

Petition for a Writ of Habeas Corpus 28 U.S.C. § 2241

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS**

MAYRA NORELI HERNANDEZ-
ALMANZA,


Petitioner,

v.

KRISTI NOEM, in her official capacity as
Secretary of the Department of Homeland
Security;
TODD LYONS, in his official capacity as
Acting Director of U.S. Immigration and
Customs Enforcement;
MIGUEL VERGARA, Office Director of
the San Antonio Field Office of ICE;
SUSAN AIKMAN, Assistant Chief
Counsel of U.S. Immigration and Customs
Enforcement;
JUAN S. DIAZ, Warden of the Laredo
Processing Center;
PAMELA BONDI, Attorney General of the
U.S.,
DAREN K. MARGOLIN, Director of the
Executive Office for Immigration Review,
Respondents.


Respondents.

CIVIL ACTION NO. 5:25-cv-215

Immigration No. A 

**PLAINTIFF'S ORIGINAL VERIFIED
PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. § 2241
AND REQUEST FOR DECLARATORY
AND INJUNCTIVE RELIEF**

INTRODUCTION

1. This is a petition for a writ of habeas corpus on behalf of petitioner Maya Noreli Hernandez-Almanza (A# .
2. Mrs. Hernandez-Almanza is a 40-year-old Mexican native. She resides in San Antonio, Texas.

3. Mrs. Hernandez-Almanza was admitted into the United States in 2009 on a non-immigrant visa.

4. Mrs. Hernandez-Almanza has a pending Form I-130, Petition for Alien Relative, filed by her U.S. Citizen spouse, Alberto Espinosa.

5. Mrs. Hernandez-Almanza is prima facie eligible to adjust to Lawful Permanent Resident ("LPR") status.

6. On January 30, 2013, Mrs. Hernandez-Almanza was arrested for alleged Theft of Property $\geq \$50 < \500 . She was never convicted or prosecuted for this charge. Mrs. Hernandez-Almanza's theft charge was rejected by the Webb County District Attorney on June 26, 2015. She has never been convicted of any other crime.

7. On July 29, 2015, Mrs. Hernandez-Almanza was detained by immigration officials in Laredo, TX, for overstaying her nonimmigrant visa. She was placed in removal proceedings and released on recognizance. Mrs. Hernandez-Almanza was instructed to report with ICE throughout the pendency of her proceedings.

8. In July 2025, Mrs. Hernandez-Almanza was placed in civil immigration detention by immigration officials in Laredo, TX.

9. Mrs. Hernandez-Almanza is presently detained by ICE at the Laredo Detention Center pursuant to 8 U.S.C. § 1226.

10. Following her detention, Mrs. Hernandez-Almanza requested a custody redetermination pursuant to 8 C.F.R. § 1236. The hearing was scheduled for August 14, 2025, at the Laredo Immigration Court.

11. At the scheduled hearing, the Immigration Court ruled that Mrs. Hernandez-Almanza was a danger to the community and had not met her burden to show that she merited

release on bond. Although the Court found the Laken Riley Act to be inapplicable, the Court relied on the Act's enumerated crimes, which included theft, to conclude that Mrs. Hernandez-Almanza was a danger to society.

12. Mrs. Hernandez-Almanza is being held as a detainee for the duration of her removal proceedings.

13. Mrs. Hernandez-Almanza appealed the decision of the immigration judge denying her custody redetermination to the Board of Immigration Appeals ("BIA"). The appeals process with the Board is likely to last several months.

14. These removal proceedings are likely to last for a prolonged period of time. Mrs. Hernandez-Almanza's continuing loss of liberty violates the Due Process Clause of the Fifth Amendment of the United States Constitution. Unless the Court acts, this unjust deprivation of Mrs. Hernandez-Almanza's liberty will likely last for many months and potentially years.

15. Mrs. Hernandez-Almanza respectfully requests immediate relief in the form of a writ of habeas corpus requiring that she be released from detention.

PARTIES

16. Mrs. Hernandez-Almanza is a resident of Texas. She has been held in civil immigration detention since July 2025. ICE is currently detaining Mrs. Hernandez-Almanza at the Laredo Detention Center.

17. Respondent Kristi Noem is the U.S. Secretary of Homeland Security.

18. Respondent Todd Lyons is the Acting Director of the U.S. Immigration and Customs Enforcement.

19. Respondent Miguel Vergara is the San Antonio Office Director for ICE.

20. Respondent Susan Aikman is the Assistant Chief Counsel for ICE.

21. Respondent Juan S. Diaz is the Warden of the Laredo Detention Center and is Petitioner's immediate custodian.

22. Respondent Pamela Bondi is the U.S. Attorney General.

23. Respondent Daren K. Margolin is the Director of the Executive Office for Immigration Review.

24. All respondents are named in their official capacities.

JURISDICTION AND VENUE

25. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), and 28 U.S.C. § 1331 (federal question jurisdiction).

26. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar this suit. Petitioner does not challenge a final order of removal, nor seek class-wide relief. Detention-based habeas claims are not channeled by Section 1252(b)(9). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018). Section 1252(g) is narrowly construed and does not foreclose review of unlawful custody or *ultra vires* attempts to switch a non-final INA § 240 case into expedited removal. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–83 (1999) (hereinafter also referred to as “*Reno v. AADC*”). Individual injunctive relief is not barred by Section 1252(f)(1). *See Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065–66 (2022).

27. Venue is proper in the Southern District of Texas, as Mrs. Hernandez-Almanza is currently detained at the Laredo Processing Center within the District.

28. Mrs. Hernandez-Almanza has exhausted her administrative remedies to the extent required by law. Mrs. Hernandez-Almanza submitted a motion for redetermination of custody with an immigration judge, which was denied. She filed an appeal of the immigration judge's decision

denying bond. However, it is futile to wait for the resolution of the appeal process with the BIA, given the time it will take for the BIA to review and issue a decision in this case.

LEGAL BACKGROUND

29. The Due Process Clause of the Fifth Amendment protects both citizens and noncitizens. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (Fifth Amendment protections apply to noncitizens “whether their presence here is lawful, unlawful, temporary, or permanent”).

30. Section 236 of the Immigration and Nationality Act, 8 U.S.C. § 1226, provides for the civil detention of noncitizens during the pendency of their removal proceedings in certain circumstances and subject to important Due Process safeguards. These procedural safeguards are critically important not only because detention involves depriving a person of their liberty and separating them from their home and family, but also because Section 1226 detention is “frequently prolonged.” *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 30 (1st Cir. 2021) (explaining that Section 1226 detention continues “until all proceedings and appeals are concluded... even where an individual prevails and the government appeals.”).

31. Accordingly, the baseline Due Process requirement for civil immigration detention is that the detainee receive an individualized bond hearing to determine whether the individual can be released on bond, or must be detained due to flight risk or dangerousness. This requirement is implemented through Section 1226(a) and its regulations, which provide for detention or release depending on the outcome of a bond hearing at which an Immigration Judge considers the individual’s particular facts and circumstances. *See* 8 C.F.R. § 1236.1(d)(1). The noncitizen must demonstrate to the satisfaction of the Immigration Judge that such release would not pose a danger to property or persons, and that the noncitizen is likely to appear for any future proceeding. *See* 8 C.F.R. 1236.1(c)(8).

32. The Supreme Court has recognized only one exception to this baseline Due Process requirements. In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court held that noncitizens “convicted” of certain serious crimes and who conceded removability could be detained categorically for the brief period necessary for their removal proceedings. This exception is found in Section 1226(c), which provides for mandatory detention for noncitizens who have committed certain serious criminal offenses or are involved in terrorism. Detention without a bond hearing in such circumstances “serves the purpose of preventing deportable criminal aliens from fleeing prior to or during their removal proceedings[.]” *Demore*, 538 U.S. at 528 (2003).

33. The Laken Riley Act, Pub. L. 119-1, 139 Stat. 3 (2025), added a new subparagraph, 8 U.S.C. § 1226(c)(1)(E), that makes detention mandatory for nonresidents who satisfy two conditions. First, the nonresident must be inadmissible under paragraph (6)(A), (6)(C), or (7) of section 1182(a). 8 U.S.C. § 1226(c)(1)(E)(i). Second, the nonresident must be “charged with...arrested for...convicted of, admit having committed, or admit committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or” certain other violent offenses. 8 U.S.C. § 1226(c)(1)(E)(ii). Under the Laken Riley Act, detention is mandatory even if a nonresident is merely charged or arrested for certain crimes.

STATEMENT OF FACTS

34. Mrs. Hernandez-Almanza is 40 years old. She resides in San Antonio, TX.

35. Mrs. Hernandez-Almanza was admitted into the United States in 2009 with a non-immigrant visa.

36. On January 30, 2013, Mrs. Hernandez-Almanza was arrested for alleged Theft of Property >=\$50<\$500.

37. Mrs. Hernandez-Almanza was never convicted or prosecuted for this charge. The Webb County District Attorney rejected prosecution on the charge on June 26, 2015. She has never been convicted of any other crime.

38. On July 29, 2015, immigration officials detained Mrs. Hernandez-Almanza in Laredo, TX, for overstaying her non-immigrant visa. She was placed in removal proceedings and released on her recognizance.

39. Mrs. Hernandez-Almanza was instructed to report to ICE throughout her removal proceedings.

40. On June 26, 2025, Mrs. Hernandez-Almanza's U.S. Citizen husband filed a family petition on her behalf with U.S. Citizenship and Immigration Services ("USCIS"). The petition is in the Immediate Relative category and remains pending.

41. Mrs. Hernandez-Almanza has a bona fide relationship with her husband, and they share four U.S. citizen children.

42. Since Mrs. Hernandez-Almanza entered legally and is an Immediate Relative of a U.S. Citizen, she is prima facie eligible to adjust her status to a legal permanent resident pursuant to 8 U.S.C. § 1255.

43. In July 2025, Mrs. Hernandez-Almanza was placed in civil immigration detention by immigration officials in Laredo, TX while attempting to cross an immigration checkpoint traveling from Laredo, Texas to San Antonio, Texas. She is presently detained by ICE at the Laredo Detention Center pursuant to 8 U.S.C. § 1226.

44. Afterward, Mrs. Hernandez-Almanza requested a custody redetermination pursuant to 8 C.F.R. § 1236 and was given a hearing on August 14, 2025, at the Laredo Immigration Court.

45. On August 14, 2025, the Immigration Court recognized that Mrs. Hernandez-Almanza was not subject to any mandatory detention provision and was eligible for release from custody. Furthermore, the Immigration Court found the Laken Riley Act to be inapplicable to Mrs. Hernandez-Almanza's case, as she was not inadmissible under the statute's required grounds.

46. Despite its inapplicability, the Immigration Court relied on the Act's enumerated crimes in Mrs. Hernandez-Almanza's bond determination. The Immigration Court identified Mrs. Hernandez-Almanza's 2013 theft charge. It proclaimed that "The fact that the [Laken Riley Act] requires mandatory detention for certain enumerated crimes, which includes theft, weighs heavily on the court." The Immigration Court stated that Mrs. Hernandez-Almanza's 2013 theft arrest remained a "source of serious concern." As a result, the Immigration Court concluded that Mrs. Hernandez-Almanza was a danger to the community and denied her a bond.

47. Since Mrs. Hernandez-Almanza was eligible for bond, pursuant to the Due Process requirements articulated above, she was entitled to receive individualized consideration of whether she presented a danger or a flight risk, and, if not, be offered release on bond for the pendency of her removal proceedings. Mrs. Hernandez-Almanza had been complying with all her reporting requirements with immigration since she was released from immigration custody in 2015. She had not violated any terms of the condition of her release so as to justify the revocation of her release and subsequent detention.

48. Nevertheless, Mrs. Hernandez-Almanza was denied meaningful individualized bond consideration due to the Immigration Court's improper reliance on the Laken Riley Act. Mrs. Hernandez-Almanza has never been adjudicated guilty of any serious criminal offense that might arguably serve as a proxy for a danger to the community or flight risk determination. There is consequently no reason to believe that Mrs. Hernandez-Almanza's continued detention serves any

purpose of ensuring the safety of the community and the future appearance of the noncitizen at immigration proceedings.

49. Accordingly, Mrs. Hernandez-Almanza's continued detention, likely for a prolonged period of time, violates her right to procedural and substantive Due Process.

CLAIM FOR RELIEF

COUNT I – WRIT OF HABEAS CORPUS DETENTION IN VIOLATION OF THE FIFTH AMENDMENT RIGHT TO DUE PROCESS

50. The foregoing allegations are re-alleged and incorporated herein.

51. The government is *jailing* Mrs. Hernandez-Almanza for a prolonged period of time based on an improper reliance on the Laken Riley Act.

52. Mrs. Hernandez-Almanza's detention violates the Due Process Clause of the 5th Amendment to the United States Constitution.

53. Mrs. Hernandez-Almanza's detention, based solely on the misplaced dependence on the Laken Riley Act and unproven accusations, does not serve the purposes of civil immigration detention, is arbitrary and punitive in nature, and violates the Due Process Clause of the Fifth Amendment to the United States Constitution.

PRAYER FOR RELIEF

WHEREFORE, Mrs. Hernandez-Almanza asks this Court to GRANT the following relief:

54. Expedite consideration of this Petition to the maximum extent possible pursuant to 28 U.S.C. § 2243

55. Enter an order prohibiting Mrs. Hernandez-Almanza's transfer from this District to any other detention location

56. Issue a Writ of Habeas Corpus ordering Respondents to release Mrs. Hernandez-Almanza.

57. Enter an order requiring that Mrs. Hernandez-Almanza be released on conditions the Court deems necessary or appropriate pending the adjudication of this Petition, or other interim relief the Court deems just and proper.

58. Grant further relief, this Court deems just and proper.

Respectfully submitted,

Mayra Noreli Hernandez-Almanza

By and through her counsel,

/s/Pablo E. Rivera

Pablo E. Rivera

Attorney

Texas Bar No. 24079216

5835 Callaghan Rd, Suite 503

San Antonio, TX 78228

Tel. (210) 922-8541

Fax. (210) 922-8547

Email: privera@rhc.law

Southern DT bar #2375227

CERTIFICATE OF SERVICE

I hereby certify that on October 29, 2025, a true copy of the above document was filed via the Court's CM/ECF and that a copy will be sent automatically to all counsel of record.

November 12, 2025

/s/Pablo E. Rivera

Pablo E. Rivera
Attorney
Texas Bar No. 24079216
5835 Callaghan Rd, Suite 503
San Antonio, TX 78228
Tel. (210) 922-8541
Fax. (210) 922-8547
Email: privera@rhc.law
Southern DT bar #2375227