

HABEAS CORPUS PETITION

Pursuant to 28 U.S.C. § 2241

'25CV3277 JES JLB



Court: United States District Court for the Southern District of California

Petitioner: María Eugenia Atencio Machado

Alien Number: ~~XXXXXXXXXX~~

Detention Facility: Otay Mesa Detention Center – San Diego, California

Respondents:

Director of the Otay Mesa Detention Center

Director of ICE – San Diego Field Office

Secretary of the Department of Homeland Security (DHS)

Attorney General of the United States

I. Introduction

Petitioner María Eugenia Atencio Machado, a Venezuelan citizen with Alien Registration Number ~~XXXXXXXXXX~~ respectfully submits this Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241, challenging her prolonged and unjustified detention by Immigration and Customs Enforcement (ICE) at the Otay Mesa Detention Center in California.

Petitioner seeks immediate release or, alternatively, a custody hearing before an Immigration Judge, because her current detention violates the constitutional guarantees of due process, personal liberty, and protection against arbitrary detention under the Fifth and Eighth Amendments of the United States Constitution.

II. Statement of Facts

1. Ms. Atencio Machado is a citizen of Venezuela who entered the United States by voluntarily presenting herself at a port of entry and complying with all U.S. government immigration protocols.

2. Since her entry, she has voluntarily complied with all immigration and ICE check-in requirements, demonstrating good faith and full cooperation with authorities.

3. On the day of her detention, she voluntarily appeared for an ICE appointment, where she was unexpectedly arrested and taken into custody despite having an active immigration case and without having committed any crime.

4. On October 20, 2025, the Board of Immigration Appeals (BIA) formally received and accepted her appeal, confirming that her immigration proceedings remain pending and that no final order of removal is in effect.

5. As of the date of this petition, Ms. Atencio Machado has remained detained without any meaningful judicial review of her custody or any valid justification for depriving her of liberty.

6. The petitioner does not pose a danger to the community, has no criminal record, is not a flight risk, and maintains strong family and community ties in the United States.

7. Her prolonged detention under these circumstances constitutes a violation of due process, is arbitrary and unreasonable, and is contrary to controlling federal jurisprudence.

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III. Legal Grounds

A. Fifth Amendment Violation – Right to Due Process

The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Detaining Ms. Atencio Machado despite her pending appeal, without an evaluation of dangerousness or flight risk, violates both substantive and procedural due process.

B. Eighth Amendment Violation – Protection Against Excessive Punishment

Indefinite detention without justification or a hearing constitutes excessive punishment, contrary to the Eighth Amendment and to the principles of proportionality and humane treatment governing civil immigration detention.

C. Violation of the Reasonableness Requirement Under 28 U.S.C. § 2241

Under 28 U.S.C. § 2241, any person detained by the federal government has the right to have a court determine whether their detention is lawful. Here, the prolonged detention without judicial review is unlawful and arbitrary.

IV. Relevant Case Law

Petitioner's situation is protected by binding precedents limiting prolonged immigration detention without justification or judicial review:

1. *Zadvydas v. Davis*, 533 U.S. 678 (2001)

The Supreme Court held that post-order detention cannot exceed a reasonable period (generally six months) without specific justification.

→ In this case, Ms. Atencio Machado does not have a final order of removal, and her detention exceeds the reasonableness standard even under *Zadvydas*.

2. *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018)

The Court recognized the right of immigrants detained for prolonged periods to periodic judicial review.

3. *Casas-Castrillón v. DHS*, 535 F.3d 942 (9th Cir. 2008)

The Ninth Circuit held that individuals with pending appeals before the BIA have the right to a bond hearing because their detention cannot be indefinite.

4. *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013)

The Court determined that ICE must provide a bond hearing every six months for prolonged detainees, with the government bearing the burden of proving dangerousness or flight risk.

5. *Demore v. Kim*, 538 U.S. 510 (2003)

Although the Court upheld brief detention of certain immigrants, it clarified that prolonged detention without review or justification violates due process.

Accordingly, Ms. Atencio Machado's current detention lacks legal basis and violates fundamental constitutional rights.

V. Constitutional Rights Violated

1. Right to personal liberty and individual security (5th and 14th Amendments).
2. Right to substantive and procedural due process.
3. Protection against arbitrary and indefinite detention.
4. Right to judicial review and a fair hearing.
5. Principles of proportionality and humane treatment (Eighth Amendment and applicable human rights standards recognized in U.S. jurisprudence).

VI. Relief Requested

For the foregoing reasons, petitioner respectfully requests that this Honorable Court:

1. Issue a Writ of Habeas Corpus ordering her immediate release under supervision or on her own recognizance while her appeal before the BIA is pending.
2. Alternatively, order a custody (bond) hearing before an Immigration Judge within no more than 10 days.

3. Require ICE to justify her prolonged detention and prove, with clear and convincing evidence, that Ms. Atencio Machado is a flight risk or a danger to the community — which has not been demonstrated.

4. Grant any other equitable relief that this Court deems just and appropriate.

VII. Certification

Petitioner declares under penalty of perjury that the information contained in this petition is true and correct to the best of her knowledge and belief.

Executed in San Diego, California, on the 14th day of November, 2025.

Signed:

A black rectangular box with a white 'X' through it, used to redact the signature of the petitioner.


María Eugenia Atencio Machado

A black rectangular box with a white 'X' through it, used to redact the address of the petitioner.

Detainee at Otay Mesa Detention Center
7488 Calzada de la Fuente
San Diego, CA 92154

PROOF OF SERVICE

I, María Eugenia Atencio Machado, declare that on 11-15-2025, I mailed the following document:

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241
on behalf of detainee María Eugenia Atencio Machado 

I served copies by U.S. Mail to:

1. Clerk of the Court
U.S. District Court, Southern District of California
333 West Broadway, Suite 420
San Diego, CA 92101
2. U.S. Attorney's Office, Southern District of California
880 Front Street, Room 6293
San Diego, CA 92101
3. Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530
4. ICE Field Office Director – San Diego
880 Front Street, Suite 2242
San Diego, CA 92101

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 11-15-2025.

Signature:



Printed Name: María Eugenia Atencio Machado
Address: Otay Mesa Detention Center – San Diego, California