

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

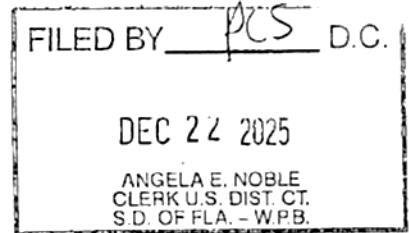
**Case: 0:25-cv-62406-KMW**

DAILIN DE LA CARIDAD MONTEL MANRESA  
Plaintiff / Petitioner,

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.



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**REPLY TO DEFENDANT'S RESPONSE  
TO 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. 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.

4. 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.

5. 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.

6. 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**

7. 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**

8. 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.”<sup>1</sup> 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.

9. 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).

10. 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.

11. 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).

12. 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 is unlawful under 28 U.S.C. § 2241”).

13. 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).

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<sup>1</sup> *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).

### **FACTUAL AND PROCEDURAL HISTORY**

14. The Respondent failed to comply with this notification requirement. This court ordered on December 1, 2025. (See Doc. # 5). "Respondent is reminded that it must provide Petitioner full and complete copies of all documents filed in support of its response or answer. See Fed. Rule Civ. P. 10(c)". Defendant's failed to comply with this court order. 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 complete copies of all documents filed in support of its response or answer.

15. The Respondent refused to an unequivocal mandate of this court, since that the Attorney General's failed to serve her with the response and appendix of exhibits it filed separately from its answer, with which the defendant had failed to comply with the service of the referenced response under the requirement. Fed. R. Civ. P. 10(c); 5(a)(1)(B) and 7(a)(2); since that it response was not delivered to the respondent in her place of confinement, and where such defiance should be currently the subject of the Court's contempt inquiry.

### **STATEMENT OF LAW**

16. Under the Federal Rules of Civil Procedure, "any pleading must be served on every party, and there is no question that an answer to a complaint, such as a state's answer to a 2254 petition, is a pleading for purposes of this service requirement. See Fed. R. Civ. P. 5(a)(1)(B), 7(a)(2). Thus, the procedural rules governing 2254 proceedings "mandate that an answer in a habeas corpus proceeding . . . must be served on a petitioner." Thompson, 427 F.3d at 269; see also Sixta, 615 F.3d at 572 (agreeing with the decision in Thompson, and noting that in that case the Fourth Circuit "rejected the respondent's argument that the applicable rules do not require service of even the answer")"... The answer to this question under the Civil Rules is clearly yes. The Civil Rules provide that any "written instrument that is an exhibit to a pleading is a part of the pleading for all purposes." Fed. R. Civ. P. 10(c). Because the Civil Rules require service of

all pleadings, it follows that the exhibits to the pleading must also be served, regardless of whether they were filed at the same time” Rodriguez v. Florida Dep't of Corr., 748 F.3d 1073, 1075 (11th Cir. 2014) (quotation omitted), cert. denied, 135 S. Ct. 1170, 190 L. Ed. 2d 913 (2015). The Court may apply any of the Rules Governing 28 U.S.C. 2254 Cases in the United States District Courts to applications for release from custody under 28 U.S.C. 2241. Harris v. Warden, FCC Coleman USP 1, 2024 U.S. App. LEXIS 14667, No. 23-13137 (11<sup>th</sup> Cir 2024).

17. The Defendants “was procedurally required, by R. Governing 2254 Cases U.S. Dist. Cts. 5 and Fed. R. Civ. P. 10(c), to serve the inmate with the exhibits included in the appendix and referenced in its answer to the petition and it failed to do so...the Advisory Committee Notes, which are a reliable source of insight into the meaning of a rule, confirm that Rule 5 necessarily implies" that service of the answer on the petitioner or his attorney is a procedural requirement. Rule 5 Advisory Committee's Note, 1976 Adoption... A district court abuses its discretion when it applies the wrong law, follows the wrong procedure, bases its decision on clearly erroneous facts, or commits a clear error in judgment. A district court's misinterpretation or misapplication of a procedural rule constitutes an abuse of discretion...the District Court should adjudicate the merits of the fully briefed habeas corpus petition.” Rodriguez v. Florida Dep't of Corr., 748 F.3d 1073, 1075 (11th Cir. 2014) (quotation omitted), cert. denied, 135 S. Ct. 1170, 190 L. Ed. 2d 913 (2015). See, also e.g., Conner v. Hall, 645 F.3d 1277, 1289-92 (11th Cir. 2011) (“A petitioner must have a meaningful opportunity to challenge the propriety of rulings on procedural grounds. These cases often present close calls which are subject to debate).

18. The Supreme Court held – not just once, but twice – that such hurried removals violate the Fifth Amendment’s Due process Clause. See Trump v. J.G.G, 604 U.S. 670 145 SCT 1003 221 L.Ed.2d 529 (2025) (detainees are entitles to notice and opportunity to be heard appropriate to the nature of the case...where detainees seek equitable relief... fall within the “core” of the writ of habeas corpus). See also, A.A.R.P v. Trump, 605 U.S. 91 145 S.Ct. 1364 221 L.Ed.2d 765 (2025).

The Government has failed to show the district court's mandatory application of the Guidelines was harmless beyond a reasonable doubt, since that 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: “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.

19. 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 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).

### **IRREPARABLE INJURY**

21. 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. The Respondent is depriving to the Plaintiff of “notice of and an opportunity to respond”, since that the respondent has not served a response of the Attorney General's Response on the plaintiff place of confinement. And in Support of this claim the Plaintiff file the witnesses' affidavits, (See Exhibit A).

22. The due process and equal protection clauses of the Fourteenth Amendment were violated by the deprivation of Plaintiff 's right to “notice of and an opportunity to respond”. Defendant's claims as stated, should be dismissed solely in account of a plaintiff's inability to obtain the Attorneys General Response. Here, the “due process is not satisfied even if meaningful postdeprivation process is available” *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 102 S. Ct. 1148, 71 L. Ed. 2d 265 (1982); and due to “the denial of appellant's application to inspect and copy the records” *Newman v. Graddick*, 696 F.2d 796, 799-800 (11th Cir.1983).

23. The Respondent is depriving to the Plaintiff of “notice of and an opportunity to respond”, since that the respondent has not served a response of the Attorney General's Response on the plaintiff place of confinement. Moreover, the Circuit has routinely sustained "when the non-movant has failed to submit a factual statement in the form called for by the pertinent rule and thereby conceded the movant's version of the facts" "). See also *United States v. Olson*, 716 F.2d 850, 852 (11th Cir. 1983) ("The government's concession might well be the end of this case, but since the district court did not accept the government's concession filed with it and addressed the matter at length, we shall do so also.... The court held that appellant's substantial rights were negatively impacted when the government failed to file information with respect to appellant's prior convictions). See also *United States v. Valentine*, 21 F.3d 395, 397-98 (11th Cir.1994) (involving government concession of *Burns* violation where basis for upward departure was not mentioned until sentencing).

24. 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.

25. This Court should find that ICE's failure to comply for purposes of this service requirement with the Fed. R. Civ. P. 10(c); 5(a)(1)(B) and 7(a)(2); and with both sections 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13; which 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.

#### PRAYER FOR RELIEF

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

1. Issue an Order:

a. Declaring that the Respondent refused to an unequivocal mandate of this court and such defiance should be currently the subject of the Court's contempt inquiry and should this Court should declare the Respondent in contempt of this court order rendered on December 1, 2025. (See Doc.# 5).

b. Declaring that petitioners continued detention is not authorized by the INA and/or violates the Fifth Amendment;

c. 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: December 16, 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 lawyers on record via e-filing court system, on this day, December 16, 2025.

Respectfully Submitted:



\_\_\_\_\_  
DAILIN DE LA CARIDAD MONTEL MANRESA

Pro se Petitioner

A#: 

Broward Transitional Center  
3900 N. Powerline Rd.  
Pompano Beach Fl. 33073

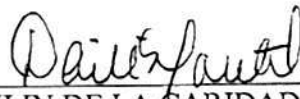
# EXHIBIT A

## Petitioner Affidavit

**UNDER PENALTIES OF PERJURY**, I, Dailin De La Caridad Montel Manresa, declare that I did not have received the documents related to the Respondent's response. The Respondent refused to an unequivocal mandate of this court, since that the Attorney General's failed to serve her with the response and appendix of exhibits it filed separately from its answer, with which the respondent had failed to comply with the service of the referenced response under the requirement. Fed. R. Civ. P. 10(c); 5(a)(1)(B) and 7(a)(2); since that it response was not delivered to the respondent in her place of confinement, and where such defiance should be currently the subject of the Court's contempt inquiry.

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: December 16, 2025



\_\_\_\_\_  
DAILIN DE LA CARIDAD MONTEL MANRESA

Pro se Petitioner

A#: 

Broward Transitional Center

3900 N. Powerline Rd.

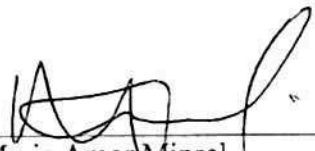
Pompano Beach Fl. 33073

## Witness Affidavit

**UNDER PENALTIES OF PERJURY**, I, Maria Amor Minsal, A # [REDACTED] declare that I'm in detention in the Broward Transitional Center. I declare that I'm witness that Dailin De La Caridad Montel Manresa did not have received the documents from the respondent. The respondent had failed to comply with the service of the referenced response under the requirement. Fed. R. Civ. P. 10(c) and that it response was not delivered to the respondent in her place of confinement.

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: December 16, 2025



  
\_\_\_\_\_  
Maria Amor Minsal  
A#: [REDACTED]  
Broward Transitional Center  
3900 N. Powerline Rd.  
Pompano Beach Fl. 33073

## Witness Affidavit

**UNDER PENALTIES OF PERJURY**, I, Jessica Daniela Valero Peña, A #: declare that I'm in detention in the Broward Transitional Center. I declare that I'm witness that Dailin De La Caridad Montel Manresa did not have received the documents from the respondent. The respondent had failed to comply with the service of the referenced response under the requirement. Fed. R. Civ. P. 10(c) and that it response was not delivered to the respondent in her place of confinement.

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: December 16, 2025

  
\_\_\_\_\_  
Jessica Daniela Valero Peña  
A#   
Broward Transitional Center  
3900 N. Powerline Rd.  
Pompano Beach Fl. 33073