

I. PARTIES & CUSTODY

1. Petitioner Elias Serrano-Menjivar is currently detained at the Immigration and Customs Enforcement (“ICE”) Montgomery Processing Center, located at 806 Hilbig Road, Conroe, Texas 77301. He has been detained continuously at that location since November 13, 2025.
2. Respondent Grant Dickey, in his official capacity as Warden of the Montgomery Processing Center, currently holds Petitioner in custody as unlawfully ordered by the Houston Field office of ICE Enforcement and Removal Operations. The Warden’s detention facility is located within this Honorable Court’s judicial district.
3. Respondent Bret Bradford, in his official capacity as Director of the Houston Field Office of ICE Enforcement and Removal Operations, has refused to effect Petitioner’s release from the unlawful custody of the Warden of the Montgomery Processing Center.
4. Respondent Kristi Noem, in her official capacity as Secretary of the United States Department of Homeland Security, has refused to exercise her authority to oversee her department’s ICE Enforcement and Removal Operations and thereby effect Petitioner’s release from the unlawful custody of the Warden of the Montgomery Processing Center.
5. Respondent Pam Bondi, in her official capacity as Attorney General of the United States, has refused to exercise her authority to oversee her department’s ICE Enforcement and Removal Operations and thereby effect Petitioner’s release from the unlawful custody of the Warden of the Montgomery Processing Center.

II. JURISDICTION & VENUE

6. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 to issue writs of habeas corpus when the petitioner is in custody in violation of the Constitution or laws of the United States.
7. Venue is proper in this district because Petitioner is detained within this district.

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

8. Petitioner has exhausted her administrative remedies to the extent required by law.
9. Petitioner has fully cooperated with Respondents and has not delayed or obstructed her detention.
10. Petitioner's only remedy is by way of this judicial action.

IV. FACTUAL AND PROCEDURAL BACKGROUND

11. Petitioner is a forty-five year old male native and citizen of Guatemala. *See attached, Exhibit A: Petitioner's Passport.* He left Guatemala and entered the United States on an unknown date.
12. On October 6, 2018, Petitioner was ordered removed pursuant to removal proceedings. *See attached, Exhibit B: Order of Supervision*
13. On May 29, 2019, Petitioner has been placed under an Order of Supervision and has complied with every requirement. He has consistently appeared at all ICE check-ins, maintained updated contact information, and followed all instructions issued by DHS and ICE. *See attached, Exhibit B: supra*

14. On November 11, 2025, Petitioner's son, K [REDACTED] applied for Asylum and Withholding of Removal under the Convention Against Torture. *See attached, Exhibit C: Kelvin's I-589*
15. Despite full compliance, Petitioner was taken into ICE custody immediately after appearing for his scheduled ICE appointment on November 13, 2025. He now remains detained without any possibility of a hearing before an Immigration Judge, as his case is procedurally closed and he is subject to a final order. As a result, a habeas corpus action is his only available remedy.
16. On November 26, 2025, Petitioner sent a Parole request to ICE, requesting that he be released. *See attached, Exhibit D: Parole Request Email*
17. Petitioner has no criminal history and has demonstrated no conduct indicating that he is a threat to the United States or otherwise eligible for deportation.
18. The government has not been able to articulate any meaningful reason why Petitioner should continue to remain in detention.
19. Since November 2025, the government has failed to demonstrate that Petitioner's removal is significantly likely in the reasonably foreseeable future.
20. Petitioner has cooperated fully with all requests made by ICE. Despite this, ICE continues to detain him without any bond hearing, any explanation of danger or flight risk, or any progress toward effectuating removal.

21. Petitioner, through Counsel, now submits the present Petition for Writ of Habeas Corpus to this Honorable Court, and respectfully requests the Court to order Respondents to effect his immediate release

V. LEGAL FRAMEWORK FOR RELIEF SOUGHT

22. Under U.S. Code 28 § 2241, writs of habeas corpus may be granted by the district courts on behalf of a prisoner in several instances, including when they are (1) “in custody under or by the authority of the United States or is committed for trial before some court thereof,” (3) “in custody in violation of the Constitution or laws and treaties of the United States,” and (4) when they, “being a citizen of a foreign state and domiciled therein [are] in custody for an act done or omitted under any alleged right, title, authority, privilege, protection, or exemption claimed under the commission, order or sanction of any foreign state, or under color thereof, the validity and effect of which depend upon the law of nations[.]”

23. Courts have consistently recognized “habeas corpus as an appropriate vehicle through which noncitizens may challenge the fact of their civil immigration detention.” *Vazquez Barrera v. Wolf*, 455 F. Supp. 3d 330, 336 (S.D. Tex. 2020) (citing *Zadvydas v. Davis*, 533 U.S. at 688 (ruling on merits of habeas petition challenging validity of indefinite mandatory detention)).

VI. CLAIMS FOR RELIEF

COUNT ONE:

**RESPONDENTS HAVE UNLAWFULLY DETAINED PETITIONER
IN VIOLATION OF THE IMMIGRATION AND NATURALIZATION ACT.**

24. Petitioner alleges and incorporates by reference paragraphs 1 through 22 above.
25. Petitioner's continued detention exceeds the authority granted under the Immigration and Nationality Act ("INA"). Respondents assert detention pursuant to 8 U.S.C. § 1231 (INA § 241), which governs post-order custody. However, detention under § 241 is strictly limited to the period "reasonably necessary" to effectuate removal.
26. Petitioner's final order of removal was issued on before October 6, 2018. He was released under an Order of Supervision and lived in the community for six years, consistently reporting to ICE and complying with all supervision requirements. His sudden detention in 2025—after years of demonstrated compliance—cannot be justified under § 241 because:
- a. Detention under § 241 must be reasonably related to effectuating removal. Here, Petitioner has already filed a stay of removal, preventing DHS from lawfully removing him at this time.
 - b. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), prohibits indefinite or arbitrary post-order detention. Detention may not continue when removal is not reasonably foreseeable.
 - c. Petitioner poses no danger and no flight risk: she has no criminal history, has never missed an ICE appointment, and has fully complied with every condition of his Order of Supervision.
 - d. The government cannot articulate any legitimate, non-punitive reason for suddenly incarcerating a person who has complied for nine years with supervision

requirements. Petitioner's re-detention contradicts DHS's longstanding determination, upheld for years, that she can be safely supervised in the community.

27. Moreover, detaining Petitioner under § 241 is unlawful because this provision authorizes detention only when removal is reasonably foreseeable.

28. Because removal is not reasonably foreseeable, Petitioner is not a danger or flight risk, and no statutory basis supports continued post-order detention, Respondents are unlawfully detaining Petitioner in violation of the INA. Petitioner therefore merits immediate release.

COUNT TWO:

RESPONDENTS HAVE UNLAWFULLY DETAINED PETITIONER IN VIOLATION OF CONSTITUTIONAL DUE PROCESS

29. Petitioner alleges and incorporates by reference paragraphs 1 through 28 above.

30. Petitioner's detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

31. Petitioner is unlawfully in custody pursuant to INA § 241(a)(6), 8 U.S.C. § 1231(a)(6) (2018) ("Section 241"). Under *Zadvydas*, that provision prohibits the indefinite detention of noncitizens who (i) cannot be repatriated in the reasonably foreseeable future, and (ii) pose no threat to the community. Any such detention is unconstitutional. *See Zadvydas*, 533 U.S. at 689, emphasis added ("In our view, the statute [Section 241], read in light of the Constitution's demands, limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States. It does not permit indefinite detention.").

32. The Fifth Amendment prohibits detention without legal authority or based on arbitrary government action.
33. Petitioner has been detained since November 13, 2025, after he voluntarily appeared for her ICE check-in. His detention has continued without any meaningful process, individualized custody review, or determination of necessity.
34. Petitioner cannot be repatriated in the reasonably foreseeable future. DHS has not demonstrated that his removal is imminent or practically achievable. Continued detention under these circumstances lacks statutory authority.
35. Petitioner poses no danger to the community, as he has no criminal history whatsoever and has lived in the United States for many years without incident.
36. Petitioner likewise poses no flight risk, as he lived under an Order of Supervision for six years, consistently complied with ICE requirements, and appeared voluntarily to his ICE appointment—where he was detained.
37. DHS has failed to conduct any individualized assessment of her detention, despite his long history of compliance, lack of criminal record, and extraordinary family circumstances.
38. Petitioner's ongoing detention is inflicting severe and irreparable harm on his son Kelvin.
39. Petitioner's son, Kelvin, is applying for Asylum, and as a result, is allowed to stay in the country. Petitioner's removal must be stayed until his son's application for asylum has concluded in its entirety.

40. Petitioner's detention no longer serves the goals of the immigration statute, is not reasonably related to effectuating removal, and therefore has become unconstitutional.

41. Because Petitioner's prolonged detention lacks statutory authority and violates her substantive and procedural due process rights, she is entitled to immediate release from ICE custody.

V. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court issue a writ of habeas corpus directing Respondents to show cause why Petitioner should not be released from custody, and to order Petitioner's immediate release from custody. Petitioner requests that this Court issue an injunction prohibiting her removal while judicial review remains pending; and award reasonable attorney's fees and costs, and grant such other relief as this Court deems just and proper.

Respectfully submitted,

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner
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Houston, Texas 77081
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PETITIONER VERIFICATION

Petitioner, Elias Serrano-Menjivar, is currently detained in ICE custody, and has authorized Counsel, Matthew Mendez, to verify, on her behalf, that the facts stated therein are true and correct to the best of her knowledge and belief.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner
Claudia Maritza Escobar Salmeron

December 5, 2025
Date

CERTIFICATE OF SERVICE

On December 5, 2025, Counsel for Plaintiff served a copy of the attached Complaint via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the Respondent, Randy Tate, in his Official Capacity as Warden of the Montgomery Processing Center, at Office of the Warden, 806 Hilbig Road, Conroe, Texas 77301.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Respondent

December 5, 2025
Date

On December 5, 2025, Counsel for Plaintiff served a copy of the attached Complaint via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Bret Bradford, in his Official Capacity as Field Office Director, of ICE Enforcement and Removal Operations Houston Field Office**, at the Office of the Field Office Director, Enforcement and Removal Operations, Houston Field Office, 126 Northpoint Drive, Houston, Texas 77060.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Respondent

December 5, 2025
Date

CERTIFICATE OF SERVICE

On December 5, 2025, Counsel for Plaintiff served a copy of the attached Complaint via USPS Mail, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Kristi Noem, in her Official Capacity as Director of U.S. Department of Homeland Security**, at the Office of General Counsel, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0485, Washington, D.C. 20530.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Respondent

December 5, 2025
Date

CERTIFICATE OF SERVICE

On December 5, 2025, Counsel for Plaintiff served a copy of the attached Petition via email, in compliance with Rule 4 of Federal Rules of Civil Procedure, upon the **Respondent, Pam Bondi, in her Official Capacity as Attorney General of the United States**, at USATXS.CivilNotice@usdoj.gov.

/s/ Matthew Mendez
Matthew Mendez
Attorney for Petitioner

December 5, 2025
Date

