

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON

Lilia ALVARADO,
Detained,

Petitioner,

vs.

Cammilla WAMSLEY, Field Office
Director of Enforcement and Removal
Operations, Seattle Field Office,
Immigration and Customs Enforcement
(ICE); Kristi NOEM, Secretary,
U.S. Department of Homeland Security;
U.S. DEPARTMENT OF
HOMELAND
SECURITY; Pamela BONDI, U.S.
Attorney General; Bruce SCOTT,
Warden of Northwest ICE Processing
Center,
Respondents.

CASE NO.

AGENCY NO.

EMERGENCY PETITION
FOR WRIT OF HABEAS
CORPUS; MOTION FOR
TEMPORARY ORDER;
MOTION FOR STAY OF
REMOVAL; AND
COMPLAINT FOR
DECLARATORY
JUDGMENT

Emergency Petition For Writ Of Habeas Corpus - 1

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1 Petitioner is in the custody of the Respondents at the Northwest
2 Immigration Detention Center in Tacoma, Washington. Earlier this
3 evening she and her husband were taken aside by Immigration and
4 Customs Enforcement Officers and informed that they would be
5 deported to Mexico at 2:00 a.m. on November 25, 2025. Mrs.
6 Alvarado's husband was given the document attached as Exhibit 2.
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8 9 10 **BACKGROUND**

11 Petitioner Lilia Alvarado is 60 years old. She is married to Jose
12 Alvarado who is filing a contemporaneous Writ. They have resided in
13 the U.S. for over 35 years. The couple were married in June 1985 and
14 have remained together since that time, raising five successful children,
15 one of whom is a U.S. citizen, who has submitted and gotten approved,
16 I-130 filings for both of her parents. (See Exhibit 3)
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18 Lilia and Jose have also submitted applications to adjust status,
19 which have been dismissed due to the couple's *in absentia* removal
20 order from a Los Angeles Immigration Court, which was a result of the
21 family being tricked by a notario into filing an application for asylum
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1 that Jose and Lilia believed was simply an application for a work
2 permit. Neither Jose nor Lilia could read or write in Spanish or in
3 English at the time, other than to write their names.

4 The family did not understand that they had been ordered
5 removed *in absentia* for over a decade after it happened. When they
6 discovered this they retained an attorney who filed a motion to reopen
7 with the EOIR that was unsuccessful in 2011.
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11 **RELIEF FROM REMOVAL IS AVAILABLE**

12 Motion to Reopen Pending at the BIA

13 Mrs. Alvarado and her husband currently have a pending motion
14 to reopen with the Board of immigration Appeals seeking adjustment
15 of status based upon their U.S. citizen daughter's approved I-130
16 petitions and arguing that judicial appeal of the EOIR's decision on the
17 2011 motion to reopen would have, at that time, been judged under
18 standards referred to as "*Chevron* deference." *See Chevron U.S.A., Inc.*
19 *v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984). (See
20 Exhibit 4)
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1 *Chevron* deference required any Article III court (i.e. any federal
2 court) hearing an appeal of an agency decision, to defer to the agency’s
3 interpretation of the law, unless it could be shown that the agency’s
4 decision was “arbitrary and capricious” or an “abuse of discretion.” A
5 very high standard to meet in an appeal.
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7 A few months ago the Supreme Court overruled the *Chevron*
8 case, stating that federal courts must now review any agency decision
9 *de novo*, or in other words, with no deference to the agency’s findings.
10 See *Loper Bright Enterprises v. Raimondo*, 144 S.Ct. 2244 (2024).
11

12 The *Loper* case has significantly lowered the burden that Jose
13 and Lilia Alvarado must meet in order to now succeed on a motion to
14 reopen the *in absentia* removal order.
15

16 The *Loper* case will now allow a federal court to consider, *de*
17 *novo* – with no deference to the agency’s judgment – factors that could
18 not be addressed prior to *Loper*, including:
19

- 20 1. Under legal standards, did the Alvarados actually receive notice
21 of the August 1996 Immigration Court date that they did not
22 attend, which directly led to the *in absentia* removal order?
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1 2. Was an address change submitted to the EOIR in 1997, sent by
2 the Alvarado's, or was it by the notario who abused the family?

3 (This submission of an address change document was a major
4 factor in the Board's 2011 decision.)

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6 3. The *in absentia* order was issued in August 1996. On the date of
7 the decision, the applicable regulations contained no limit on a
8 time period for filing a motion to reopen. In September 1996
9 new regulations required a motion to reopen to be filed within
10 180 days of the issuance of a removal order. Was it legal to
11 apply the September 1996 regulations retroactively?

12
13 These and other issues were previously precluded from
14 consideration on appeal, due to the now-defunct *Chevron* deference.
15 The new *Loper* standard allows Jose and Lilia Alvarado to present a
16 fundamentally fuller picture to a court, which can now completely
17 ignore the agency.
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20 The *Loper* case states that "[c]ourts must exercise their
21 independent judgment in deciding whether an agency has acted within
22 its statutory authority," To do otherwise "precludes courts from
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1 exercising the judicial power vested in them by Article III to say what
2 the law is.” See *Loper Bright Enters. v. Raimondo*, 144 S. Ct. 2244,
3 2247 (2024).

4 A significant change in law that can fundamentally alter the
5 outcome of a proceeding, is an expressly allowed reason to reopen a
6 removal order. See 8 U.S.C. § 1229a(c)(7), see also 8 C.F.R. §§
7 1003.2(c); 1003.23(b)(3).
8

9 The Alvarado family asks to be allowed time to present and
10 adjudicate the above-described motion to the appropriate court or
11 agency, as it is likely to lead to the reopening and eventual dismissal of
12 the 1996 *in absentia* removal order; which in turn, will allow Jose and
13 Lilia to pursue adjustment of status.
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16 17 ICE Refuses to Provide a Credible Fear Interview

18 Under U.S. Federal law, ICE is required to provide a credible
19 fear interview if an alien expresses a fear of persecution or torture or
20 indicates an intent to apply for asylum.
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1 8 USCS § 1225 requires that if an alien subject to removal
2 expresses a fear of persecution or an intent to apply for asylum, the
3 immigration officer *must* refer the alien to a USCIS asylum officer for
4 a credible fear interview. This process is mandatory and serves as a
5 preliminary screening to determine whether there is a significant
6 possibility that the alien could establish eligibility for asylum. *See* 8
7 USCS § 1225, *Liang v. Garland*, 10 F.4th 106 (2nd Cir. 2021),
8 *Kiakombua v. Wolf*, 498 F. Supp. 3d (DC Cir. 2020)
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11 Both Jose and Lilia have repeatedly requested credible fear
12 interviews since being detained in August. Both have reason to fear
13 being returned to Mexico due to longstanding land and family issues
14 with criminal gangs there.
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16 As the emails attached as Exhibit 1 show, the Alvarado's legal
17 counsel has also repeatedly requested that interviews be scheduled and
18 conducted, to no avail.
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20 Refusing to comply with 8 USCS § 1225 and associated caselaw
21 is a violation of law and of due process.
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1 Under a Supreme court case named *United States ex rel. Accardi*
2 *v. Shaughnessy*, 347 U.S. 260 (1954), what is referred to as “The
3 *Accardi* doctrine” requires administrative agencies to adhere to their
4 own internal regulations and procedures, even if those procedures are
5 more rigorous than what might otherwise be required by a statute. This
6 principle originates from the Supreme Court's decision in the *Accardi*
7 case and has been consistently recognized in the Ninth Circuit – and by
8 the agencies themselves.
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11 The Ninth Circuit has applied the *Accardi* doctrine in various
12 contexts, such as requiring the IRS to adhere to its internal policy
13 statements and – relevant to our case – holding the Immigration and
14 Naturalization Service (INS) accountable to its "Operations
15 Instructions" *See Alcaraz v. INS*, 384 F.3d 1150 (9th Cir. 2004), In
16 *Chuyon Yon Hong v. Mukasey*, 518 F.3d 1030 (9th Cir. 2008), the court
17 noted that violations of agency regulations could compromise
18 fundamental fairness and due process rights. – As is the case here.
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21 The Ninth Circuit has clarified that to establish a claim under the
22 *Accardi* doctrine, plaintiffs must demonstrate both a violation of the
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1 agency's regulations and substantial prejudice resulting from that
2 violation – which is apparent in this case as the Alvarado family is about
3 to be torn from the life and family built here over many decades, due to
4 the agency's refusal to follow the law
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6 7 JURISDICTION AND VENUE

8 Mrs. Alvarado is in the physical custody of Respondents.
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10 Mrs. Alvarado is detained at the NWIPC in Tacoma,
11 Washington.

12 This Court has jurisdiction under 28 U.S.C. § 2241
13 (habeas corpus), 28 U.S.C. § 1331 (federal question), and
14 Article I, section 9, clause 2 of the United States Constitution
15 (the Suspension Clause).
16

17 The Court has jurisdiction to consider whether it has
18 jurisdiction *See, e.g., Shah v. Reno*, 184 F.3d 719, 723 (8th Cir.
19 1999) *See also I.N.S. v. St. Cyr*, 533 U.S. 289, 121 S. Ct. 2271,
20 150 L. Ed. 2d 347 (2001).
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1 In 2005, Congress passed the REAL ID Act amending
2 the Immigration and Nationality Act, Title Eight United
3 States Code. With REAL ID, Congress stripped federal
4 district courts of habeas jurisdiction over most claims by
5 certain categories of aliens.
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7 The Suspension Clause guarantees the right to petition
8 for a writ of habeas corpus unless the United States faces
9 invasion or rebellion.
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11 In peacetime Congress can only strip the right to
12 petition for habeas corpus if it provides a substitute forum
13 which adequately duplicates the protections offered in habeas
14 proceedings.¹
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20 ¹ See U.S. Const. art. I, § 9, cl. 2. (“The Privilege of the Writ of Habeas
21 Corpus shall not be suspended, unless when in Cases of Rebellion or
22 Invasion the public Safety may require it.”) ; *Boumediene v. Bush*, 553
23 U.S. 723, 128 S. Ct. 2229, 171 L. Ed. 2d 41 (2008)
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1 The question is whether the habeas stripping provisions
2 of the Act violate the Suspension Clause in the Alvarado's
3 case. If so, this Court retains jurisdiction over her petition.
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5 Here, because the Alvarados were told only 90 minutes
6 ago that they would not receive a credible fear hearing and
7 would be removed at 2:00 a.m. on November 25, 2025, there
8 is no agency or court, other than this one, that can slow the
9 removal process for a few days and allow important facts to
10 be presented to this Court and to agencies of the executive
11 branch. This Court is the only appropriate tribunal.
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15 **REQUEST FOR RELIEF**

16 Because INA §240(c)(7)(C)(ii) gives the Alvarado family
17 the right to request reopening of removal proceedings based
18 upon changed conditions and legal standards, and because
19 removing them tonight could put them in danger – and will in
20 many ways moot or deny any administrative decision that
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1 might occur in their favor, we ask that the Court order a 21
2 day stay of removal to order the USCIS to allow the gathering
3 and presentation of the evidence regarding their credible fear.
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5
6 RESPECTFULLY SUBMITTED this 24th day of November 2025.
7

8 *William Frick*
9

10 /s/ _____
11 WILLIAM FRICK, WSBA 26648
12 Law Office of William Frick
13 william@fricklawfirm.info
14 Attorney for Petitioner
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Emergency Petition For Writ Of Habeas Corpus - 12

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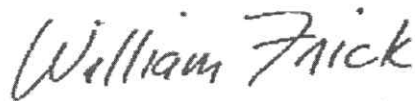
VERIFICATION

I, WILLIAM FRICK, hereby make the following statements:

1. I affirm, under penalty of perjury, that all of the foregoing statements are true and correct to the best of my knowledge;
2. I am an attorney licensed to practice law in the states of Washington and Pennsylvania;
3. I am the attorney for Petitioner, Lilia Alvarado;
4. The Petitioner is currently being held in detention at the N.W. Immigration Detention Center in Tacoma, Washington;
5. I have discussed this Petition with the Petitioner and her family.

I verify that the information contained in the foregoing Petition is true and correct to the best of my knowledge and belief.

DATED this 24th day of November 2025.



/s/

WILLIAM FRICK, WSBA 26648
Law Office of William Frick
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