

INTRODUCTION

1. Ms. Veronica LOPEZ is a 46-year-old native and citizen of Venezuela. Petitioner LOPEZ entered the United States with her twelve-year-old son on December 29, 2024. On April 11, 2025, Petitioner timely filed her asylum application, with her son as a derivative applicant, 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 checking in to ISAP via video call. However, in May of 2025, when Petitioner was at her twelve-year-old son's graduation event, she received a video call from ISAP. She attempted to respond, but there was no signal. ISAP then contacted her emergency contact, who was able to get in contact with Petitioner. Petitioner then contacted ISAP soon after. Yesterday, November 6, 2025, she was prepared for her monthly video call when ICE informed her 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 to Baltimore upon her arrival. Petitioner is being held at the Immigration and Customs Enforcement Baltimore Field Office at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201, in deplorable conditions.
3. Petitioner LOPEZ petitions this Court to issue a Writ of Habeas Corpus seeking relief to remedy her unlawful detention by ICE. 28 U.S.C. § 2241. She fears her imminent transfer to another state and/or removal from the United States.

- Ms. LOPEZ has very strong family and community ties in Maryland, including her minor son, daughter, son-in-law, granddaughter, and local counsel. Moreover, Petitioner has **no** criminal record in the United States or anywhere in the world.

CUSTODY

- Petitioner is in the physical custody of Respondents. Petitioner is detained at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION AND VENUE

- 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.
- Venue is proper in the District of Maryland because that is where Petitioner is detained 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

- Petitioner Veronica LOPEZ is a citizen and national of Venezuela who has a pending asylum application with USCIS. Moreover, she has never been in removal proceedings before an immigration court.

9. 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.
10. 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 Ms. LOPEZ are under his direction. Mr. Lyons is being sued in his official capacity only.
11. 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. Ms. LOPEZ is held by ICE agents under Ms. Baker's direction. Ms. Baker is being sued in her official capacity only.

FACTUAL ALLEGATIONS

12. Petitioner is a national and citizen of Venezuela who entered the United States on or about December 29, 2024, with her minor son.
13. Petitioner timely filed her asylum application on or about April 11, 2025, including her minor child as a derivative applicant, 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 has never been in removal proceedings before an immigration court.
14. Petitioner was regularly checking in to ICE/ISAP via video call. Yesterday, November 6, 2025, she was prepared for her monthly video call when ICE informed her 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 to Baltimore upon her arrival. Petitioner is being held at the Immigration and Customs Enforcement Baltimore Field Office at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201, in deplorable conditions.

15. Petitioner has no criminal record and lives with her minor son, daughter, son-in-law, and granddaughter in District Heights, Maryland.

LEGAL BACKGROUND

A. Statutory and Constitutional Limits for Immigration Detention

16. 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)).
17. 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.

18. 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 Ill)*, 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).

19. 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

20. Petitioner re-alleges and incorporates by reference the paragraphs above.
21. Petitioner's detention violates substantive and procedural due process guarantees of the U.S. Constitution, as there is no legal basis for detaining someone who has timely filed

their asylum application with USCIS, is not in removal proceedings, has no criminal record, and has very strong family and community ties in Maryland.

22. 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.
23. “[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”).
24. “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.
25. A person like Petitioner, with a meritorious claim for asylum pending before USCIS and who is not presently in removal proceedings, is entitled to be free from arbitrary and capricious detention under the Due Process Clause.
26. 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).
27. 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)).

28. 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 Habeas Petitioner.
29. 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 28 U.S.C. § 1361 (Writ of Mandamus)

30. Petitioner re-alleges and incorporates by reference the paragraphs above.
31. Petitioner’s detention despite having a pending meritorious asylum claim before USCIS is an abuse of discretion and unlawful.
32. For these reasons, this Court should order Immigration and Customs Enforcement to immediately release Petitioner LOPEZ 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 his ties here in the community. Petitioner’s minor son, daughter, son-in-law, and granddaughter greatly depend on her for their well-being and stability.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

- 1) Assume jurisdiction over this matter;
- 2) Grant a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, on reasonable conditions of supervision if necessary;
- 3) Order Respondents to show cause, returnable within three days pursuant to 28 U.S.C. §2243, as to why the relief requested in this petition should not be granted;
- 4) Declare the Petitioner's detention is unlawful and violates, inter alia, Due Process;
- 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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