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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION**

Anisley GENER-GUILLOT,

Petitioner,

v.

KRISTI NOEM, Secretary for the Department
of Homeland Security; TODD LYONS,
Acting Director, Immigration and Customs
Enforcement; CAMILLA WAMSLEY, Field
Office Director, Immigration and Customs
Enforcement Seattle Field Office; BRUCE
SCOTT, Warden, Northwest ICE Processing
Center,

Respondents.

Case No.

Agency No.



**PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241**

INTRODUCTION

1. Petitioner is native of Cuba who lawfully entered the United States on December 1, 2023, via a parole entry program created by Department of Homeland Security (“DHS”) under 8 U.S.C. § 1182(d)(5). In January of 2025, she applied to adjust her status to lawful permanent resident while still under a valid period of parole. Nonetheless, after committing no crimes or immigration violations, she was arrested in Oregon on November 1, 2025, with ICE agents using multiple vehicles to surround her car. Petitioner was given no reason for the necessity of this act and is now detained in the Northwest ICE Processing Center in Tacoma, Washington. A writ of habeas corpus is necessary and proper given the facts of this case, under which Petitioner has no ability to seek a bond for release from detention through an immigration judge.

PARTIES

2. Petitioner, Ms. Anisley Gener-Guillot, is a Cuban national who is presently detained at the Northwest ICE Processing Center in Tacoma, Washington.

3. Respondent, Ms. Kristi Noem, is sued in her official capacity as the Secretary of the Department of Homeland Security. She is sued as the cabinet-level secretary responsible for all immigration enforcement in the United States.

4. Respondent, Mr. Todd Lyons, is sued in his official capacity as the Acting Director of Immigration and Customs Enforcement (“ICE”), which is responsible for all immigration enforcement in the United States.

5. Respondent, Ms. Camilla Wamsley, is sued in her official capacity as the Field Office Director of Seattle’s ICE Field Office, which is responsible for the apprehension,

detention, and removal of noncitizens within the Field Office's jurisdiction. She is the immediate legal custodian of the Petitioner for purposes of a federal habeas petition.

6. Respondent, Mr. Bruce Scott, is sued in his official capacity as the Warden of the Northwest ICE Processing Center, the privately-operated immigration detention facility where Petitioner is being held in federal custody. He exercises direct custody over the Petitioner.

JURISDICTION

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.; *see also Reno v. Flores*, 507 U.S. 292, 306 (1993) (affording immigrants Due Process under the Fifth Amendment).

8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

9. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

10. Venue is appropriate under 28 U.S.C. § 1391(e)(1) because the Petitioner is detained in this judicial district.

11. For these same reasons, divisional venue is proper under Local Rule 3-2.

FACTUAL ALLEGATIONS

12. Petitioner was granted humanitarian parole through the Cuban Haitian Nicaraguan Venezuelan (“CHNV”) program instituted by DHS in January of 2023. She applied via a sponsor in the United States (her uncle) and was approved for a paroled entry while still in Cuba. Petitioner then entered the United States lawfully on December 1, 2023, through the Miami, FL Port-of-Entry, and was subsequently issued an I-94 indicating a “CHP” (Cuban Humanitarian Parole) entry by way of the CHNV program.

13. Soon afterward, Petitioner established a residence located at 12173 SE Powell Blvd., Apt. D-2, Portland, OR 97236.

14. In January of 2025, Petitioner lawfully applied to adjust her status under the Cuban Refugee Adjustment Act (“CAA”). *See* PL 89-732, 80 Stat 1161 (Nov. 2, 1966). To be eligible for this benefit, U.S. Citizenship and Immigration Services (“USCIS”) requires that the applicant be (1) a native or citizen of Cuba, (2) inspected and admitted or paroled into the U.S. after January 1, 1959, (3) not inadmissible to the United States under 8 U.S.C. § 1182, (4) physically present at the time of filing Form I-485, (6) physically present for at least one year before filing Form I-485, and (7) one who has properly filed their application to adjust status. All conditions were met in this case. Petitioner’s I-485 was accepted by USCIS, and her fingerprints were captured for biometric purposes at a later date.

15. Petitioner’s period of CHNV humanitarian parole expired on June 12, 2025, while her application to adjust status or register permanent residence was lawfully pending.

16. Petitioner has had no criminal arrests in the United States.

17. Petitioner received authorization to work in the United States and has not been employed without authorization.

18. In 2025, Petitioner filed Form 1040 with the IRS and does not owe any overdue taxes to the federal government.

19. On November 1, 2025, Petitioner and her cousin – whose legal situation is identical to her own – were driving in Portland when they were intercepted by several cars owned or leased by the Department of Homeland Security. Both were taken into DHS custody and have since been at the Northwest ICE Processing Center in Tacoma, Washington. Petitioner and her cousin were given no discernable reason by DHS officials as to why they were being detained when they had no criminal history, had been paroled legally into the United States, and had pending applications for permanent residency that are eminently approvable.

20. On November 3, 2025, the DHS Office of the Principal Legal Advisor (“OPLA”) filed a Notice to Appear against Petitioner, charging her as an “arriving alien” removable from the United States.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

21. The Court must grant a petition for writ of habeas corpus or issue an order to show cause (“OSC”) to the Respondents “forthwith,” unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court requires that Respondents file a return “within three days unless for good cause for additional time, not exceeding twenty days, is allowed.” *Id.*

22. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and

imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

23. Petitioner is “in custody” for the purpose of § 2241 because she is currently detained at the Northwest ICE Processing Center. “[T]he Supreme Court has repeatedly held that the in-custody requirement [of 28 U.S.C. § 2241] is met where the Government restricts a petitioner’s freedom of action or movement,” including through an immigration order of supervision. *See Doe v. Barr*, 479 F. Supp. 3d 20, 26 (S.D.N.Y. 2020), *citing Jones v. Cunningham*, 371 U.S. 236 (1963) and *Spencer v. Kemna*, 523 U.S. 1, 7 (1998); *see also, e.g., Devitri v. Cronen*, 290 F. Supp. 3d 86, 90 (D. Mass. 2017) (finding the same); *Alvarez v. Holder*, 454 F. App’x 769, 772-72 (11th Cir. 2011) (same).

LEGAL FRAMEWORK

24. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution.

25. The Immigration and Nationality Act (INA) establishes various procedures through which individuals may be detained pending a decision on whether the noncitizen is to be removed. 8 U.S.C. § 1226(a).

26. Removal proceedings described in section 240 of the INA are used to determine whether individuals, such as Petitioner, should be removed from the United States. *See* 8 U.S.C. § 1229a.

27. Immigration detention is a form of civil confinement that “constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

28. Custody determinations for “arriving aliens” in § 1229a removal proceedings are governed by 8 U.S.C. § 1225. Under § 1225(b)(1)(iv), such aliens are subject to mandatory detention. However, the DHS has the authority to parole such persons from custody, as it regularly does under 8 C.F.R. § 212.5(a)-(c) (*see also* 8 U.S.C. § 1182(d)(5)).

29. The regulation referenced at ¶ 28 provides that an alien who presents neither a security risk nor a risk of absconding may be paroled if their “continued detention is not in the public interest as determined by [DHS officials]”. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006). Here, Petitioner was (a) lawfully paroled into the United States, (b) properly filed an application to register her permanent residence, and (c) has had no criminal arrests or incidents giving rise to the notion that she is a danger to her community. Although she overstayed her period of parole, by that time she had properly filed an application to adjust her status to lawful permanent resident. *See* Public Law 96-422 (Oct. 10, 1980) (referring to Cuban nationals as being paroled in a “special status”).

30. For nearly one year, Petitioner has been waiting for the adjudication of Form I-485, which USCIS exercises exclusive jurisdiction over. *See* 8 C.F.R. § 245.2(a)(1), 1245(a)(1)(ii); *Matter of Martinez-Montalovo*, 24 I&N Dec. 778 (BIA 2009) (confirming EOIR CAA jurisdiction only for Cuban nationals admitted to the United States on a grant of advance parole to pursue a previously filed application). She cannot pursue this form or relief through an immigration court, and detained courts such as that in Tacoma are designed for the expedited

removal of noncitizens. If Petitioner is released from custody, there is little risk of her absconding from ICE as she has a lawful and likely path toward permanent immigration status.

31. The Department of Homeland Security has not offered any form of explanation as to why Petitioner's continued detention or removal from the United States is in the "continued interest of the United States." The agency has apparently not conducted a "case-by-case determination" regarding her custodial status, as it is required to by regulation.

32. A writ of habeas corpus is especially necessary in this case because, as an "arriving alien," Petitioner is statutorily ineligible to receive a bond through an immigration judge.

33. Once a determination to release an individual from custody is made, the release order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8 U.S.C. § 1226(b). For an individual who was once in custody, the DHS may take that person back into custody by revoking their release when the facts and circumstances warrant it.

34. Revocation and a return to custody are authorized only based on the individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9).

CLAIMS FOR RELIEF

COUNT ONE

**Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) – Abuse of Discretion
Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**

35. Petitioner restates and realleges all paragraphs as if fully set forth here.

36. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

37. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

38. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

39. By categorically revoking Petitioner’s freedom and bringing her into federal custody, without consideration of his individualized facts and circumstances, Respondents have violated the APA.

40. By continuing to detain Petitioner, Respondents have further abused their discretion as there have been no changes to his facts or circumstances since the agency made its initial custody determination supporting a revocation of her non-custodial status.

41. Respondents have already considered Petitioner’s facts and circumstances and determined that she is not a flight risk or danger to the community. The DHS itself granted her humanitarian parole and authorized her travel to the United States. There have been no changes to the facts that justify the revocation of freedom. The fact that Petitioner has already been permitted to live in the United States – under the same facts and circumstances which existed in

December of 2023 – shows that Respondents do not consider her, on an individualized basis, to be a danger to the community or a flight risk.

COUNT TWO

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) – Not in Accordance with Law and in Excess of Statutory Authority, Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

42. Petitioner restates and realleges all paragraphs as if fully set forth here.

43. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction, authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

44. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke . . . parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such revocations of release from custody may only be carried out in the “discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign).”

45. It is a well-established administrative principle that “agency action taken without lawful authority is at least voidable, if not void *ab initio*.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); *see also Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating agency action because it was taken by unauthorized official).

46. Respondents have revoked Petitioner's ability to live freely in the United States because of a categorical policy prepared by and implemented by government officials in Washington D.C., not by the individual exercise of discretion required by law or by the individuals enumerated by regulation to do so.

47. Respondents' detention of Petitioner is not in accordance with law and exceeds their statutory authority.

COUNT THREE
Violation of Fifth Amendment Right to Procedural Due Process

48. Petitioner restates and realleges all paragraphs as if fully set forth here.

49. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

50. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

51. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custodial decisions under 8 U.S.C. § 1226(b), this discretion is not "unlimited" and must comport with constitutional due process. *Zadvydas*, 533 U.S. at 698.

52. The revocation of Petitioner's ability to live freely in the United States, while her application to register permanent residence is pending, was done in an arbitrary manner, not based on a rational and individualized determination of whether she is a safety or flight risk, and

is a violation of due process. Because no individualized custody revocation has been made and no circumstances have changed to make Petitioner a flight risk or danger to her community, Respondents' revocation of Petitioner's release would violate her right to procedural due process.

COUNT FOUR
Violation of the Fifth Amendment Right to Counsel

53. Upon information and belief, the Department of Homeland Security may intend to move Respondent to an immigration detention facility in Louisiana.

54. On Sunday, November 9, 2025, Respondent's cousin was woken up in the early morning hours, driven to Boeing Field, and was only not flown to Louisiana because the plane he was intending to board had reached its capacity.

55. The constitutional right to counsel includes the ability to communicate effectively with one's attorney and to prepare a defense. 8 U.S.C. § 1362; *Usubakunov v. Gonzales*, 16 F.4th 1299, 1304-1305 (9th Cir. 2021); *Gomez-Velazco v. Sessions*, 879 F.3d 989, 993 (9th Cir. 2018).

56. The Ninth Circuit has found that transferring detainees to remote locations without notifying their attorney or providing access to legal representation is a violation of the right to counsel. *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 565-66 (9th Cir. 1990); *see also Innovation Law Lab v. Nielsen*, 342 F.Supp.3d 1067, 1080 (D. Or. 2018).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- 1) Assume jurisdiction over this matter;

- 2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- 3) Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- 4) Declare that Petitioner's current detention was made in violation of statute and regulation;
- 5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- 6) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
- 7) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- 8) Grant any further relief this Court deems just and proper.

Dated: November 12, 2025.

s/ Benjamin Cornell

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VERIFICATION OF PETITIONER

On behalf of Anisley Gener-Guillot, the party in custody, I verify the facts contained in the Petition for Writ of Habeas Corpus, upon information and belief and having reviewed the relevant records and pleadings. Ms. Gener-Guillot has not verified the petition herself because she is currently held in ICE detention and the circumstances require a prompt filing.

November 11, 2025

Date

s/ Benjamin Cornell

Benjamin Cornell, WSBA 49553

CERTIFICATE OF SERVICE

The undersigned hereby certifies I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

U.S. Attorney's Office
Email: usawaw.habeas@usdoj.gov

Dated: November 12, 2025

s/ Benjamin Cornell
Benjamin Cornell, WSBA 49553