *Sopo*, 825 F.3d at 1217-19 (outlining factors that govern when mandatory detention becomes prolonged).
31. Finally, this Court “cannot ignore the conditions of confinement.” *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Where “the facility for the civil immigration detention is [not] meaningfully different from a penal institution for criminal detention[,]” prolonged immigration detention is more likely to be unreasonable.

*Sopo*, 825 F.3d at 1218 (citing *Chavez-Alvarez*, 783 F.3d at 478; *Ly v. Hansen*, 351 F.3d 263, 272 (6th Cir. 2003)).

32. Under either a bright-line rule or the facts and circumstances of this case, Petitioner's detention is unreasonable. This Court should therefore order Immigration and Customs Enforcement to release the Habeas Petitioner.
33. Further, preventive detention is only constitutional when "subject to strong procedural protections." *Zadvydas, supra*, at 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71 (1992) (striking down civil commitment statute for placing the burden on the detainee)).

### **SECOND CLAIM FOR RELIEF**

#### **VIOLATION OF THE FOURTH AMENDMENT OF THE U.S. CONSTITUTION**

34. The Fourth Amendment prohibits arbitrary, warrantless seizures unsupported by any legitimate governmental purpose. U.S. Const. amend. IV. A warrantless arrest is per se unreasonable unless the government establishes that it was justified by probable cause based on specific, articulable facts, not speculation or conclusory assertions.
35. Here, when Petitioner reported to ICE/ISAP as required, she was immediately arrested without a warrant, without probable cause, and without any individualized showing of necessity, in direct violation of the Fourth Amendment. DHS presented no evidence to justify the warrantless seizure, nor any exigent circumstances that would permit it. An arrest under these circumstances, during a routine check-in, with no ongoing investigation and no indication of danger or flight risk, constitutes an arbitrary and unreasonable seizure, offending both the Fourth Amendment and fundamental principles of due process.

**THIRD CLAIM FOR RELIEF**

**VIOLATION OF 28 U.S.C. § 1361 (Writ of Mandamus)**

36. Petitioner re-alleges and incorporates by reference the paragraphs above.
37. Petitioner's detention despite having a pending meritorious asylum claim before USCIS is an abuse of discretion and unlawful.
38. For these reasons, this Court should order Immigration and Customs Enforcement to immediately release Petitioner CHAVEZ DE VASQUEZ from detention based on her pending asylum application, lack of criminal record, and strong family and community ties within the United States. She is not a danger to the community, nor is she likely to abscond due to her ties here in the community. Contrary to the immigration judge's unsupported finding, Petitioner is not a flight risk. She resided with her husband and three minor children, she has local immigration counsel, and she has other community ties. Further, and importantly, she has a pending asylum application with her family, and so, it is not likely that she would jeopardize that and flee the area. Petitioner's husband and three minor children greatly depend on her for their well-being and stability.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

- 1) Continue jurisdiction over this matter;
- 2) Grant a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, on reasonable conditions of supervision if necessary, including an electronic ankle bracelet;

- 3) Order Respondents to show cause as to why the relief requested in this petition should not be granted;
- 4) Declare the Petitioner's arrest and detention are unlawful and violate, inter alia, the Fourth and Fifth Amendments;
- 5) Award Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, other statutes; and
- 6) Grant such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Ronald D. Richey

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