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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Jaqueline Roxana Marquez-Amaya,

Petitioner,

v.

Rose Thompson, Warden, Karnes County ICE
Processing Center; **Miguel Vergara**, *Field Office*
Director of Immigration & Customs Enforcement,
Enforcement And Removal Operations San Antonio
Field Office, **Todd Lyons**, Acting Director, ICE,
Kristi Noem; Secretary of the U.S.
Department of Homeland Security; and **Pamela**
Bondi, Attorney General of the United States,
in their official capacities,

Respondents.

Case No. 5:25-cv-1587

**PETITION FOR WRIT
OF HABEAS CORPUS**

**ORAL ARGUMENT
REQUESTED**

INTRODUCTION

1. Petitioner, Jaqueline Roxana Marquez Amaya, is a native and citizen of El Salvador who is currently detained by U.S. Immigration and Customs Enforcement at Karnes County Immigration Processing Center at Karnes City Texas. Mrs. Marquez-Amaya has been in ICE custody since November 20, 2025. On January 30, 2023, An Immigration Judge granted Mrs. Marquez-Amaya withholding of removal and protection under the Convention Against Torture (CAT), recognizing that she faces clear probability of torture if returned to El Salvador. Despite this protection order, ICE detained her without any lawful basis or foreseeable prospect of removal. Immigration

and Customs Enforcement (ICE) refuses to release Mrs. Marquez Amaya, claiming that it is looking for alternative countries of removal despite knowing that she lacks citizenship in or a connection to any other country.

2. Petitioner challenges her continued detention by ICE even after being granted CAT withholding of removal. Absent an order from this Court, Petitioner will remain indefinitely detained without lawful justification and continue to suffer irreparable harm to her liberty and well-being despite final determination of her removal proceedings.

3. Mrs. Marquez Amaya's continued detention is arbitrary, unlawful and unconstitutional. She requests that this Court order her immediate release from ICE custody under reasonable conditions of supervision. Accordingly, to vindicate Petitioner's Constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

4. Mrs. Marquez Amaya is detained pursuant to 8 U.S.C. § 1231, which governs the detention of non-citizens with a final order of removal that has been withheld or deferred by an IJ. due to a substantial risk of persecution or torture in their home country. 8 U.S.C. § 1231(a)(1)(B)(i). Mrs. Marquez Amaya's removal order and accompanying relief grant became final when ICE failed to timely appeal her relief grant. 8 C.F.R. § 1241.1.

5. Mrs. Marquez Amaya's continued detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), because her removal is not reasonably foreseeable. She cannot be deported to her home country of El Salvador because she was granted protection under the Convention Against Torture (CAT) with respect to that country. 8 C.F.R. § 1208.17. ICE's half-hearted attempts to remove Mrs. Marquez Amaya to a random collection of unspecified alternative countries—to which she has no ties, and which have no policy or history of accepting non-citizen deportees—are speculative and futile.

6. Furthermore, the ICE San Antonio Field Office's across-the-board detention of Mrs. Marquez Amaya and similarly situated individuals without prompt, individualized determinations of whether they should remain detained is inconsistent with ICE's own long-standing policy, thereby violating the Administrative Procedure Act (APA) and due process. *See Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

JURISDICTION AND VENUE

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 2201, 2202 (Declaratory Judgment Act).

8. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas*, 533 U.S. at 687. Federal courts also have federal question jurisdiction, through the APA, to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus"). The APA affords a right of review to a person who is "adversely affected or aggrieved by agency action." 5 U.S.C. § 702. Respondents' continued detention has adversely and severely affected Petitioner's liberty and freedom.

9. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at Karnes County

Immigration Processing Center in Karnes City, Texas. Furthermore, a substantial part of the events or omissions giving rise to this action occurred and continue to occur at ICE's San Antonio Field Office in San Antonio, Texas within this division.

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

11. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

12. Petitioner is native and citizen of El Salvador who was granted withholding of removal under the Convention Against Torture. Petitioner is currently detained at Karnes County Immigration Processing Center. She is in the custody, and under the direct control, of Respondents and their agents.

13. Respondent Rose Thomspon is the Warden of Karnes County Immigration Processing Center, and she has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens. Respondent is a legal custodian of Petitioner.

14. Respondent, Miguel Vergara, is sued in his official capacity as the Field Office Director of the San Antonio Field Office of U.S. Immigration and Customs Enforcement. Respondent is a legal custodian of Petitioner and has authority to release him.

15. Respondent Todd Lyons is sued in his official capacity as the acting director of Immigration and Customs Enforcement, (ICE). In this capacity, Respondent oversees ICE, the component agency responsible for Petitioner's detention. Respondent is a legal custodian of Petitioner.

16. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent is responsible for the implementation and enforcement of the Immigration and Nationality Act. Respondent is a legal custodian of Petitioner.

17. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent is a legal custodian of Petitioner.

STATEMENT OF FACTS

18. Petitioner is a 26-year-old citizen of El Salvador. Jaqueline has deep community ties in the United States. She is married to a lawful permanent resident, and currently has a Petition for Alien Relative, Form I-130, pending before USCIS. She is the mother of two U.S. citizen children, ages three years and two months, the youngest whom she continues to breastfeed. Petitioner has lived and worked in The United States for several years and, during the past year, has served as the primary caregiver for her

children and household. Her removal and continued detention impose significant hardship on her U.S. citizen family and jeopardize the wellbeing of her infant child. Her return to El Salvador would expose her to severe danger and potential torture, given the violence and persecution she endured there.

1. Arrival in the United States: Petitioner arrived in the United States in 2013, seeking protection from persecution and harm in El Salvador.

2. Detention by ICE: Petitioner has been detained by U.S. Immigration and Customs Enforcement (ICE) since November 20, 2025, at the Karnes County Immigration Processing Center.

3. Grant of CAT Withholding: On January 30, 2023, an Immigration Judge granted Petitioner withholding of removal under the Convention Against Torture (CAT), finding that she faces a substantial risk of torture if returned to El Salvador.

4. Ongoing Detention Despite Protection: Despite the CAT withholding order, ICE has continued to detain Petitioner, even though her removal is not reasonably foreseeable and no lawful basis exists for continued confinement.

5. Harm from Detention: Petitioner's continued detention has caused significant physical and emotional hardship, interrupted her life with her spouse and children, and deprived her of her liberty without legal justification.

6. Community and Family Ties: Petitioner has strong ties to her community and family in the United States, she is married to a lawful permanent resident, is the primary caregiver of her two U.S. citizen children, and has resided in and contributed to her community for several years, all of which demonstrate that she poses no flight risk or danger to the community.

LEGAL FRAMEWORK

19. Petitioner's detention is governed by federal law, including §§ 1226 and 1231, and by the Constitution's Fifth Amendment, which guarantees that no person shall be deprived of liberty without due process of law. Under 8 U.S.C. § 1231(a)(1)(C), the government may not detain an individual indefinitely if removal is not reasonably foreseeable. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that prolonged detention of noncitizens whose removal is not reasonably foreseeable violates the Constitution. Individuals granted withholding of removal under the Convention Against Torture (CAT) cannot be lawfully removed to the country of concern, making detention without a lawful basis unlawful and indefinite.

CLAIMS FOR RELIEF

COUNT I

VIOLATION OF IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1231(a)(6)

20. Petitioner realleges and incorporates by reference the paragraphs above. 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for "a period reasonably necessary to bring about the alien's removal from the United States." 533 U.S. at 689, 701. Petitioner's continued detention has become unreasonable because her removal is not reasonably foreseeable. Therefore, her continued detention violates 8 U.S.C. § 1231(a)(6), and she must be immediately released.

COUNT II

ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)

21. Petitioner realleges and incorporates by reference the paragraphs above. Courts must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). ICE has deviated from its own

policy in continuing to detain Petitioner after she was granted immigration relief, without determining whether exceptional circumstances warrant his continued detention. This is arbitrary, capricious, and contrary to law in violation of the APA. As a remedy, this Court should conduct its own review of Petitioner's custody or, least, order ICE to review Petitioner's custody under the standard articulated in ICE policy.

COUNT III
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO
THE U.S. CONSTITUTION

22. Petitioner realleges and incorporates by reference the paragraphs above. ICE has violated Petitioner's due process rights by denying her an individualized custody review to which she is entitled under ICE policy. As a remedy, this Court should conduct its own review of Petitioner's custody or, at least, order ICE to review Petitioner's custody under the standard articulated in ICE policy.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully request that this Court:

- a. Assume jurisdiction over this matter;
- b. Issue an Order to Show Cause ordering Respondents to show cause why this petition should not be granted in three days;
- c. Declare that Petitioner's continued detention violates the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6); the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution.
- d. Order Petitioner's immediate release; Alternatively, review Petitioner's custody under the standard articulated in ICE policy, or order ICE to review Petitioner's custody accordingly;
- e. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

g. Grant any further relief this Court deems just and proper.

Dated: November 26, 2025

Respectfully submitted,

s/ Stephen O'Connor

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Pending Pro Hac Vice Admission

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, John F. Waldron, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 26th day of November, 2025.



John F. Waldron