

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

FILED BY PCS D.C.

NOV 24 2025

ANGELA E. NORCE
CLERK U.S. DIST. CT.
S.D. OF FLA. - WPB

Dailin De la Caridad Montel Manresa
Petitioner

v.

Case No. _____
(Supplied by Clerk of Court)

Pamela Bonck, U.S. Attorney General, et seq
Respondent
(name of warden or authorized person having custody of petitioner)

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

Personal Information

- (a) Your full name: DAILIN DELA CARIDAD MONTEL MANRESA
(b) Other names you have used: N/A
- Place of confinement:
(a) Name of institution: BROWARD TRANSITIONAL CENTER
(b) Address: 3900 N. Powerline Rd, Pompano Beach, FL 33073
(c) Your identification number: A- [REDACTED]
- Are you currently being held on orders by:
 Federal authorities State authorities Other - explain: _____
- Are you currently:
 A pretrial detainee (waiting for trial on criminal charges)
 Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
 Being held on an immigration charge
 Other (explain): _____

Decision or Action You Are Challenging

- What are you challenging in this petition:
 How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- Pretrial detention
- Immigration detention
- Detainer
- The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- Disciplinary proceedings
- Other (explain): _____

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: Immigration Court - Pompano Beach, FL
- (b) Docket number, case number, or opinion number: A - [REDACTED]
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
Detainer imposed, denial of Petitioner's Motion to Terminate
- (d) Date of the decision or action: October 28, 2025

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

- Yes
- No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: Board of Immigration Appeal
- (2) Date of filing: October 28, 2025
- (3) Docket number, case number, or opinion number: A - [REDACTED]
- (4) Result: N/A
- (5) Date of result: N/A
- (6) Issues raised: The IJ erred denying the Respondent's Application for Asylum, acting without jurisdiction, applying the Sixth Circuit Case

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

- Yes
- No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

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If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: June 30, 2025
- (b) Date of the removal or reinstatement order: October 28, 2025
- (c) Did you file an appeal with the Board of Immigration Appeals?

Yes No

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If "Yes," provide:

- (1) Date of filing: October 28, 2025
- (2) Case number: A- [REDACTED]
- (3) Result: N/A
- (4) Date of result: N/A
- (5) Issues raised: The IT erred denying the Respondent's Application for Asylum, acting without jurisdiction, applying the Sixth Circuit Law.

(d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____
- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____

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Grounds for Your Challenge in This Petition

- 13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: The petitioner is being detained in violation of the regulations as established in 50 C.F.R § 1003.20(b); § 1003.1(g) and § 241.4 in violation of petitioner's constitutional rights as guaranteed by the II Amend. U.S. Constitution.

(a) Supporting facts (Be brief. Do not cite cases or law.):

See Petition for Writ of Habeas Corpus, attached

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO: N/A

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE: N/A

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

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GROUND FOUR: N/A

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Issue an Order: 1) Declaring that petitioner's continued Detention is not authorized by the INA and/or violates the Fifth Amend. 2) Granting this petition for a writ of Habeas Corpus and releasing petitioner from custody immediately, 3) Grant any other and further relief this Court may deem appropriate.

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

On this day November 6, 2025

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 11/6/2025

Patrycia
Signature of Petitioner

Signature of Attorney or other authorized person, if any

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

DAILIN DE LA CARIDAD MONTEL MANRESA
Plaintiff / Petitioner,

Case No.: _____

v.

PAMELA BONDI, United States Attorney General;
HAYDEN O'BYRNE, U.S. Attorney for Southern
District of Florida, **GARRET J. RIPA**, Acting
Executive Associate Field Office Director for the ICE
Miami Office of Enforcement and Removal Operations;
JUAN F. GONZALEZ, Acting Field Officer Director
of the ICE Field Office and Office in charge, Broward
Transitional Center, Pompano Beach, Florida; **TODD
LYONS**, Acting Director of the United States
Immigration and Customs Enforcement; and **KRISTI
NOEM**, Secretary of the United States of Department of
Homeland Security.

Defendants / Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS UNDER
28 U.S.C. § 2241, AND COURT ORDER TO SHOW CAUSE**

INTRODUCTION

1. Petitioner Dailin De La Caridad Montel Manresa ("Ms. Montel-Manresa") is a native and citizen of Cuba, who has resided in the United States for the past two (2) years alongside her U.S. citizen family members.

2. Petitioner applied for admission to the United States pursuant to the "CBP One appointment system," "which is excepted from mandatory detention" and was first released on May 14, 2023 by the Department of Homeland Security (DHS) under parole, and received an I-94 Form at the time of her entry. A granted of I-94 is a record showing that a person arrived lawfully in the United States.

3. Petitioner filed a request for a replacement I-94, and filed an application upon the Cuban Adjustment Act, under the Account USIU number [REDACTED] receipt number [REDACTED]. The respondent's I-485 is still pending with USCIS.

4. Petitioner was taken into the respondent's custody on June 30, 2025, upon a false charge and which is now dropped; as much ICE did not demonstrated by a clear and convincing that the petitioner had been convicted of any crime. Her parole under I-94 was revoked and has remained in (DHS) custody continuously since that date. The DHS form I-213 documenting Petitioner's arrest does not indicate that ICE made such a determination. The Warrant for Arrest of Alien, issued on a DHS Form I-200, likewise does not were described such a determination having been made. Thus, nothing on the record shows "a significant likelihood" that Petitioner may be removed in the reasonably foreseeable future" on account of "change of circumstances" See 8 C.F.R. § 241.13. She was taken into custody without notice, explanation or a pre-deprivation hearing; and is currently being detained at Broward Transitional Center.

5. In detaining, Ms. Montel-Manresa ICE violated her due process in failing to comply with the statutory requirements required to execute a change of venue as outlined in 8 C.F.R. § 1003.20(b), when the IJ transferred the petitioner's case to Cleveland Ohio, acting sua sponte and executing a change of venue; Failed to follow its own precedents and acted without jurisdiction, applying the Sixth Circuit Law in violation of this Board precedent in Matter of M-N-I-, 28 I. & N. Dec. 803 (BIA 2024) pursuant 8 C.F.R. § 103.3(c); denying the Petitioner's Motion to an Administrative Closure. The petitioner was prejudice when was deprived of all the records and evidences necessary in her subsequently fear credible and asylum hearing upon the IJ sua sponte venue transfer without a motion, applying the Sixth Circuit law rather than Eleventh Circuit law, "the Immigration Judge misapplied choice of law precedent". Thus, any subsequent detention by ICE was and is unlawful.

6. ICE is detaining petitioners in violation of a Department of Homeland Security "DHS" regulation, 8 C.F.R. 1003.20(b), the USCIS Policy Manual, the *Accardi Doctrine* and the Due Process Clause of the Fifth Amendment to the United States Constitution; Petitioner reasonably relied on the agency regulations promulgated for her guidance by the filing of this Motion to

terminate which is being applied the Sixth Circuit Law in violation of this Board precedent in Matter of M-N-I-, 28 I. & N. Dec. 803 (BIA 2024); The petitioner was prejudiced when the IJ applied the Sixth Circuit Law in violation of this Board precedent in Matter of M-N-I-, 28 I. & N. Dec. 803 (BIA 2024), denying the Petitioner's Motion to Terminate.

7. In the light of there being no change in circumstances or third country designation that assures Ms. Montel-Manresa will not be tortured, there is no significant likelihood of removal in the reasonably foreseeable future, and continued detention violates the fundamental constitutional protection of due process and those established in *Zadvydas v. Davis*, 533 U.S. 678 (2001). In *Zadvydas*, the Supreme Court held that the government may not detain individuals indefinitely where removal is not reasonably foreseeable. Given Ms. Montel-Manresa's ongoing appeal and the lack of any identified removal destination, her detention is both arbitrary and unlawful.

8. Petitioner, Ms. Montel-Manresa, appearing *pro se*, hereby petitions this Court for a writ of habeas corpus and seeks declaratory and injunctive relief to review the lawfulness of her detention by the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE), since that her detention violates: 1) the regulations set forth in 8 C.F.R. § 1003.20(b) and 8 C.F.R. § 103.3(c); (2) Judge Ruiz's order in *Grigorian v. Bondi*, 2025 U.S. LEXIS 175489 (S.D. Fla. Sep. 9, 2025); and (3) The Supreme Court decision in *Zadvydas v. Davis*, 533 U.S. 678, 682, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). And in support of this Petition and Complaint, petitioner alleges as follows:

CUSTODY

9. Petitioner satisfies the "in custody" requirement for habeas review because she is currently being physically detained by ICE-ERO at the Broward Transitional Center, Pompano Beach, Florida.

JURISDICTION

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1651 (All the Writs Acts), 28 U.S.C. § 1331 (federal question) and the U.S.

Constitution, art I § 9, cl. 2 (Suspension Clause). While the courts of appeals have jurisdiction to review removal orders directly through petitions for review, 8 U.S.C. § 1252(a)(1), (b), the federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas corpus claims by aliens challenging “the constitutionality of the entire statutory scheme under the Fifth Amendment.”¹ This case arises under the United States Constitution; the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*, and the Due Process Clause of the Fifth Amendment. This Court has remedial authority under its inherent authority and the All Writs Act, 28 U.S.C. § 1651.

11. Furthermore, 28 U.S.C. § 2241 authorizes district courts to grant writs of habeas corpus to individuals “in custody in violation of the Constitution or laws or treaties of the United States.” Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention; as well as claims by noncitizens seeking to protect their due process rights. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 840-41 (2018); *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678 (2001). Petitioner is currently detained by U.S. Immigration Custom Enforcement (“ICE”) within this judicial district, satisfying the “custody” requirement at the time of filing. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

12. This court further has jurisdiction under Article, Section 9, Clause 2 of the U.S. Constitution, the Suspension Clause, which guarantees the availability of the writ of habeas corpus except in cases of rebellion or invasion.

13. This action arises under the United States Constitution, the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. § 1101 *et seq.* (the Act), and the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.* (the APA).

¹ *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018). District courts also have jurisdiction to review “collateral challenges to unconstitutional practices and policies” used by Respondents in reaching their detention. *McNary v. Haitian Refugee Ctr., Inc.* 498 U.S. 479, 896 (1991).

14. Jurisdiction exists in this Court pursuant to 28 U.S.C. § 2241 et seq., 28 U.S.C. § 1331, the APA, 5 U.S.C. § 701 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1361."Officials must comply with the requirements of applicable regulations...Because they failed to do here, Petitioner may demonstrate entitlement to a writ of habeas corpus...§ 2241 confers jurisdiction upon the federal courts to hear challenges to the lawfulness of immigration detention" *Grigorian v. Bondi*, 2025 U.S. LEXIS 175489 (S.D. Fla. Sep. 9, 2025). Accordingly this court has jurisdiction to hear "Petitioner's claim that her detention ins unlawful under 28 U.S.C. § 2241").

15. The claims raised herein are not barred by 8 U.S.C. § 1252, as Petitioner is not challenging the validity of the final order of removal, but rather the legality of detention in the absence of a foreseeable removal and in violation of Due Process under the Fifth Amendment. See *Clark v. Martinez*, 543 U.S. 371 (2005) (extending *Zadvydas* to inadmissible aliens).

VENUE

16. Venue is Proper because Petitioner's detention and removal proceedings have all occurred in the Southern District of Florida, 28 U.S.C. § 1391(e)(1)(B). Venue is also proper because the Petitioner resides in Pompano Beach, Florida, which is in the Southern District of Florida, and Ms.Montel-Manresa is detained in ICE Custody in the Southern District of Florida, 28 U.S.C. § 1391(e)(1)(C) and 28 U.S.C. § 2241(d).

PARTIES

17. Petitioner is a native and citizen of Cuba and applied for admission to the United States pursuant to the "CBP One appointment system," and "which is excepted from mandatory detention". Was first was released on May 14, 2023 by the Department of Homeland Security (DHS) under parole, and received an I-94 Form at the time of her entry. The respondent's I-485 is still pending with USCIS.

18. Respondent-defendant Pamela Bondi is the attorney General for the United States Justice Department. Ms. Bondi is the official ultimately responsible with proper enforcement of federal immigration law. She is sued in her official capacity.

19. Respondent-defendant Hayden O'Byrne, is the U.S. Attorney for Southern District of Florida. He is the Chief federal law enforcement officer in the District. He is sued in her official capacity.

20. Respondent-defendant Mr. Garrett Ripa, is the Acting Field Office Director for the ICE Miami Office of Enforcement and Removal Operations ("ICE ERO"). In this capacity, he has jurisdiction over petitioner and is a legal custodian of Petitioner. He is sued in his official capacity.

21. Respondent-defendant Mr. Juan F. Gonzalez is the Acting Filed Office Director for the Miami Field Office of the U.S. Immigration and Custom s Enforcements ("ICE") in the Broward Transitional Center. Mr. Gonzalez is responsible for effectuating Petitioner's removal from the United States and their immediate custodian. He is sued in his official capacity.

22. Respondent-defendant Todd Lyons, is the Acting Director of the United States Immigration and Customs Enforcement ("ICE"). In his capacity, he has responsibility for the enforcement of the immigration laws, including detention and removal. As such, he is a legal custodian of Petitioner, Mr. Lyons is sued in his official capacity.

23. Respondent-defendant Ms. Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). In this capacity she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. 1103(a) and has ultimate custodial authority over petitioner. She is sued in her official capacity.

FACTUAL AND PROCEDURAL HISTORY

24. Petitioner, Dailin De La Caridad Montel Manresa is a native and citizen of Cuba. Petitioner applied for admission to the United States pursuant to the "CBP One appointment system," "which is excepted from mandatory detention" and was first released on May 14, 2023 by the Department of Homeland Security (DHS) under parole, and received an I-94 Form at the time of her entry. An I-94 is a record showing that a person arrived lawfully in the United States. Petitioner filed a request for a replacement I-94, and filed an application upon the Cuban Adjustment Act, under the Account USIU number [REDACTED] receipt number [REDACTED]. The respondent's I-485 is still pending with USCIS.

25. Petitioner was taken into custody by ICE on June 30, 2025. She was taken into custody without notice, explanation or a pre-deprivation hearing; and is currently being detained at Broward Transitional Center, and has been in the custody of ICE for more than fourth months since her revocation of parole take place. Petitioner filed a Motion to an Administrative Closure which was denied by the Immigration court of Pompano Beach Florida acting "without jurisdiction" and applying an erroneous circuit law precedents as determined upon Matter of M-N-I-, 28 I. & N. Dec. 803 (BIA 2024); and Wong v. Garland, 2024 U.S. App. LEXIS 2059, No. 22-60642 (11th Cir. 2024). (The (sixth) Circuit was the proper venue... While the case commenced in (Florida), 8 C.F.R. 1003.14(a), the IJ transferred it to (Cleveland), 8 C.F.R. 1003.20(b), thus, the case was properly before the U.S. Court of Appeals for the (Sixth) Circuit.).

26. The Immigration Court of Florida erred denying the Petitioner's Motion to an Administrative Closure, acting without jurisdiction, and where the Immigration Judge erroneously applied Eleventh Circuit law rather than Sixth Circuit law, upon the BIA precedent in Matter of M-N-I-, 28 I. & N. Dec. 803 (BIA 2024) ("negate the jurisdiction of the circuit law that was controlling in prior hearings"); rendering the judgment "void". "A judgment is Void ...if the court that rendered it lacked of jurisdiction and ...acted in a manner inconsistent with due process of law." *Burke v. Smith*, 252 F.3d at 1260, 1263 (11th Cir. 2001) (quotation marks

omitted). but “if the underlying judgment is void, the judgment based upon it is also void” *Austin v. Smith*, 114 U.S. App. D.C. 97, 312 F.2d 337, 343 (D.C. Cir. 1962).

27. Petitioner subsequently filed a Motion to Terminate, alleging an improper change of venue which was executed Sua Sponte without a motion by the parties, which was denied in violation of 1) the regulations set forth in 8 C.F.R. § 1003.20(b) and 8 C.F.R. § 103.3(c); (2) Judge Ruiz’s order in *Grigorian v. Bondi*, 2025 U.S. LEXIS 175489 (S.D. Fla. Sep. 9, 2025); and (3) The Supreme Court decision in *Zadvydas v. Davis*, 533 U.S. 678, 682, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). Petitioner is now in detention in violation of the regulations set forth in 8 C.F.R. § 1003.20(b) and 8 C.F.R. § 103.3(c); and against her due process rights.

28. Petitioner has cooperated fully with all efforts by ICE to remove petitioner from the United States. Specifically, petitioner has provided identity documents and has provided necessary biographical information, complied with all demands of ICE. To date, however, ICE has been unable to remove petitioner to Cuba or any other country. Despite this, Ms. Montel-Manresa was detained by ICE. Petitioner was not informed as to the reason her parole was being revoked. Revocation of Petitioner’s parole was without cause and she was not provided with an opportunity to review and oppose the arbitrary revocation of her parole, against her due process rights.

29. Ms. Montel-Manresa has not violated the terms of her humanitarian parole and the conditions of Cuba have not changed so as to undermine the basis of Ms. Montel-Manresa’s to warrant her detention. Therefore, there is no foreseeable way that Ms. Montel-Manresa could be removed to Cuba without removal resulting in Torture.

30. Neither ICE nor DHS has established or provided notice of any third country where she would be free from the risk of torture. To detain Ms. Montel-Manresa indefinitely without any previous identification of a third country, a hearing on that third country, a change in country conditions, or a violation of her humanitarian parole is an arbitrary and unlawful detention that violates Ms. Montel-Manresa’s constitutional rights.

31. Ms. Montel-Manresa is being held at Broward Transitional Center with no significant or lawful likelihood of removal in the reasonably foreseeable future, and continued detention violates her constitutional protections.

STATEMENT OF LAW

32. The Due Process Clause of the Fifth Amendment states that “[n]o person shall be... deprived of life, liberty, or property without due process of law.” U.S. Const. Amend. V. “Freedom from imprisonment—from government custody, detention, or other form of physical restraint—lie at the heart of the liberty that [the Due Process’] Clause protects.”² This applies to everyone in this country, including aliens.³

33. Pursuant to 8 C.F.R. § 241.4(I)(1), ICE may revoke an Order of Supervision only if the conditions supporting release no longer exist. Under 8 C.F.R. § 241.13(i)—which governs release in prolonged detention cases---a previously released individual may only be re-detained based on new evidence or a material change in circumstances, such as the identification of a viable removal destination.

34. Furthermore, ICE must document the basis for revocation and provide procedural safeguards. As stated in 8 C.F.R. § 241.4(I)(1) “Upon revocation, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or her return to service custody to afford the alien an opportunity to respond and the reasons for revocation stated in the revocation.” DHS failed to comply with this notification requirement.

35. Arbitrary or unexplained revocation---especially without identifying a third country for removal----violates both agency regulations and due process protections under the Fifth Amend. See *Castaneda v. Souza*, 810 F.3d 15, 43 (1st Cir. 2015) (en banc) (recognizing liberty

² *Zadvydas v. Davis*, 533 U.S. 678 (2001)

³ *Id.* at 693 (“[T]he Due Process clause applies to all “persons” within the United States, including aliens, whether their presence here is lawful [or] unlawful...); *Reno v. Florida*, 507 U.S. 292, 306 (1993) (“the Fifth Amendment entitles aliens to due process of law in deportation proceedings”).

interest in avoiding arbitrary immigration detention); *Doiuf v. Napolitano*, 634 F.3d 1081, 1086 (9th Cir. 2010) (recognizing procedural due process right in prolonged detention under § 241).

36. Ms. Montel-Manresa was suddenly and without explanation detained after years of full compliance with her Supervision Order. There was no notice of alleged violations, no opportunity to rebut the government's reasoning, and no indication that any viable removal country had been identified. The revocation of her Order of Supervision and/or her subsequent detention without formal revocation of her Order of Supervision was therefore unreasonable, arbitrary, and unconstitutional.

37. Furthermore, an individual granted Deferral of Removal under the Convention Against Torture (CAT) under 8 C.F.R. § 208.17(a) cannot lawfully be removed to the country to which their removal is deferred. In such cases, the government may not indefinitely detain the individual without identifying an alternative country for removal and establishing that removal is significantly likely in the reasonably foreseeable future.

38. Additionally, pursuant to 8 C.F.R. § 1240.10(f), the immigration judge must identify for the record a country, or countries in the alternative, to which a respondent may be removed if the designated country will not accept them. Here, the immigration judge did not identify *any other country* to which Ms. Montel-Manresa could reasonably be removed without being subject to torture. This is because there is no third country alternative to which Ms. Montel-Manresa can be removed without being subject to torture. The silence of the immigration judge in his order is no mistake and should not be taken as error or construed in any other manner. It was an intentional omission, as evidenced by the immigration judge crossing out the words "or in the alternative to" when indicating the country of removal is Cuba, as there is not third country alternative. Ms. Montel-Manresa will only be safe in the United States.

39. In *Zadvydas*, the Supreme Court held that detention beyond 180 days after a final order of removal is presumptively unreasonable where there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701. The court extended this protection to all noncitizens ordered removed, regardless of inadmissibility. See *Clark v. Martinez*, 543 U.S. 371, 386(2005).

40. Here, the immigration judge did not designate a third country of removal. No alternative country can be identified. DHS, ICE and DHS have failed to provide Ms. Montel-Manresa with any advance notice of a third country of removal and has failed to provide Ms. Montel-Manresa with the requisite due process to ensure she is not tortured in any third country that she is potentially removed to. This is a stark violation of Ms. Montel-Manresa's constitutional protections under the Fifth Amendment and Ms. Montel-Manresa's rights to the due process. Ms. Montel-Manresa is entitled to notice and the opportunity to be heard as it relates to any alternative country of removal.⁴

41. Moreover, since Ms. Montel-Manresa was ordered removed in violation of the section 8 C.F.R. § 103.3(c) *Service precedent decisions*, which is establish: "Board decisions referred to in 1003.1(g) of chapter V, designated Service decisions are to serve as precedents in all proceedings involving the same issues(s)". The petitioner relied in the Board precedent as established filing a Motion to Terminate which was denied when ICE violated her due process in failing to comply with the statutory requirements under section 8 C.F.R. § 103.3(c) in violation of this Board precedent in Matter of M-N-I-, 28 I. & N. Dec. 803 (BIA 2024), and as required to execute a change of venue as outlined in 8 C.F.R. § 1003.20(b) and which was established:

"Venue is not necessarily static and may change over the course of removal proceedings. However, only a party may initiate a change in venue and may only do so via a motion to change venue. 8 C.F.R. 1003.20(b); *see also Matter of Garcia*, 28 I&N Dec. at 703 n.14 (providing that the filing of a Form I-830, Notice to EOIR: Alien Address, does not amount to a change of venue request... the agency's administrative control designation over a record of proceedings does not replace nor circumvent the regulatory requirements for a change of venue. *See Matter of L-M-P-*, 27 I&N Dec. 265, 267 (BIA 2018) (affirming that neither the Immigration Judge nor the Board has the authority to disregard the regulations, which have the force and effect of law). Even if the agency's administrative control designation over a record of proceedings changes during the removal proceedings, the agency may not effectuate a venue change unilaterally from the Immigration Court where jurisdiction vested to a newly designated Immigration Court. *Cf.* 8 C.F.R. 1003.10(b) (2020) (providing that Immigration Judges may only exercise the powers and duties delegated to them by the Immigration and Nationality Act and by the Attorney General through regulation)" Matter of M-N-I-, 28 I. & N. Dec. 803 (BIA 2024).

Due that the IJ transferred the petitioner's case to Cleveland Ohio, executing a sua sponte change of venue. ICE Failed to follow its own precedents; knowing that the IJ had acted without jurisdiction, applying the Sixth Circuit Law in violation of this Board precedent in Matter of M-N-I-, 28 I. & N. Dec. 803 (BIA 2024) denying the Petitioner's Motion to an Administrative Closure.

⁴ The Supreme Court's recent decision in *Dep't of Homeland Sec. v. D.V.D.*, 602 U.S. (2025)(granting stay) does not precludes individual petitions for habeas, it merely precludes the universal injunction on the matter.

42. The petitioner was prejudice when was deprived of all the records and evidences necessary in her subsequently fear credible and asylum hearing upon the IJ sua sponte venue transfer without a "motion by the parties", applying the Sixth Circuit law rather than Eleventh Circuit law, "the Immigration Judge misapplied choice of law precedent". The DHS did not have the immigration files to review prior issuing that parole. See *Matter of M-N-I-*, 28 I. & N. Dec. 803 (BIA 2024) (*See* 8 C.F.R. 1003.11. Though the agency later transferred administrative control over the respondents proceedings to the Elizabeth [*807] Immigration Court through an internalized reallocation of responsibility, an Immigration Courts administrative control over a case does not dictate which circuit law is controlling; venue does....administrative control court may solely maintain, and have custodial responsibility for, the record of proceedings, as opposed to being the court where proceedings are commenced pursuant to 8 C.F.R. 1003.14(a)"); *Matter of R-C-R-*, 28 I&N Dec. 74, 74 n.1 (BIA 2020) (providing that the location of the administrative control court does not supply the circuit law applied to proceedings conducted via video conference)); which "the petitioner is currently detained in violation of her substantive due process rights" See *Cabrera v. Mattos*, 2025 U.S. LEXIS 216258 (D.C. Nev. 2025). Thus, any subsequent detention by ICE was and is unlawful. Petitioner continued detention violates the ICE own limits as established in s. 8 C.F.R. § 103.3(c) and 8 C.F.R. § 1003.20(b).

43. Due Process under the Fifth Amendment requires reasonable notice and an opportunity to be heard. Before Ms. Montel-Manresa can be removed to any third country, such a hearing must occur. The right to be heard before being condemned to suffer grievous loss of any kind is a principle basic to society. *Mathews v. Eldrige*, 424 U.S. 319 (1976). Ms. Montel-Manresa has been in the Unites States for over thirteenth years. Any removal from the United States would result in Ms. Montel-Manresa's torture and/or death as was already determined by an immigration judge. To now detain Ms. Montel-Manresa and attempt to deport her to an unknown and unidentified third country where it has not been determined that Ms. Montel-Manresa will be safe is arbitrary, unlawful, and a violation of Ms. Montel-Manresa's constitutional and human rights.

44. The *Accardi* doctrine-derived from *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954)" stands for the unremarkable proposition that an agency must abide by its

own regulations...). It is well settled that the regulations which the Service promulgates have the force and effect of law and are binding on the Service and the Immigration Court. This change in policy with regard to the respondent:

- a) Was arbitrary and capricious; "under the APA because the Acting Secretary offered no reason for terminating the forbearance policy" *Department of Homeland Security v. Regents of Univ. of Cal.*, 591 U.S.140 S. Ct. 1891(2019). This change in the current policy to proceed in the respondent's case, was arbitrary and capricious. "Patently inconsistent application of agency standards to similar situations lacks rationality and is arbitrary." *Contractors Transport Corp. v. United States*, 537 F.2d 1160, 1162 (4th Cir. 1976); *NLRB v. Washington Star Co.*, 235 U.S. App. D.C. 372, 732 F.2d 974, 977 (D.C. Cir. 1984) ("The present sometimes-yes, sometimes-no, sometimes-maybe policy . . . cannot, however, be squared with our obligation to preclude arbitrary and capricious management of the Board's mandate."); *Doyle v. Brock*, 821 F.2d at 786 & n.7; *Professional Airways Systems Specialists v. Federal Labor Relations Auth.*, 258 U.S. App. D.C. 14, 809 F.2d 855, 859 (D.C. Cir. 1987)" *Vargas, v. INS*, 938 F.2d 358 (2nd Cir. 1991).
- b) Was contrary to law and agency rules; because ICE is detaining petitioners in violation of a Department of Homeland Security "DHS" regulation, section sections 8 C.F.R. 241.4(I)(1) and 8 C.F.R. 241.13; 8 C.F.R. § 103.3(c) and 8 C.F.R. § 1003.20(b).
- c) Unreasonably delayed or unlawfully withheld adjudication of respondent imprisonment, See also, *Bridges v. Wixon*, 326 U.S. 135 (1945) (deportation order vacated because of noncompliance with evidentiary requirements). "Whether the Services violation of a regulation is a per se due process violation" cf. *Vitarelli v. Seaton*, 359 U.S. 535 (1959); *Service v. Dulles*, 354 U.S. 363 (1957). A "Violation of a regulatory requirement by a Service officer can result in evidence being excluded or proceedings invalidated where the regulation in question serves a purpose of benefit to the alien and the violation prejudiced interests of the alien which were protected by the regulation." *Matter of Garcia-Flores*, 17 I&N Dec. 325 (BIA 1980). Here, the violation of the *Accardi* doctrine

constitute “a violation of the Fifth Amendment's Due Process Clause” *Gayle v. Meade*, 2020 U.S. Dist. LEXIS 76040 (S.D. Fla., April 30, 2020).

45. The change in the current policy to proceed in the respondent's case, this supports that the application in the respondent's case was arbitrary and capricious. "Patently inconsistent application of agency standards to similar situations lacks rationality and is arbitrary." *Contractors Transport Corp. v. United States*, 537 F.2d 1160, 1162 (4th Cir. 1976); *NLRB v. Washington Star Co.*, 235 U.S. App. D.C. 372, 732 F.2d 974, 977 (D.C. Cir. 1984) "The present sometimes-yes, sometimes-no, sometimes-maybe policy . . . cannot, however, be squared with our obligation to preclude arbitrary and capricious management of the Board's mandate (*Doyle v. Brock*, 821 F.2d at 786 & n.7; *Professional Airways Systems Specialists v. Federal Labor Relations Auth.*, 258 U.S. App. D.C. 14, 809 F.2d 855, 859 (D.C. Cir. 1987)" *Vargas, v. INS*, 938 F.2d 358 (2nd Cir. 1991).

46. The *Accardi* doctrine and the Due Process Clause of the Fifth Amendment to the United States Constitution were violated, as here, "Where ICE Fails to follows its own regulations in revoking release, the detention is unlawful and the petitioner release must be ordered" *Rokhfirooz v. Laroze*, 2025 U.S. Lexis 180605 (S.D. Cal. 2025). *Rombot v. Souza*, 296 F. Supp. 3d 383, 387 (D. Mass. 2017) (ordering the petitioner release where "based on ICE's violations of its own regulations, the court concludes the petitioner detention was unlawful). *K.E.O v. Woosley*, 2025 U.S. Dist. LEXIS 172361 (W. D. Ky. 2025) (noting "court across the country have ordered the release of individuals" in ICE custody where ICE "violated their regulations"). *Grigorian v. Bondi*, 2025 U.S. LEXIS 175489 (S.D. Fla. Sep. 9, 2025) ("The failure to provide the petitioner with an informal interview promptly after his detention or to otherwise provide meaningful opportunity to contest the reasons for revocation violates both ICE's own regulations and the Fifth Amendment Due Process Clause...This compel the petitioner's release"). Here, the petitioner is entitled to the same relief.

IRREPARABLE INJURY

47. Petitioner is suffering and will continue to suffer irreparable injury from her unreasonable and arbitrary detention. Every day that she is held in violation of her due process rights, she suffers further injury which is irreparable.

48. Ms. Montel-Manresa is at risk of losing her family; her son and her sisters all citizens and her husband and daughter all legal resident of the United States; who suffer s from significant medical ailments and are suffering extreme hardship and injury from the arbitrary detention of her mother.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

49. Petitioner is being held in detention in violation of the law. She is entitled to immediate release. She has exhausted all available administrative remedies and there are no further administrative remedies available to her.

40. However ICE failed to comply with the required procedures, thereby violating the Petitioner's due process rights. In the light of the decision rendered in *Grigorian v. Bondi*, 2025 U.S. LEXIS 175489 (S.D. Fla. Sep. 9, 2025); her detention is unlawful because her detention violates the regulations set forth in 8 C.F.R. § 241.4(I) and § 241.13(i). Which the petitioner is in custody "in violation of the Constitution and laws or treaties of the United States" *Id.* § 22419(C)(3). She has exhausted all available administrative remedies.

51. If released, petitioner will reside at 16 B Pine Hill Ln. Palm Coast Florida, 32164, which: a) Petitioner is not an alien with a highly contagious disease posing a danger to the public. See 8 C.F.R. 241.14(b). b) Petitioners release would not cause serious adverse foreign policy consequences. See 8 C.F.R. 241.14(c)(1)(ii). There is no indication that Petitioners release would have serious adverse foreign policy consequences. c) Petitioner was never and is not now detained on account of security or terrorism concerns. See 8 C.F.R. 241.14(d)(1). d) Petitioner has not committed a violent crime as defined in 18 U.S.C. 16 as would classify her as specially dangerous. See 8 C.F.R. 241.14(f)(1). Her release therefore would not pose a special danger to the public. See 8 C.F.R. 241.14(f).

52. As a person in the United States, petitioner is protected by the Due Process Clause of the Fifth Amendment. ICE has detained petitioner for more than two months since the issuance of her final order of removal. There is no significant likelihood that petitioner's removal will occur in the reasonably foreseeable future, since that the appeal proceeding continue being

delayed by three years, and without decision by the Board of Immigration Appeal. Petitioner does not pose a danger to the community or a risk for flight, and no special circumstances exist to justify her continued detention. As Petitioner is not dangerous, not a flight risk, and cannot be removed, his indefinite detention is not justified and violates substantive due process. *See Zadvydas*, 533 U.S. at 690-91.

53. This Court should find that ICE's failure to comply with both 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 violated Petitioner's due process rights, due to ICE Failure to follow its own procedural regulations which constitute a due process violation. ICE's failure to provide Petitioner with a timely Notice of Revocation or conduct an informal interview after taking her into custody is a grave violation of Petitioner's due Process rights in that they deprived her both of meaningful notice and an opportunity to be heard.

PRAAYER FOR RELIEF

WHEREFORE, petitioner prays that this Honorable Court to grant the following relief:

1. Issue an Order:
 - a. Declaring that petitioners continued detention is not authorized by the INA and/or violates the Fifth Amendment;
 - b. Granting this petition for a Writ of Habeas Corpus and releasing petitioner from custody immediately;
2. Grant any other and further relief this Court may deem appropriate.

OATH

UNDER PENALTIES OF PERJURY, I, Dailin De La Caridad Montel Manresa, declare that I have read the foregoing document, and I Understand its content; this document is filed in good faith and is timely filed, I understand its content in English, has potential merit, and that facts contained in the documents are true and correct.

Date: November 6, 2025




DAILIN DE LA CARIDAD MONTEL MANRESA
Pro se Petitioner
A#: 
Broward Transitional Center
3900 N. Powerline Rd.
Pompano Beach Fl. 33073

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct original of the foregoing document has been furnished by U.S. Mail-postage prepaid to The Clerk of the District Court Southern District of Florida, to, Immigration and Custom Enforcement. Department of Homeland Security, Chief Counsel, Deputy Chief Counsel, Assistant Chief Counsel, Office of the principal Legal Advisor at Broward Transitional Center.3900 N. Powerline Road, Pompano Beach, Fl 33073, to the U.S. Dpt. of Justice, 950 Pennsylvania Av. NW. Office of the Attorney General, Room 5114, Washington DC. 20530-0001, and all the lawyer on record via e-filing court system, on this day, November 6, 2025.

Respectfully Submitted:



DAILIN DE LA CARIDAD MONTEL MANRESA
Pro se Petitioner
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Broward Transitional Center
3900 N. Powerline Rd.
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