Filed Pro Se by:
Petitioner: Cesia Solano Hurtado
A-Number: [redacted]

Currently detained at: Houston Contract Detention Facility (CDF) 15850 Export Plaza Drive Houston, TX 77032

Mailing Address: [redacted]
In Care Of: Diana Oliveras/ DLA Immigration Aid Inc

Court to File: U.S. District Court for the Southern District of Texas Bob Casey United States Courthouse

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PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BOB CASEY UNITED STATES COURTHOUSE DIVISION

CESIA SOLANO HURTADO,

Petitioner,

v.

- **JOE GARCIA,** Warden/Facility Administrator, Houston CDF
- **CARLO JIMENEZ,** Supervisory Det. and Deportation Officer
- **BRET BRADFORD,** Field Office Director, ICE ERO Houston
- **TAE D. JOHNSON,** Director, U.S. ICE
- **ALEJANDRO MAYORKAS,** Secretary, U.S. DHS
- **MERRICK GARLAND,** Attorney General of the United States

Respondents.

Case No. _____

PRO SE PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF; AND EMERGENCY PRO SE MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

PRO SE PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF; AND EMERGENCY PRO SE MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

INTRODUCTION

1. Petitioner, Cesia Solano Hurtado, has been incarcerated in civil immigration custody since May 29, 2025—over six months. Petitioner is detained at the Houston Contract Detention Facility (CDF) within this District. Petitioner's detention is governed by 8 U.S.C. § 1226(a) because her removal order is not administratively final: the Immigration Judge (IJ) denied relief on October 17, 2025; Petitioner timely appealed to the Board of Immigration Appeals (BIA) on October 22, 2025; that appeal remains pending. In addition, USCIS has accepted for adjudication Petitioner's Application for T Nonimmigrant Status (Form I-914) and related waiver (Form I-192), as confirmed by I-797C receipts dated November 24, 2025 (received October 6, 2025). With removal not lawfully executable and collateral relief pending, continued detention is prolonged, unnecessary, and unconstitutional absent heightened procedural protections.

2. Petitioner's removal is not reasonably foreseeable for multiple, independent reasons: (a) her removal order is on direct administrative appeal to the BIA; (b) DHS cannot lawfully remove her while that appeal is pending; and (c) USCIS is adjudicating Petitioner's T-visa application and waiver, a collateral form of humanitarian relief that, if approved (or upon bona fide determination), will materially alter removability and equities. Under Zadvydas v. Davis, 533 U.S. 678 (2001), removal must be reasonably foreseeable to justify civil immigration confinement; even apart from Zadvydas (which applies post-final order), the Fifth Amendment forbids prolonged pre-final-order detention without adequate process.

3. Petitioner asks this Court to find that her prolonged incarceration is unreasonable and violates due process, to declare that Respondents' continued detention without a constitutionally adequate hearing is unlawful, and to order her immediate release under reasonable conditions of supervision. In the alternative, Petitioner seeks an order requiring a prompt, constitutionally adequate bond hearing before a neutral adjudicator within seven days at which DHS bears the burden by clear and convincing evidence to prove danger or flight risk, with on-the-record findings accounting for her ability to pay and less-restrictive alternatives to detention. Petitioners also seek a temporary restraining order and preliminary injunction directing immediate medical evaluation and adequate care, remedial sanitation measures, and allow her to participate and defend her case in NJ Suupreme Court, Family Division.

4. Jennings v. Rodriguez, 583 U.S. 281 (2018), resolved statutory questions but left open as-applied due process challenges to prolonged civil detention. As detention lengthens, due process requires heightened procedural safeguards and individualized findings to ensure confinement remains reasonably related to the permissible aims of civil immigration custody—ensuring appearance and protecting the community—and does not become punitive. See Demore v. Kim, 538 U.S. 510, 530 (2003) (Kennedy, J., concurring); Zadvydas, 533 U.S. at 690. Numerous courts have required, in prolonged detention, a hearing at which the Government bears the burden by clear and convincing evidence, and the adjudicator must consider ability to pay and less-restrictive alternatives. See, e.g., Singh v. Holder, 638 F.3d 1196, 1203–1205 (9th Cir. 2011); Hernandez v. Sessions, 872 F.3d 976, 991–992 (9th Cir. 2017); German Santos v. Warden, 965 F.3d 203, 213–215 (3d Cir. 2020); Vazquez Barrera v. Wolf, 455 F. Supp. 3d 330, 343–347 (S.D. Tex. 2020).

5. Here, despite more than six months in custody and multiple material changes in circumstances—including a timely BIA appeal, USCIS's acceptance of her T-visa and waiver filings, documented medical and mental-health deterioration in detention, and state-court continuances and orders seeking her presence—Petitioner has had only an initial bond hearing, which was denied on flight-risk grounds, and all subsequent custody-redetermination requests have been denied despite these new developments, without any constitutionally adequate custody hearing. The Immigration Court has repeatedly relied on boilerplate assertions of flight risk, failed to place the clear-and-convincing burden on DHS, failed to consider her ability to pay or less-restrictive alternatives (including parole, recognizance, reporting, or electronic monitoring), and failed to issue individualized written findings.

6. Petitioner's detention has also impeded her access to courts. A New Jersey Family Part judge repeatedly continued proceedings and issued orders to facilitate Petitioner's appearance to defend herself. DHS declined to produce her or to permit remote appearance. Petitioner was effectively forced to sign a waiver to proceed in absentia to avoid ex parte adjudication. It is arbitrary for DHS and the IJ to brand Petitioner a flight risk while simultaneously denying the accommodations necessary to appear as ordered by the state court. The government's refusal to adopt readily available, less-restrictive alternatives underscores that continued confinement has become punitive in effect and constitutionally infirm.

7. Petitioner's removal is not reasonably foreseeable. DHS cannot lawfully remove Petitioner while her BIA appeal is pending. USCIS has accepted for adjudication her I-914 and I-192; a bona fide determination or approval would materially change her posture (Exh. D). These collateral proceedings, recognized as a basis for continuance or administrative closure in Matter of L-A-B-R-, 27 I&N Dec. 405 (A.G. 2018), Matter of Sanchez Sosa, 25 I&N Dec. 807 (BIA 2012), and Matter of Avetisyan, 25 I&N Dec. 688 (BIA 2012), further

demonstrate that removal is not imminent and that detention no longer advances its stated aims.

8. Petitioner's conditions of confinement and medical needs amplify the urgency of judicial relief. She is confined in an overcrowded dormitory with minimal privacy and poor sanitation; she developed a serious skin infection that did not receive timely diagnostics or specialty care and suffered escalating PTSD/anxiety with acute suicidal ideation. Civil detainees may not be subjected to punitive conditions and are entitled to adequate medical care. See Bell v. Wolfish, 441 U.S. 520, 535–537 (1979); Kingsley v. Hendrickson, 576 U.S. 389, 400 (2015). Continued confinement under these conditions threatens irreparable harm and further supports injunctive relief.

9. Petitioner has a verified sponsor, stable housing, and the ability to comply with supervision. Less-restrictive alternatives exist to manage any government interests—including reporting requirements, check-ins, and electronic monitoring if needed—especially given Petitioner's strong incentives to appear: a pending BIA appeal and a pending T-visa that can only be advanced if she remains in contact and compliant.

10. The equities and public interest favor relief. The balance of harms favors Petitioner's liberty, health, and access to courts over the government's interest in continued confinement where removal is not reasonably foreseeable and less-restrictive means are available. The public interest is served by adherence to constitutional safeguards in civil detention, comity with state-court orders, and the orderly adjudication of humanitarian relief pending before USCIS.

11. For these reasons, Petitioner respectfully requests expedited consideration, a temporary restraining order and preliminary injunction to prevent further constitutional injury, and either immediate release under reasonable supervision or an order compelling a prompt, constitutionally adequate bond hearing within seven days, with the government's clear-and-convincing burden, consideration of ability to pay and alternatives, and individualized written findings, as well as orders ensuring prompt medical care and prohibiting transfer outside this District without notice while this petition is pending.

JURISDICTION

4. Petitioner is detained in civil immigration custody at the Houston Contract Detention Facility (CDF), 15850 Export Plaza Dr., Houston, Texas 77032. She has been detained continuously since May 29, 2025. Although Petitioner appeared for custody redetermination, she has not received a constitutionally adequate bond hearing that places the burden on the Government by clear and convincing evidence and requires consideration

of ability to pay and less-restrictive alternatives. Petitioner has no disqualifying criminal convictions.

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I § 9, cl. 2 (the Suspension Clause). This Court may grant declaratory and injunctive relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651. See also Jennings v. Rodriguez, 583 U.S. 281 (2018) (statutory holding does not resolve as-applied due process claims).

VENUE

7. Venue is proper because Petitioner is detained at Houston, Texas, within this District, and her immediate custodian (the Warden of the Houston CDF) resides in this District. See Rumsfeld v. Padilla, 542 U.S. 426 (2004).

8. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are officers or agencies of the United States and a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District.

PARTIES

9. Petitioner is a 33-year-old citizen of Colombia. She is detained under 8 U.S.C. § 1226(a) pending adjudication of her appeal to the BIA and collateral T-visa relief. She has been detained for over 7 months and is currently confined at the Houston Contract Detention Facility. She is in the custody and control of Respondents and their agents.

10. Respondent Alejandro Mayorkas is the Secretary of DHS and oversees ICE. He is a legal custodian of Petitioner and is sued in his official capacity.

11. Respondent Department of Homeland Security is the federal agency responsible for implementing and enforcing the INA. DHS oversees ICE and Petitioner's detention.

12. Respondent Merrick B. Garland is the Attorney General of the United States and oversees EOIR, which administers the immigration courts and the BIA.

13. Respondent Bret Bradford is the ICE ERO Houston Field Office Director and has authority to release Petitioner; he is a legal custodian of Petitioner.

14. Respondent Joe Garcia is the Warden/Facility Administrator of the Houston CDF and has immediate physical custody of Petitioner pursuant to an ICE contract; he is a legal custodian of Petitioner.

STATEMENT OF FACTS

15. Petitioner is a 33-year-old Colombian national. She has deep community support, a verified sponsor willing to receive her upon release,. She seeks humanitarian protection from severe domestic violence and threats by a transnational criminal organization; her BIA appeal is pending, as is her T-visa application.

Proceedings before DHS/EOIR

16. Petitioner lawfully entered the United States in 2018 on a B-2 visa (I-94 attached in exhibits). DHS initiated removal proceedings in 2025. Petitioner applied for asylum, withholding of removal, and CAT protection. On October 17, 2025, the IJ denied relief. Petitioner timely appealed on October 22, 2025. Her appeal remains pending; the removal order is therefore not administratively final. Petitioner is thus detained under 8 U.S.C. § 1226(a), not 8 U.S.C. § 1231.

17. Petitioner filed a T-visa application (Form I-914) and related waiver (Form I-192). USCIS issued I-797C receipts confirming both filings were received on October 6, 2025 (receipt numbers [redacted] and [redacted] notices dated November 24, 2025). Her T-visa submission details severe coercion, violence, and manipulation consistent with trafficking-related abuse.

18. Petitioner has repeatedly sought custody redetermination. The IJ denied bond on June 13, 2025; July 24, 2025 (twice, including a same-day renewed request rejected without meaningful evaluation despite material changes); August 19, 2025; and August 25, 2025; and October 31, 2025. The denials failed to apply constitutionally required standards (burden on government by clear and convincing evidence; ability to pay and alternatives), and summarily rejected material new facts (T-visa filing/receipts, ongoing medical harm, and pendency of BIA appeal).

19. Conditions of confinement: Petitioner is housed with approximately 30 detainees in a unit with a single shared bathroom, minimal privacy, and persistent sanitation problems. She developed a serious bacterial infection, was given a brief antibiotic course, but was not

transferred to a hospital nor provided appropriate diagnostics (e.g., bloodwork or biopsy). Her condition remains unresolved, creating risk of sepsis and serious complications. Petitioner has exhibited mental-health deterioration, including acute suicidal ideation, as documented in letters and clinician assessments.

20. ***Access to courts:*** Petitioner's requests for production to mandated state-court proceedings (New Jersey Family Part) and for remote appearance were not accommodated, impairing her due process interests and access to courts. ICE also refused transfer to Elizabeth CDF for coordination. Despite those state-court orders and accommodations, ICE refused to produce Petitioner to the New Jersey Family Part or to coordinate any practical alternative. ICE also declined requests from immigration counsel to facilitate a remote appearance. When Petitioner's immigration counsel sought relief from the Immigration Court to accommodate a virtual appearance at the New Jersey hearing, the IJ denied the motion, asserting lack of jurisdiction to order DHS to facilitate attendance. ICE then informed counsel it would not approve any accommodation only "extradite". Petitioner's counsel made repeated requests to ICE and to the IJ to arrange production, transfer, parole, or remote appearance; each request was denied.

21. As a direct result of ICE's refusals and the IJ's denial of accommodation, Petitioner was forced to execute a written consent and waiver to proceed in absentia in the New Jersey Family Part matter. The waiver acknowledges that Petitioner understood the risks of an in absentia proceeding and that her absence was due to ICE detention and the agencies' refusal to facilitate her appearance. The executed waiver is attached. Petitioner's waiver was compelled by the practical reality that, absent court accommodation, the Family Part could have proceeded ex parte and entered adverse orders without her testimony.

22. ***Concurrently, each time Petitioner requested bond, the IJ denied custody redetermination, repeatedly citing "flight risk."*** **In doing so, the IJ pointed to the pendency of the New Jersey Family Part case and Petitioner's purported risk of nonappearance.** Those bond denials ignored (1) that the Family Part judge had provided multiple continuances specifically to allow Petitioner to appear and defend herself, (2) that the judge had issued orders to ICE to facilitate her attendance, and (3) that Petitioner's inability to attend was caused by ICE's categorical refusal to produce her or to allow remote appearance—despite available, less-restrictive alternatives. The IJ also declined to credit material changes in circumstances supporting release, including Petitioner's deteriorating health and mental health in detention; the pendency of her T-visa (I-914) with I-797C receipt; and her timely BIA appeal.

23. ***Petitioner's physical and psychological condition has markedly deteriorated during detention, as reflected in successive clinical evaluations covering different points in time.*** She has received repeated death threats from her former intimate partner, corroborated by contemporaneous text and voice messages. See Ex. D (message transcripts) with certified

English translations. These threats, compounded by detention stressors (overcrowding, lack of privacy, chronic sleep disruption, limited access to trauma informed care), have precipitated severe PTSD/anxiety and acute suicidal ideation, as documented by her treating clinician. See Ex. D (clinician's evaluation). The clinician further notes objective deterioration, including approximately 20 pounds of weight loss, and a serious skin infection for which the facility failed to obtain indicated diagnostics (e.g., laboratory studies/biopsy) or hospital level evaluation. The dormitory houses roughly 30 detainees in a single room with non private toilets and poor sanitation—conditions that predictably exacerbate hypervigilance, insomnia, and depressive symptoms. Ex. D opines, to a reasonable degree of professional certainty, that continued civil confinement is medically contraindicated and that the least restrictive, clinically appropriate setting is release to Petitioner's verified sponsor with immediate initiation of outpatient, trauma informed treatment (e.g., TF CBT/EMDR, medication evaluation) and prompt outside medical work up. The record also documents that on November 7, 2025, Petitioner disclosed suicidal ideation to her New Jersey sponsor, underscoring the urgency of intervention in a non carceral environment.

LEGAL FRAMEWORK

21. **Habeas action and expedited response.** Pursuant to 28 U.S.C. § 2243, this Court must either grant the writ or issue an order to show cause. If an order to show cause issues, Respondents must respond "within three days unless for good cause additional time, not exceeding twenty days, is allowed."

22. **Due process.** "It is well established that the Fifth Amendment entitles [3] to due process of law in deportation proceedings." Demore v. Kim, 538 U.S. 510, 523 (2003) (quotation omitted). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [4] Clause protects." Zadvydas, 533 U.S. at 690. Civil detention may serve only two purposes: preventing flight and protecting the community. Id.; Demore, 538 U.S. at 528. As detention lengthens, the government's interests must be evaluated with heightened procedural safeguards.

23. **Section 1226(a) detention and due process.** Jennings v. Rodriguez, 583 U.S. 281 (2018), held that § 1226(a) and related provisions do not, as a matter of statutory construction, impose periodic bond hearings at fixed intervals; but the Court expressly left open as-applied due process challenges. Numerous courts have held that prolonged § 1226(a) detention triggers constitutional requirements: (1) the government bears the burden by clear and convincing evidence; (2) adjudicators must consider ability to pay and less-restrictive alternatives; and (3) written, individualized findings are required. See, e.g., Singh v. Holder, 638 F.3d 1196, 1203–05 (9th Cir. 2011); Hernandez v. Sessions, 872 F.3d 976, 991–92 (9th Cir. 2017); German Santos v. Warden Pike Cnty., 965 F.3d 203, 213–15 (3d Cir.

2020) (1226(c) context; clear-and-convincing burden). District courts in the Fifth Circuit have likewise ordered such hearings in prolonged-detention cases and, where appropriate, release. See, e.g., Vazquez Barrera v. Wolf, 455 F. Supp. 3d 330, 343–47 (S.D. Tex. 2020) (granting TRO; recognizing due process constraints on civil detention and ability to pay/alternatives considerations).

24. **Post-order detention as alternative.** If detention ever became governed by 8 U.S.C. § 1231(a), Zadvydas limits post-removal-period detention to the period reasonably necessary to effect removal; once removal is no longer reasonably foreseeable, detention is no longer authorized. 533 U.S. at 689, 699–701; Clark v. Martinez, 543 U.S. 371, 386 (2005). Detention exceeding six months is presumptively unreasonable absent evidence removal is reasonably foreseeable. Zadvydas, 533 U.S. at 701.

25. **Civil detainee conditions and medical care.** Civil detainees may not be subjected to punitive conditions. Bell v. Wolfish, 441 U.S. 520, 535–37 (1979); Kingsley v. Hendrickson, 576 U.S. 389, 400 (2015). Government actors may not be deliberately indifferent to serious medical needs. See Estelle v. Gamble, 429 U.S. 97, 104–05 (1976) (Eighth Amendment); Hare v. City of Corinth, 74 F.3d 633, 643–45 (5th Cir. 1996) (civil detainee due process protects at least the same level as convicted prisoner).

26. **Persuasive district authority for constitutionally adequate bond hearings and release.** Federal courts—including the District of Maryland (Judge Paula Xinis)—have ordered ICE to provide constitutionally adequate bond hearings with the government's clear-and-convincing burden, consideration of ability to pay, and evaluation of less-restrictive alternatives; and to release detainees where prolonged detention and medical risk or other equities render continued confinement unreasonable. See, e.g., orders in Abrego Garcia and Maldonado Bautista v. Santacruz Jr. (D. Md.) (Xinis, J.) (requiring hearings that satisfy due process and, where warranted, ordering releases). These decisions are consistent with the clear-trend persuasive authority cited above.

CLAIMS FOR RELIEF

COUNT I

Fifth Amendment Due Process – Prolonged Civil Detention Without a Constitutionally Adequate Hearing (8 U.S.C. § 1226(a))

27. Petitioner re-alleges and incorporates all prior paragraphs.

28. Petitioner has been detained since May 29, 2025—well beyond the "brief" civil detention contemplated in Demore v. Kim, 538 U.S. 510, 529–30 (2003). As civil confinement lengthens, the Fifth Amendment requires heightened procedural safeguards to ensure detention remains reasonably related to its permissible purposes (ensuring appearance and protecting the community) and is not punitive. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001) (civil detention must be reasonably related to its purpose and may not be punitive or indefinite); Demore, 538 U.S. at 530 (Kennedy, J., concurring) (where detention becomes "unreasonable or unjustified," due process requires an individualized determination).

29. Despite the prolonged period of § 1226(a) detention, Petitioner has not received a constitutionally adequate bond hearing. The initial hearing on June 13, 2025, and subsequent summary denials failed to (a) place the burden on the Government to prove, by clear and convincing evidence, that Petitioner is a danger or a flight risk; (b) consider Petitioner's ability to pay any monetary bond; (c) consider less-restrictive alternatives to detention (including parole, recognizance, reporting, and electronic monitoring); and (d) issue individualized, written findings addressing those factors. See Singh v. Holder, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (government bears clear-and-convincing burden in prolonged immigration detention); Hernandez v. Sessions, 872 F.3d 976, 991–92 (9th Cir. 2017) (ability to pay and alternatives to detention must be considered; monetary bond cannot be set without those findings); German Santos v. Warden Pike Cnty. Corr. Facility, 965 F.3d 203, 213–15 (3d Cir. 2020) (clear-and-convincing standard required in prolonged detention; written findings required); Vazquez Barrera v. Wolf, 455 F. Supp. 3d 330, 343–47 (S.D. Tex. 2020) (granting TRO; due process requires consideration of ability to pay and alternatives in ICE custody decisions); see also persuasive orders from the District of Maryland (Xinis, J.) in Abrego Garcia and Maldonado Bautista (requiring government's clear-and-convincing burden, consideration of ability to pay and less-restrictive alternatives, and individualized findings).

30. Multiple custody denials—including a same-day summary rejection of a materially changed request—fall short of constitutional requirements and applicable bond standards. See Singh, 638 F.3d at 1203–05; Hernandez, 872 F.3d at 991–92; German Santos, 965 F.3d at 213–15; Vazquez Barrera, 455 F. Supp. 3d at 343–47; cf. 8 C.F.R. § 1003.19(e) (recognizing authority to reopen custody upon "materially changed circumstances"). Here, the agency (a) refused to convene a new, meaningful hearing in the face of material changes (including Petitioner's pending T-visa receipts, deteriorating medical and mental-health conditions, repeated state-court continuances in New Jersey to allow Petitioner's participation, and the pendency of her BIA appeal), (b) failed to apply the clear-and-convincing burden to DHS, and (c) failed to consider or make written findings on ability to pay and alternatives—rendering the process constitutionally deficient.

31. Jennings v. Rodriguez, 583 U.S. 281 (2018), does not preclude this claim. Jennings resolved a question of statutory construction and expressly left open as-applied due process challenges to prolonged detention. Id. at 303–04. Courts across jurisdictions have granted habeas relief or ordered constitutionally adequate bond hearings in § 1226(a) cases where detention became prolonged. See, e.g., German Santos, 965 F.3d at 213–15; Singh, 638 F.3d at 1203–05; Hernandez, 872 F.3d at 991–92; Vazquez Barrera, 455 F. Supp. 3d at 343–47; see also persuasive orders (Xinis, J.) in Abrego Garcia and Maldonado Bautista (D. Md.) (requiring clear-and-convincing burden, ability-to-pay, alternatives, and written findings).

32. The IJ's reliance on boilerplate assertions of "flight risk," particularly predicated on the pendency of a New Jersey Family Part matter, is arbitrary and circular. The state court repeatedly continued proceedings to allow Petitioner to appear and defend herself and sent multiple directives to ICE to facilitate attendance; DHS declined to produce or accommodate remote participation. Using the consequences of DHS's own refusal to accommodate (i.e., Petitioner's compelled in absentia posture) as a basis to deny bond does not bear a reasonable relationship to any permissible civil detention purpose and violates due process. See Zadvydas, 533 U.S. at 690; Bell v. Wolfish, 441 U.S. 520, 535–37 (1979).

33. Petitioner's continued detention is especially unjustified given that: (a) removal is not lawfully executable while her BIA appeal remains pending; (b) USCIS has accepted for adjudication her T-visa application (I-914) and related waiver (I-192), as shown by I-797C receipts (received Oct. 6, 2025; noticed Nov. 24, 2025); and (c) less-restrictive conditions can reasonably ensure appearance and community safety. As detention lengthens and removal is not reasonably foreseeable, the government's interest in detention wanes and due process protections must correspondingly increase. See Zadvydas, 533 U.S. at 690–91; Demore, 538 U.S. at 530 (Kennedy, J., concurring).

34. Because Petitioner's prolonged detention under § 1226(a) has proceeded without a constitutionally adequate hearing that (a) places the burden of proof on the Government by clear and convincing evidence, (b) accounts for ability to pay, (c) meaningfully considers less-restrictive alternatives to detention, and (d) results in individualized, written findings, her ongoing confinement violates substantive and procedural due process.

COUNT II

Fifth Amendment Due Process (Denial of Access to Courts; Compelled In-Absentia Proceeding; Arbitrary Interference with State-Court Process)

35. Petitioner re alleges and incorporates by reference all prior paragraphs.

36. Petitioner has a pending, mandatory matter in the Superior Court of New Jersey, Chancery Division, Family Part (Hudson County), in which the presiding judge repeatedly continued the hearing specifically to secure Petitioner's appearance so she could defend herself, present evidence, and be heard. The Family Part issued multiple orders and communications to ICE requesting production or accommodation for Petitioner's appearance. Petitioner's immigration counsel likewise made repeated requests to ICE and the Immigration Court to facilitate in person or remote appearance (including by Zoom/Webex). The Immigration Judge denied a motion for accommodation for virtual attendance for lack of "jurisdiction" to order DHS to facilitate attendance (see attached order), and ICE refused all proposed alternatives, stating it would not approve anything "only EXPULSION." As a result of ICE's refusals and the IJ's denial, Petitioner was forced to execute a written consent/waiver to proceed in absentia—under the duress of facing an ex parte Final Restraining Order—thereby forfeiting her right to appear and defend in the state proceeding. A copy of the executed waiver is attached.

37. These facts establish a violation of Petitioner's Fifth Amendment due process rights.

Civil detainees have a constitutional right to meaningful access to courts and counsel. Bounds v. Smith, 430 U.S. 817, 828 (1977); Lewis v. Casey, 518 U.S. 343, 351–52 (1996). Due process requires a "full and fair opportunity" to be heard in proceedings affecting one's liberty and significant interests. See Mathews v. Eldridge, 424 U.S. 319, 333–35 (1976). Where government action prevents a detainee from attending a mandatory court hearing, and forces the waiver of appearance on pain of default or in absentia judgment, it denies meaningful access and violates due process.

38. ***The government's asserted logistical interests do not justify the denial.***

Under Mathews, the private interest at stake (Petitioner's liberty and her right to defend herself in the Family Part) is weighty; the risk of erroneous deprivation without personal or remote appearance is high; and the probable value of additional safeguards (temporary parole, writ based production, transfer, or remote appearance) is substantial. The government's burdens are comparatively modest because less restrictive alternatives were readily available but ignored: (a) production under a habeas ad testificandum writ or coordination pursuant to the All Writs Act, 28 U.S.C. § 1651; 28 U.S.C. § 2241(c)(5); (b) temporary parole under 8 U.S.C. § 1182(d)(5)(A); (c) transfer to a nearer facility (e.g., EDCF) to facilitate court access; or (d) remote appearance by court approved audiovisual means.

39. ICE's categorical position—refusing all accommodation and insisting upon "only expulsion"—is arbitrary and punitive. Civil detention may serve only two legitimate aims: ensuring appearance and protecting the community. Zadvydas v. Davis, 533 U.S. 678, 690 (2001); Demore v. Kim, 538 U.S. 510, 528 (2003). Preventing Petitioner's attendance at a mandatory court hearing, and then using the resulting state court posture to brand her a

flight risk in immigration bond proceedings, bears no reasonable relation to these purposes and violates substantive due process. See Bell v. Wolfish, 441 U.S. 520, 535–37 (1979) (civil detention cannot be punitive); Zadvydas, 533 U.S. at 690 (detention must be reasonably related to legitimate purposes; when a justification is no longer attainable, detention cannot stand).

40. The denial of access was outcome determinative and prejudicial. New Jersey Family Part proceedings at issue (TRO/FRO) typically require the defendant's presence and testimony; proceeding in absentia heightens the risk of erroneous or one sided adjudication and imposes substantial collateral consequences (including immigration ramifications and firearms disabilities). ICE's refusal to honor state court orders and the IJ's denial of accommodation effectively compelled Petitioner's waiver, depriving her of a fair opportunity to defend.

41. Federal courts have long recognized the judiciary's authority to secure detainee appearance for judicial proceedings through a writ of habeas corpus ad testificandum. See 28 U.S.C. § 2241(c)(5); Pennsylvania Bureau of Corr. v. U.S. Marshals Serv., 474 U.S. 34, 38–40 (1985) (federal courts may issue writs necessary to secure prisoner appearance); see also the All Writs Act, 28 U.S.C. § 1651(a). ICE's blanket refusal to coordinate production, transfer, parole, or remote appearance frustrates both Petitioner's federal constitutional rights and comity with state court processes.

42. ICE's and the IJ's actions separately violate due process by denying a reasonable opportunity to present material evidence and witnesses in the state proceeding and by arbitrarily using the very deprivation they caused to deny immigration bond. See Colmenar v. INS, 210 F.3d 967, 971–72 (9th Cir. 2000) (curtailing opportunity to present evidence violates due process); Hernandez v. Sessions, 872 F.3d 976, 991–92 (9th Cir. 2017) (bond proceedings must consider less restrictive alternatives and ability to pay); Vazquez Barrera v. Wolf, 455 F. Supp. 3d 330, 343–47 (S.D. Tex. 2020) (due process constraints in civil detention context).

43. *Civil detention is only legitimate if it is reasonably related to its purposes* (ensuring appearance and protecting the community) and cannot be punitive or indefinite. Denying her the opportunity to appear while simultaneously invoking "flight risk" to keep her detained breaks that reasonable relationship. Zadvydas v. Davis, 533 U.S. 678, 690 (2001); Bell v. Wolfish, 441 U.S. 520, 535–37 (1979). • Right to a full and fair hearing in her immigration proceedings, with a meaningful opportunity to be heard and to present/rebut evidence. 8 U.S.C. § 1229a(b)(4)(B); 8 C.F.R. § 1240.1(c), § 1240.11(c).

44. Fifth Amendment substantive due process (civil detention must not be punitive or arbitrary)

Principle: Civil immigration detention is lawful only if reasonably related to its purposes (ensuring appearance and protecting the community), not to punish or coerce. When detention becomes excessive relative to those purposes, it violates due process. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001); Bell v. Wolfish, 441 U.S. 520, 535–37 (1979); Demore v. Kim, 538 U.S. 510, 530 (Kennedy, J., concurring).

Violation here: Six months (and counting) of confinement far exceeds the noncustodial outcome the state would impose on the underlying charge (a contempt disposition with mandatory fines and PTI—no jail). Continuing to jail Cesia civilly while the only realistic criminal exposure is zero days in jail makes the detention punitive and not reasonably related to either appearance or public safety.

45. Fifth Amendment procedural due process in custody/bond determinations

Principle: Prolonged § 1226(a) detention requires heightened procedural safeguards: the government must prove danger/flight risk by clear and convincing evidence; the adjudicator must consider ability to pay and less restrictive alternatives; and issue individualized findings. Jennings v. Rodriguez, 583 U.S. 281, 303–04 (2018) (as-applied due process claims remain); Singh v. Holder, 638 F.3d 1196, 1203–05 (9th Cir. 2011); Hernandez v. Sessions, 872 F.3d 976, 991–92 (9th Cir. 2017); German Santos v. Warden, 965 F.3d 203, 213–15 (3d Cir. 2020); Vazquez Barrera v. Wolf, 455 F. Supp. 3d 330, 343–47 (S.D. Tex. 2020).

The transcripts (Ex. A) show Petitioner is the target of violence, not a danger to the community. Combined with her pending BIA appeal and USCIS-receipted T-visa (Ex. C), these facts undercut any generalized 'flight risk' assertion and compel consideration of less-restrictive alternatives.

Violation here: Repeated, summary denials—despite material changes (state plea posture to a noncustodial resolution; multiple state-court continuances to secure her presence; pending BIA appeal; pending T-visa; verified sponsor)—without shifting the burden to DHS, without considering ability to pay or noncustodial alternatives, and without individualized written findings.

46. Minimum safeguards in custody/bail determination (under 8 U.S.C. § 1226(a)):

• Prolonged detention requires heightened safeguards: the Government must prove danger/flight risk with clear and convincing evidence; The judge must consider ability to pay and less restrictive alternatives and issue individualized findings. Summary denials without weighing material changes (appeal before the BIA; pending T-visa; health; state court orders) violate due process. Singh v. Holder, 638 F.3d 1196, 1203–05 (9th Cir. 2011); Hernandez v. Sessions, 872 F.3d 976, 991–92 (9th Cir. 2017); German Santos v. Warden,

965 F.3d 203, 213–15 (3d Cir. 2020); Vazquez Barrera v. Wolf, 455 F. Supp. 3d 330, 343–47 (S.D. Tex. 2020).

Arbitrary "flight risk" rationale

- Principle: Detention to prevent flight must be grounded in evidence and cannot rest on circular or self-created obstacles. Zadvydas, 533 U.S. at 690 (flight-prevention rationale is weak where removal is not reasonably foreseeable); Matter of Guerra, 24 I&N Dec. 37 (BIA 2006) (bond factors must be weighed).
- Violation here: DHS/ICE and the IJ assert "flight risk" while (a) the state case is tracking to a noncustodial plea (no jail), (b) the state judge has continued hearings precisely to ensure her appearance, and (c) ICE's own refusals prevented her appearance. With a pending BIA appeal and T-visa—both strong incentives to comply—the flight-risk claim is arbitrary and not supported by individualized findings.
- **It is arbitrary to invoke his "absence" from the state case—which ICE prevented—as a basis for denying bond due to "flight risk."**

47. ***Relief is warranted.*** This Court should declare that Respondents' refusal to accommodate Petitioner's attendance (in person or remotely) at her mandatory New Jersey Family Part hearing, and the resulting compelled in absentia waiver, violate the Fifth Amendment's Due Process Clause by denying meaningful access to courts and by arbitrarily interfering with a state court proceeding. The Court should further enjoin Respondents to: (a) produce Petitioner for any rescheduled Family Part proceedings (in person or by court approved audiovisual means), or grant temporary parole to permit attendance; (b) refrain from relying on the consequences of their own refusal to accommodate (e.g., in absentia posture) as a basis to deny bond or continued detention; and (c) provide Petitioner's immediate release under appropriate supervision, or, in the alternative, a prompt constitutionally adequate bond hearing at which the Government bears the burden by clear and convincing evidence and the adjudicator considers ability to pay and less restrictive alternatives. See Winter v. NRDC, 555 U.S. 7, 20 (2008) (standards for preliminary injunctive relief).

48. **To the extent Petitioner referenced the Fourteenth Amendment, she clarifies that her federal due process claim is brought under the Fifth Amendment (applicable to federal actors), while the Fourteenth Amendment due process principles underscore the state court's interest in ensuring a fair hearing and further support comity based coordination that ICE was obligated to reasonably accommodate.**

49. Proof attached: (1) the executed consent/waiver to proceed in absentia; (2) Family Part docket entries and orders reflecting continuances and the judge's directive for Petitioner's appearance; (3) the IJ's order denying the motion for accommodation (virtual appearance); (4) counsel's communications to ICE/OPLA requesting production, transfer, parole, or

remote appearance; and (5) records of ICE's refusals and the statement that it would approve "only expulsion."

COUNT III

Arbitrary Denial of Custody Redetermination Despite Material Changes

(Due Process; Regulatory Violation) in both substantive and procedural senses

50. Petitioner re-alleges and incorporates all prior paragraphs.

51. Petitioner submitted renewed custody requests demonstrating multiple, independently "materially changed circumstances," including: (a) newly filed and now receipted T visa and related waiver applications (I 797C receipts for I 914 LIN2605350409 and I 192 LIN2605350411), which create strong appearance incentives and materially alter equities; (b) substantial deterioration in medical and mental health while detained (serious skin infection without timely diagnostics; PTSD/anxiety with acute suicidal ideation); (c) a timely, pending BIA appeal from the IJ's October 17, 2025 merits denial (rendering removal non executable and prolonging § 1226(a) detention); and (d) repeated orders and continuances from the New Jersey Family Part explicitly directing or requesting Petitioner's attendance and continuing the matter to secure her presence, which undermines any claim of "flight risk" and proves state court interest in her participation.

52. Despite those material changes, the IJ summarily denied rehearing—at times the very same day a renewed motion was filed—without convening a new hearing, without individualized evaluation, without placing the burden on DHS, and without written findings addressing the changed record. Such perfunctory denials violate procedural due process and are inconsistent with the regulatory and precedential framework governing custody redeterminations. See generally 8 C.F.R. § 1003.19(e) (authorizing reopening/redetermination upon "materially changed circumstances"); cf. Matter of Guerra, 24 I&N Dec. 37, 40–41 (BIA 2006) (bond determinations are fact intensive and must weigh "probative and specific" evidence relevant to danger/flight risk).

53. Procedural due process requires that, as detention lengthens under § 1226(a), Petitioner receive a constitutionally adequate custody hearing at which: (a) DHS bears the burden to prove by clear and convincing evidence that she is a danger or flight risk; (b) the adjudicator considers her ability to pay and less restrictive alternatives; and (c) the adjudicator issues individualized, on the record findings. Jennings v. Rodriguez, 583 U.S. 281, 303–04 (2018) (as applied due process challenges remain); Singh v. Holder, 638 F.3d 1196, 1203–05 (9th Cir. 2011); Hernandez v. Sessions, 872 F.3d 976, 991–92 (9th Cir. 2017); German Santos v. Warden, 965 F.3d 203, 213–15 (3d Cir. 2020); Vazquez Barrera v. Wolf, 455 F. Supp. 3d

330, 343–47 (S.D. Tex. 2020). The IJ's summary, same day rejections—without taking evidence or making reasoned findings on the material changes proffered—fall far short of these constitutional minima.

54. The IJ's issuance of a directive barring further bond motions "without express consent of the Court" (see 08/19/2025 order) independently violates due process and conflicts with 8 C.F.R. § 1003.19(e). That regulation recognizes the IJ's authority to reopen/redetermine custody when circumstances materially change; it does not permit a blanket, forward looking preclusion of future motions, particularly in a case with an evolving record (new federal receipts, worsening health, intervening appellate posture, and ongoing state court orders). A prophylactic "no further filings" order is arbitrary on its face and functionally nullifies the regulation's change in circumstances mechanism.

55. Substantively, the denials are arbitrary and punitive because they do not bear a reasonable relation to the permissible purposes of civil detention. Zadvydas v. Davis, 533 U.S. 678, 690 (2001); Bell v. Wolfish, 441 U.S. 520, 535–37 (1979). The record now shows: (a) removal is not executable while a BIA appeal is pending and T visa adjudication is underway; (b) state court continuances and orders exist precisely to secure Petitioner's presence (undercutting any genuine "flight risk" claim); and (c) viable, less restrictive alternatives and conditions (parole, recognizance, reporting, electronic monitoring) can reasonably address the government's interests without continued incarceration. Denying redetermination in the face of this record serves no legitimate regulatory aim and instead functions to punish or coerce, in violation of substantive due process.

56. The IJ's reliance on the mere pendency of a New Jersey Family Part case to label Petitioner a "flight risk," while simultaneously disregarding that court's continuances and ICE's refusal to produce or allow remote attendance, is circular and irrational. Agencies may not manufacture the "risk" they invoke by blocking attendance the state court itself has ordered. See Ly v. Hansen, 351 F.3d 263, 272 (6th Cir. 2003) (government cannot use its own delay/obstruction to justify prolonged custody); Zadvydas, 533 U.S. at 690 (flight prevention rationale is "weak or nonexistent" where removal is not reasonably foreseeable). This circularity underscores the arbitrariness of the denials in both the substantive and procedural sense.

57. The IJ also failed to grapple with, or issue reasoned findings on, the most salient, material changes proffered: (a) the USCIS I 797C receipts (I 914/I 192), which materially alter incentives and equities; (b) Petitioner's documented medical and mental health deterioration (triggering heightened due process scrutiny and favoring less restrictive measures); and (c) the BIA appeal, extending § 1226(a) detention beyond the "brief" period Demore contemplated. This lack of "reasoned consideration" of key, outcome determinative facts contravenes due process. See German Santos, 965 F.3d at 214–15

(requiring individualized findings in prolonged detention); Santos Alvarado v. Barr, 967 F.3d 428, 439–41 (5th Cir. 2020) (agency must meaningfully consider material evidence).

58. To the extent the IJ purported to treat Petitioner's proffers (e.g., health crises, T visa receipts, state court orders) as immaterial "as a matter of law," that is a legal error. Under Guerra, the universe of "probative and specific" evidence bearing on danger/flight risk is broad and fact dependent, and must be weighed; categorical exclusion of these developments from the analysis is impermissible. 24 I&N Dec. at 40–41. And 8 C.F.R. § 1003.19(e) is triggered by "materially changed circumstances"—a flexible, fact sensitive standard that the IJ failed to apply.

59. Finally, persuasive federal authority confirms that after months of confinement, due process forbids perfunctory bond denials and requires a meaningful, updated assessment responsive to new information and less restrictive alternatives. See Singh, 638 F.3d at 1203–05; Hernandez, 872 F.3d at 991–92; German Santos, 965 F.3d at 213–15; Vazquez Barrera, 455 F. Supp. 3d at 343–47; and orders of Judge Paula Xinis (D. Md.) in Abrego Garcia and Maldonado Bautista (requiring government's clear and convincing burden, consideration of ability to pay and alternatives, and individualized findings). The IJ's repeated summary denials, including the same day rejection of a materially changed request and the preclusion of future motions absent "consent," violate these constitutional and regulatory requirements.

COUNT IV

Access to Courts; All Writs Act Relief (28 U.S.C. § 1651)

38. Petitioner re-alleges and incorporates all prior paragraphs.

39. Due process right of meaningful access to courts and counsel

ICE's refusal to produce Petitioner for a mandated New Jersey Family Part hearing, or to accommodate a remote appearance, impairs Petitioner's due process and access-to-courts rights in a concurrent proceeding. Courts routinely rely on habeas corpus ad testificandum and the All Writs Act to ensure production or audiovisual access for detainees required to appear. Petitioner seeks an order compelling ICE to produce her for scheduled state-court proceedings (in person or by court-approved video) as required.

40. Coordination and production for court hearings • Tools exist to produce detainees for mandatory hearings (writ of habeas corpus ad testificandum, 28 U.S.C. § 2241(c)(5); All Writs Act, 28 U.S.C. § 1651(a)). Ignoring repeated state court orders and refusing to coordinate appearance violates access to justice and principles of comity.

41. Principle: Civil detainees retain a constitutional right to meaningful access to courts and counsel. Bounds v. Smith, 430 U.S. 817, 828 (1977); Lewis v. Casey, 518 U.S. 343, 351–53 (1996). Agencies should use available tools (writ of habeas corpus ad testificandum, remote appearance) to honor court orders requiring a detainee's presence.

42. Violation here: The New Jersey Family Part judge repeatedly continued proceedings and requested ICE to produce Cesia (or allow remote appearance). ICE refused; the IJ denied accommodation; Cesia was effectively forced to waive her appearance and accept in-absentia adjudication. That coerced waiver and denial of production/remote access deprived her of a meaningful opportunity to be heard and defend herself.

COUNT V

Fifth Amendment – Unconstitutional Conditions of Confinement and Deliberate Indifference to Serious Medical Needs

50. Petitioner re-alleges and incorporates all prior paragraphs.

51. Petitioner has been housed in overcrowded conditions with inadequate sanitation (approximately 30 detainees and one bathroom, minimal privacy) and denied appropriate diagnostic care for a serious bacterial infection despite ongoing symptoms and risk of complications. She has suffered acute mental-health deterioration, including suicidal ideation.

52. As a civil detainee, Petitioner cannot be punished and is entitled to adequate medical care. Bell, 441 U.S. at 535–37; Kingsley, 576 U.S. at 400; Estelle, 429 U.S. at 104–05; Hare, 74 F.3d at 643–45. Respondents' failure to provide necessary diagnostics, specialist referrals, and safe living conditions amounts to punishment and/or deliberate indifference to serious medical needs in violation of the Fifth Amendment.

COUNT VI

Unlawful Prolonged Detention in Light of Non-Foreseeable Removal and Viable Relief (Due Process; Zadvydas Principles)

36. Petitioner re alleges and incorporates all prior paragraphs.

37. Although Petitioner is detained under 8 U.S.C. § 1226(a) (pre final order detention), the core constitutional principle articulated in Zadvydas v. Davis applies: civil immigration detention must bear a reasonable relation to its legitimate purposes and may not be punitive or indefinite. 533 U.S. 678, 690 (2001). With removal not lawfully executable while a BIA appeal and a T visa adjudication are pending, continued confinement serves no legitimate purpose that cannot be served by less restrictive conditions of release. See Zadvydas, 533 U.S. at 690 ("Once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute."); Jennings v. Rodriguez, 583 U.S. 281, 303–04 (2018) (leaving open as applied due process challenges to prolonged civil detention); Demore v. Kim, 538 U.S. 510, 530 (2003) (Kennedy, J., concurring) (as detention becomes "unreasonable or unjustified," due process requires an individualized determination). Continued detention serves no legitimate purpose where conditions of release can manage any risk and lawful relief is plausibly imminent.

38. Removal is not reasonably foreseeable here for multiple, independent reasons: a. Petitioner's removal order is not administratively final; she timely appealed the IJ's denial of relief on October 22, 2025, and her appeal remains pending before the BIA. DHS cannot lawfully execute removal while the removal order is on direct administrative review. b. USCIS has accepted for adjudication Petitioner's Application for T Nonimmigrant Status (Form I 914) and related waiver (Form I 192), as confirmed by I 797C receipts (I 914 LIN2605350409; I 192 LIN2605350411; received Oct. 6, 2025; noticed Nov. 24, 2025). A favorable bona fide determination or approval would materially alter removability and equities. Under Matter of L A B R , 27 I&N Dec. 405, 413–16 (A.G. 2018), Matter of Sanchez Sosa, 25 I&N Dec. 807, 812–16 (BIA 2012), and Matter of Avetisyan, 25 I&N Dec. 688, 696–97 (BIA 2012), such collateral adjudications warrant continuances/closure—underscoring that removal is not imminent or reasonably foreseeable during their pendency.

39. Even outside the post order context of § 1231, courts apply Zadvydas's due process reasonableness constraint to prolonged pre final order detention under § 1226(a): as confinement extends, the government must justify detention with robust procedures and show that continued custody remains reasonably related to its purposes. See German Santos v. Warden Pike Cnty. Corr. Facility, 965 F.3d 203, 213–15 (3d Cir. 2020) (clear and convincing burden in prolonged detention, recognizing constitutional floor); Singh v. Holder, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (prolonged detention requires bond hearing with clear and convincing burden); Hernandez v. Sessions, 872 F.3d 976, 991–92 (9th Cir. 2017) (ability to pay and alternatives must be considered); Vazquez Barrera v. Wolf, 455 F. Supp. 3d 330, 343–47 (S.D. Tex. 2020) (ordering relief under due process in civil detention); see also Ly v. Hansen, 351 F.3d 263, 270 (6th Cir. 2003) (prolonged detention under § 1226 becomes unreasonable; government may not use its own delay to justify custody).

40. The government's two recognized interests—ensuring appearance and protecting the community—do not justify Petitioner's continued confinement: a. Appearance. The "flight prevention" rationale is "weak or nonexistent where removal seems a remote possibility." Zadvydas, 533 U.S. at 690. Here, removal is not lawfully executable while the BIA appeal and T visa adjudication remain pending. Moreover, Petitioner has strong incentives and obligations to appear: an active BIA appeal, a pending T visa with receipts, and a state court matter in which the judge repeatedly continued hearings to secure her presence. The government's refusal to produce or accommodate her appearance in the New Jersey Family Part (while then citing that very posture to deny bond) underscores that less restrictive measures—not incarceration—appropriately manage appearance. b. Community safety. Preventive detention based on "dangerousness" is constitutionally permissible "only when limited to specially dangerous individuals and subject to strong procedural protections." Zadvydas, 533 U.S. at 690–91. No such showing has been made. Petitioner has a verified sponsor, a concrete release plan, and no disqualifying convictions; the IJ's denials did not apply the clear and convincing standard, did not consider ability to pay or less restrictive alternatives, and lacked individualized findings.

41. The length of detention, reasons for delay, foreseeability of removal, and availability of alternatives all support relief. See Ly, 351 F.3d at 271–72 (length and responsibility for delay relevant to reasonableness); Reid v. Donelan, 819 F.3d 486, 500–01 (1st Cir. 2016) (factors for prolonged detention; abrogated on other grounds by Jennings as to statutory holding, not constitutional analysis); Muse v. Sessions, 2018 WL 4466052, at *4–6 (D. Minn. Sept. 18, 2018) (collecting factors post Jennings). Petitioner has been detained since May 29, 2025; the impediments to removal are legal and administrative (BIA appeal; USCIS collateral adjudication), not a product of dilatory conduct. ICE has refused reasonable alternatives (parole under § 236(a); supervised release; production for state court proceedings; temporary transfer; remote appearance) and has stated it will approve "only expulsion," demonstrating an inflexible, punitive approach that is constitutionally impermissible in civil confinement. See Bell v. Wolfish, 441 U.S. 520, 535–37 (1979) (civil detention cannot be punitive).

42. Clark v. Martinez confirms Zadvydas's constitutional "reasonably necessary" limitation is a general due process constraint in immigration detention, applied to inadmissible noncitizens under the same six month reasonableness paradigm. 543 U.S. 371, 386 (2005). While Petitioner is detained pre final order under § 1226(a), the same constitutional principle applies: where detention loses its reasonable relation to removal and the government's interests can be met by less restrictive means, continued confinement is unlawful. See Jennings, 583 U.S. at 303–04 (as applied due process remains available).

43. Petitioner's deteriorating health and mental health further tip the constitutional balance. Prolonged detention in conditions that risk serious medical harm and exacerbate trauma, where removal is not foreseeable and alternatives exist, is punitive in effect and violates

substantive due process. See Kingsley v. Hendrickson, 576 U.S. 389, 400 (2015); Hare v. City of Corinth, 74 F.3d 633, 643–45 (5th Cir. 1996); Vazquez Barrera, 455 F. Supp. 3d at 343–47.

44. The government cannot rely on its own litigation posture or logistical refusals to manufacture "foreseeability" or "flight risk." See Ly, 351 F.3d at 272 (government cannot take advantage of its own delay to justify continued detention). Nor may the government ignore that viable relief is pending and attainable through established processes (BIA appeal; USCIS adjudication; recognized tools to coordinate detainee attendance in court).

45. For these reasons, Petitioner's ongoing confinement under § 1226(a) has become unreasonable and unconstitutional. Petitioner respectfully requests that the Court (a) order immediate release under reasonable conditions of supervision (including reporting and other alternatives), or, in the alternative, (b) order a prompt, constitutionally adequate bond hearing within seven (7) days before a neutral adjudicator at which DHS bears the burden by clear and convincing evidence, the adjudicator considers ability to pay and less restrictive alternatives, and individualized written findings issue on the record.

MOTION FOR EMERGENCY TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

40. ***Petitioner satisfies each Winter factor for emergency relief.*** See Winter v. NRDC, 555 U.S. 7, 20 (2008) (likelihood of success, irreparable harm, balance of equities, public interest); Valley v. Rapides Par. Sch. Bd., 118 F.3d 1047, 1051–52 (5th Cir. 1997) (applying Winter). The Court also has authority to expedite and tailor relief under 28 U.S.C. § 2243 (requiring a prompt response within three days "unless for good cause additional time, not exceeding twenty days, is allowed") and to issue ancillary orders under the All Writs Act, 28 U.S.C. § 1651(a), to protect its jurisdiction and ensure effective habeas relief.

A. Likelihood of success on the merits

- Prolonged § 1226(a) detention without constitutionally adequate process. As detention lengthens, due process requires (i) the Government to bear the burden by clear and convincing evidence to prove danger or flight risk; (ii) consideration of ability to pay; (iii) consideration of less-restrictive alternatives; and (iv) individualized, written findings. Jennings v. Rodriguez, 583 U.S. 281, 303–04 (2018) (as-applied due process challenges remain); Singh v. Holder, 638 F.3d 1196, 1203–05 (9th Cir. 2011); Hernandez v. Sessions, 872 F.3d 976, 991–92 (9th Cir. 2017); German Santos v. Warden Pike Cnty., 965 F.3d 203, 213–15 (3d Cir. 2020); Vazquez Barrera v. Wolf, 455 F. Supp. 3d 330, 343–47 (S.D. Tex.

2020). Here, repeated summary denials (including same-day rejections) without those safeguards violate procedural due process.

- Arbitrary refusal to consider material changes and less-restrictive means. The IJ's refusal to reconvene a hearing despite: (i) new I-797C receipts for I-914/I-192 (T-visa and waiver); (ii) deteriorating medical and mental health; (iii) pending BIA appeal; and (iv) multiple New Jersey Family Part orders/continuances to secure Petitioner's presence, is inconsistent with 8 C.F.R. § 1003.19(e) (materially changed circumstances) and is arbitrary and punitive in effect. See Matter of Guerra, 24 I&N Dec. 37, 40–41 (BIA 2006) (fact-intensive bond factors).

- **Substantive due process: confinement no longer reasonably related to its purposes. Civil detention may serve only to ensure appearance and protect the community; it cannot be punitive or indefinite. Zadvydas v. Davis, 533 U.S. 678, 690–91 (2001); Bell v. Wolfish, 441 U.S. 520, 535–37 (1979).** Where removal is not lawfully executable (pending BIA appeal) and viable collateral relief is under adjudication (T-visa), detention is not reasonably related to removal, and the flight-risk rationale is weak to nonexistent. Zadvydas, 533 U.S. at 690; Demore v. Kim, 538 U.S. 510, 530 (2003) (Kennedy, J., concurring) (as detention becomes "unreasonable or unjustified," individualized determination is required).

- **Denial of access to courts/compelled in absentia. ICE and the IJ refused to facilitate Petitioner's appearance (in person or remote) for a mandatory New Jersey Family Part hearing despite repeated state-court continuances and requests, effectively coercing a waiver and in absentia proceeding. That denial of meaningful access to courts violates due process. Bounds v. Smith, 430 U.S. 817, 828 (1977); Lewis v. Casey, 518 U.S. 343, 351–53 (1996). It is arbitrary for DHS to label Petitioner "flight risk" while preventing her appearance the state court repeatedly sought to ensure.**

- Conditions and medical neglect. Civil detainees may not be subjected to punitive conditions or deliberate indifference to serious medical needs. Bell, 441 U.S. at 535–37; Kingsley v. Hendrickson, 576 U.S. 389, 400 (2015); Estelle v. Gamble, 429 U.S. 97, 104–05 (1976); Hare v. City of Corinth, 74 F.3d 633, 643–45 (5th Cir. 1996). The overcrowding/unsanitary conditions and failure to provide appropriate diagnostics/treatment for a serious infection, coupled with acute mental-health deterioration, support relief.

B. Irreparable harm

- Ongoing, serious medical risk. Petitioner's infection remains insufficiently evaluated/treated, with risk of sepsis and permanent harm; delayed diagnostics and specialty care cause irreparable injury not compensable by damages. See Valentin v.

Collier, 993 F.3d 270, 276–77 (5th Cir. 2021) (recognizing medical-risk TRO/PI standards in confinement).

- Acute mental-health harm. Documented PTSD/anxiety with suicidal ideation (recently reported) constitutes immediate, irreparable harm.
- The certified message transcripts (Ex. D) evidencing explicit death threats, together with the clinician's report diagnosing PTSD/anxiety (Ex. E), establish ongoing, acute psychological harm. Continued detention magnifies this trauma and poses a risk of irreparable injury, which warrants immediate injunctive relief.
- Ongoing constitutional injury. Prolonged unlawful detention and denial of access to courts are per se irreparable. See Elrod v. Burns, 427 U.S. 347, 373 (1976) (loss of constitutional freedoms "for even minimal periods of time" unquestionably constitutes irreparable injury) (principle widely applied in civil-rights injunctions); De Leon v. Perry, 975 F. Supp. 2d 632, 663–64 (W.D. Tex. 2014) (same principle).

C. Balance of equities

- Petitioner proposes less-restrictive, practical alternatives (supervised release, reporting, EM if needed; or a constitutionally adequate bond hearing with clear-and-convincing burden, ability-to-pay and alternatives considered within seven days). The government's interests in ensuring appearance and safety can be fulfilled without continued confinement, especially where removal is not reasonably foreseeable and the state court itself has been continuing proceedings to secure Petitioner's presence.
- ICE's categorical stance—refusing production/remote appearance while citing the state case to deny bond—undermines any claim of prejudice to the government from tailored relief. The equities favor restoring constitutional process and preventing further harm.

D. Public interest

- The public interest *"is always served when public officials act within the bounds of the law and the Constitution."* See Jackson Women's Health Org. v. Currier, 760 F.3d 448, 458 n.9 (5th Cir. 2014). Upholding due process in civil detention, honoring comity with state-court orders, and preventing foreseeable medical/mental-health harm serve the public interest.
- Efficient judicial administration: Requiring constitutionally adequate bond procedures and medical safeguards avoid unnecessary costs and reduces litigation driven by unconstitutional practices.

E. Requested TRO/PI terms (narrowly tailored) Petitioner respectfully requests that the Court:

1. **Order immediate release under reasonable supervision** (e.g., recognizance, reporting, GPS if needed), OR, in the alternative:
2. **Order a prompt, constitutionally adequate bond hearing within seven (7) days before a neutral adjudicator at which:**
    - DHS bears the burden by clear and convincing evidence to prove danger or flight risk;
    - The adjudicator must consider Petitioner's ability to pay and less-restrictive alternatives to detention;
    - Individualized, written findings issue on the record.
3. **Medical and conditions safeguards:**
    - Within 48 hours, provide comprehensive medical evaluation by qualified clinicians (including indicated labs, imaging/biopsy, and specialist referral); implement the resulting treatment plan; authorize hospital transfer if clinically indicated.
    - Implement remedial sanitation/privacy measures in Petitioner's housing unit sufficient to mitigate infection and mental-health risk.
4. **Access to courts:**
    - Produce Petitioner for any scheduled New Jersey Family Part hearing, either in person or by secure, court-approved audiovisual means; coordinate with the state court to effectuate appearance; or grant temporary parole for that limited purpose.
5. **Status and scheduling:**
    - Require Respondents to file a status report within five (5) days detailing compliance with the medical and access-to-courts directives and the scheduled date of any bond/redetermination hearing.
    - Set this matter for a preliminary-injunction hearing within 14 days (or as the Court directs), with Respondents' return to the petition due under 28 U.S.C. § 2243 (three days, extendable up to twenty for good cause).
6. **Security:**
    - Waive Rule 65(c) security or set a nominal bond in light of Petitioner's indigency and the equitable, constitutional nature of the relief.

REQUESTED RELIEF

Petitioner respectfully requests that this Court:

A. Assume jurisdiction over this matter;

B. Issue a writ of habeas corpus under 28 U.S.C. § 2241 ordering Petitioner's immediate release from ICE custody on reasonable supervision, parole, or other conditions (e.g., alternatives to detention, electronic monitoring as needed); or the alternative bond-hearing relief described above;

C. In the alternative, order DHS/ICE to provide a constitutionally adequate bond hearing within 7 days, before a neutral adjudicator, at which:

- The Government bears the burden by clear and convincing evidence to prove danger or flight risk;
- The adjudicator considers Petitioner's ability to pay and less-restrictive alternatives to detention;
- A written decision is issued with individualized findings;

D. Declare that Petitioner's ongoing prolonged detention without a constitutionally adequate hearing violates the Due Process Clause of the Fifth Amendment;

E. Declare that Petitioner's denial to access to state court hearings hearing violates the Due Process Clause of the Fifth Amendment;

E. Issue a temporary restraining order and preliminary injunction:

(1) Ordering Petitioner's immediate release under appropriate conditions of supervision (e.g., reporting, check-ins, or alternatives to detention); or, in the alternative,

(2) Ordering Respondents to provide Petitioner with a constitutionally adequate bond hearing within seven (7) days before a neutral adjudicator at which:

- The Government bears the burden by clear and convincing evidence to show danger or flight risk;
- The adjudicator considers Petitioner's ability to pay and less-restrictive alternatives to detention;
- Written, individualized findings are issued on the record.

(3) Requiring Petitioner's immediate medical evaluation by qualified outside providers (or hospital transfer if indicated), including appropriate diagnostic testing and specialist referral;

(4) Requiring Respondents to implement remedial sanitation/privacy measures;

F. Order Respondents to produce Petitioner, as necessary, for mandated state-court proceedings (in person or by audiovisual means), or to accommodate remote appearance,

G. Award such further and other relief as the Court deems just and proper, including reasonable costs.

Temporary Restraining Order/Preliminary Injunction

Given Petitioner's ongoing risk of serious medical harm (including risk of septic shock) and prolonged detention without adequate process, and denial to access to State court, she also requests temporary and preliminary injunctive relief directing: (1) an immediate release (2) a prompt bond hearing under the standards above, and (3) urgent medical and psychological assessment by outside providers or hospital transfer; remedial sanitation and privacy measures;

Release Plan (summary)

- Upon release, Petitioner will reside at a safe, verified address in the New Jersey area or elsewhere approved by ICE, supported by friends/church community; she will attend all hearings, comply with supervision, and continue medical/mental health treatment. She has no disqualifying criminal record and poses no danger; alternatives to detention can mitigate any flight risk.

Legal Citations (non-exhaustive)

- Zadvydas v. Davis, 533 U.S. 678 (2001)
- Demore v. Kim, 538 U.S. 510 (2003)
- Jennings v. Rodriguez, 583 U.S. 281 (2018)
- Fifth Amendment Due Process Clause (civil detainee standards; medical care; non-punitive conditions)
- 28 U.S.C. § 2241; 28 U.S.C. § 1331; 28 U.S.C. §§ 2201–2202

ADDITIONAL AUTHORITIES SUPPORTING RELIEF

41. The equitable relief sought here is supported by persuasive federal decisions requiring constitutionally adequate bond hearings and/or release in prolonged civil detention, including decisions from the District of Maryland (Judge Paula Xinis) in Abrego Garcia and Maldonado Bautista v. Santacruz Jr., which ordered clear-and-convincing burdens on DHS, consideration of ability to pay and alternatives, and, where appropriate, release. These orders align with the growing body of federal authority that prolonged detention without robust procedural safeguards violates due process.

42. District courts within Texas have likewise recognized due process constraints in civil immigration detention and have ordered release or bond hearings that account for ability to pay and less-restrictive alternatives. See Vazquez Barrera, 455 F. Supp. 3d at 343–47.

VERIFICATION

I, Cesia Solano Hurtado, declare under penalty of perjury that the facts stated in this petition are true and correct to the best of my knowledge and belief.

Date: 12/05/2025

Cesia Solano H

Signature: _____

Name: CESIA SOLANO HURTADO (A-Number: [redacted])

Detained at: Houston Contract Detention Facility (CDF)

APPENDIX

- **Exhibit A:** Detention timeline (detained since 05/29/2025); and Petitioner documents
  - NTA- DHS Form I-862
  - Record of Deportability/Inadmisible Alien Form I-213
  - Petitioner Passport
  - Petitioner I-94
- **Exhibit B:** Custody/bond
  - IJ Orders and denials (06/13/2025; 07/24/2025; 08/19/2025; 08/25/2025; 10/31/2025).
  - Copy Motion custody redetermination
- **Exhibit C:** Proof of pending BIA appeal (filed 10/22/2025) from IJ decision (10/17/2025).
- **Exhibit D:** Humanitarian Relief
  - I-797C receipts for I-914 [redacted] and I-192 ([redacted] (received 10/06/2025; noticed 11/24/2025);
  - T-visa cover and form I-914 submission.
  - Petitioner victim status: Messages transcripts (shows Petitioner status as victim where she is abuse and received death threats from her former partner – the alleged victim on TRO)
- **Exhibit E:** Mental-health crisis evidence - Psychological reports (during detention)
- **Exhibit F:** NJ Supreme Court Court Documents
- **Exhibit G:** IJ and ICE denial for accommodation/transfer for NJ Supreme Court Court hearing
- **Exhibit H:** Sponsor and community support (verified sponsor address, transportation, compliance commitments).