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**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

Mileidys Zamara AGUIAR HERNANDEZ,

Petitioner,

v.

Jason STREEVAL, Warden of Stewart
Detention Center, in his official capacity;
George STERLING, Deputy Field Office
Director of the Atlanta Field Office, U.S.
Immigration and Customs Enforcement; Todd
LYONS, in his official capacity as acting
Director of U.S. Immigration and Customs
Enforcement, Kristi NOEM, in her official
capacity as Secretary of the U.S. Department
of Homeland Security, and Pamela BONDI,
in her official capacity as U.S. Attorney
General,


Respondents.

HEARING REQUESTED

Case No.:

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

INTRODUCTION

1. Petitioner Mileidys Zamara Aguiar Hernandez (A ) is a native and citizen of Cuba who entered the United States around January 2024.¹ She presented herself at a port of entry to seek asylum from Cuba using the CBPOne application,² which at the time was essentially the only way for many people to apply for asylum in the United States without first unlawfully entering the country. Ms. Aguiar Hernandez was scheduled for a routine immigration hearing on June 13, 2025. Despite doing exactly what was asked of her to enter the country lawfully and attend her removal proceedings to continue to remain in this country, an immigration judge dismissed Ms. Aguiar Hernandez's removal proceedings so that Respondents could attempt to subject her to expedited removal. Ms. Aguiar Hernandez has been detained ever since. Despite her detention, Respondents have made no efforts to remove her from the United States pursuant to traditional removal proceedings under 8 U.S.C. § 1229a or expedited removal under 8 U.S.C. § 1225.

¹ Petitioner concedes she is an “arriving alien,” so she is statutorily ineligible for release on bond. 8 U.S.C. § 1225(b)(2)(A). Because she was paroled into the country at a port of entry and did not enter unlawfully, she is not within the set of individuals that Respondents have been consistently mischaracterizing as “applicants for admission” who are eligible for habeas relief pursuant to this Court’s decision in *J.A.M. v. Streeval*, No. 25-cv-342, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025). Nevertheless, as discussed herein, Petitioner cannot be detained because she is not currently in removal proceedings, and revocation of her parole was unlawful.

² “CBP One was a mobile application launched by the Department of Homeland Security (DHS) in October 2020. It enabled noncitizens to book an appointment to appear for inspection at a port of entry, submit information in advance, and potentially obtain parole or admission into the country. *See id.*; U.S. Customs and Border Protection, CBP Removes Scheduling Functionality in CBP One™ App (Jan. 21, 2025), <https://perma.cc/4XCF-ZX2S>. At noon on January 20, 2025, DHS removed the scheduling functionality from the CBP One app. *See id.* DHS has also since renamed the application CBP Home, which it now says facilitates “voluntary self-deport[ation].” *See* Dep’t of Homeland Sec., CBP Home: Assistance to Voluntarily Self-Deport, <https://perma.cc/C9ED-4YPQ>.” *Coal. for Humane Immigrant Rts. v. Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986, at *2 n.2 (D.D.C. Aug. 1, 2025)

2. Expedited removal of noncitizens, like Ms. Aguiar Hernandez, who were paroled into the country at a port of entry was a prerogative of Respondents' mass deportation scheme, deporting individuals with no semblance of due process. But that was until the U.S. District Court for the District of Columbia issued a stay of this policy, preventing Respondents from putting individuals in expedited removal after the individual was paroled at a port of entry, even after their parole was terminated. *Coal. for Humane Immigrant Rts. (CHIRLA) v. Noem*, No. 25-cv-872, 2025 WL 2192986 (D.D.C. Aug. 1, 2025). Respondents attempted to stay that decision pending appeal, which the U.S. Court of Appeals, District of Columbia Circuit, denied. *Coal for Humane Immigrant Rts. v. Noem*, No. 25-5289, 2025 WL 2649100 (D.C. Cir. Sept. 12, 2025). Thus, the district court's decision in *CHIRLA* staying expedited removal of individuals like Ms. Aguiar Hernandez remains in full force while the appeal is pending.

3. Nevertheless, Ms. Aguiar Hernandez, who is not in traditional removal proceedings under 8 U.S.C. 1229a or expedited removal proceedings under 8 U.S.C. § 1225, has languished in detention for over six months despite no removal proceedings being lodged against her. Respondents have told Ms. Aguiar Hernandez that she will be scheduled for a credible fear interview, which is a part of the expedited removal process that was stayed in *CHIRLA* and would be a violation of the order in that case. She is not subject to a removal order, she is not in proceedings under proceedings under 8 U.S.C. § 1229a, and, to Petitioner and her counsel's knowledge, she is not subject to an expedited removal order under 8 U.S.C. § 1225.

4. Therefore, Ms. Aguiar Hernandez respectfully requests that this Court: (a) order Respondents to immediately release her from detention; (b) order that Respondents restore Petitioner to her previous parole status; (c) declare that Ms. Aguiar Hernandez is covered by the lawsuit in *CHIRLA* and enjoin Respondents from attempting to subject her to expedited removal

under 8 U.S.C. § 1225; and (d) if for some reason Respondents have issued an expedited removal order against Petitioner, vacate any expedited removal order and enjoin any expedited removal processes such as scheduling for a credible fear interview.

JURISDICTION AND VENUE

5. Ms. Aguiar Hernandez is currently in the physical custody of Respondents at the Stewart Detention Center in Lumpkin, Georgia.

6. This Court has jurisdiction under 28 U.S.C. § 2241 (*habeas corpus*), 28 U.S.C. § 1331 (*federal question*), 28 U.S.C. § 1651 (*All Writs Act*), 28 U.S.C. §§ 2201–2202 (*Declaratory Judgment Act*), 5 U.S.C. § 702 (*APA*), and Article I, Section 9, Clause 2 of the United States Constitution (*Suspension Clause*). Ms. Aguiar Hernandez is presently in custody under color of the authority of the United States and challenges her custody as in violation of the Constitution, laws, or treaties of the United States.

7. Federal district courts have jurisdiction under § 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003). The Supreme Court has repeatedly upheld such jurisdiction, most recently in *Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018).

8. Venue is proper in the Middle District of Georgia, Columbus Division, pursuant to 28 U.S.C. §§ 1391 and 2241(d), because Petitioner is detained within this District at the Stewart Detention Center.

PARTIES

9. Petitioner Mileidys Zamara Aguiar Hernandez is a native and citizen of Cuba unlawfully detained at the Stewart Detention Center in Lumpkin, Georgia. ICE has held her in custody since June 2025. She is not subject to a final order of removal, and she is not in any form

of removal proceedings.

10. Respondent Jason Streeval is the warden of the Stewart Detention Center and controls the detention center where Petitioner is confined under the authority of ICE. Mr. Streeval has direct physical custody of Petitioner and is her immediate custodian. Mr. Streeval is sued in his official capacity.

11. Respondent George Sterling is the Acting Director of ICE's Atlanta Field Office, which has jurisdiction over ICE detention facilities in Georgia, including the Stewart Detention Center. He exercises authority over Petitioner's detention and is sued in his official capacity.

12. Respondent Todd Lyons is the Acting Director of ICE. He is responsible for the overall administration of ICE and for the implementation and enforcement of the immigration laws, including immigrant detention. As such, Mr. Lyons is a legal custodian of Petitioner. He is sued in his official capacity.

13. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). DHS is responsible for the administration of ICE, a component agency, and for the implementation and enforcement of the immigration laws. As such, Secretary Noem is a legal custodian of Petitioner. She is sued in her official capacity.

14. Respondent Pamela Bondi is the Attorney General of the United States and head of the Department of Justice, which encompasses the Board of Immigration Appeals (BIA) and the Immigration Courts. The Attorney General shares responsibility for the implementation and enforcement of the immigration laws with Respondents Lyons and Noem. Attorney General Bondi is a legal custodian of Petitioner and is sued in her official capacity.

FACTS

15. Petitioner Mileidys Zamara Aguiar Hernandez is a native and citizen of Cuba. Petitioner applied for admission at the Brownsville, Texas, port of entry to enter the United States using the CBPOne application. In January 2024, her request was granted, and she was paroled into the country so that she could seek asylum.

16. On June 13, 2025, Ms. Aguiar Hernandez had a routine immigration court hearing in Atlanta, Georgia. DHS moved to dismiss her proceedings, which the immigration court granted, so that it could place Ms. Aguiar Hernandez into expedited removal proceedings.

17. This strategy has become a prerogative of Respondent's to illegally detain individuals attempting to lawfully seek refuge in the United States. On January 23, 2025, DHS issued a memorandum instructing immigration officials to prioritize expedited removal of as many noncitizens as possible. Benjamine C. Huffman, Acting DHS Secretary, *Guidance Regarding How to Exercise Enforcement Discretion* (Jan. 23, 2025). That memorandum was then published. Office of the Secretary, DHS, *Designating Aliens for Expedited Removal*, 90 Fed. Reg. 8139. Thus, this policy terrorized individuals trying to follow rules set by Congress to seek asylum, forcing them to choose between missing their immigration hearings or being removed to countries they feared returning to with no due process.

18. This was until the U.S. District Court for the District of Columbia issued a stay of this policy, *Coal. for Humane Immigrant Rts. (CHIRLA) v. Noem*, No. 25-cv-872, 2025 WL 2192986 (D.D.C. Aug. 1, 2025). Respondents attempted to stay that decision pending appeal, which the U.S. Court of Appeals, District of Columbia Circuit, denied. *Coal for Humane Immigrant Rts. v. Noem*, No. 25-5289, 2025 WL 2649100 (D.C. Cir. Sept. 12, 2025). Thus, the

district court's decision in *CHIRLA* staying expedited removal of individuals like Ms. Aguiar Hernandez remains in full force while the appeal is pending.

LEGAL FRAMEWORK

19. There are two main statutes governing immigration detention: 8 U.S.C. §§ 1225 and 1226. Under 8 U.S.C. § 1225(b)(2)(A), “in the case of an alien who is an applicant for admission, if the examining officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained’ pending removal proceedings.” See *J.A.M. v. Streeval*, No. 25-cv-342, 2025 WL 3050094, at *2 (M.D. Ga. Nov. 1, 2025) (quoting 8 U.S.C. § 1225(b)(2)(A)). Individuals subject to expedited removal proceedings are also mandatorily detained under 8 U.S.C. § 1225(b)(1).

20. However, “applicants for admission may be temporarily released on parole [into the United States] ‘for urgent humanitarian reasons or significant public benefit’” under 8 U.S.C. § 1182(d)(5)(A). *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018). “[W]hen the purpose of the parole has been served, the alien shall forthwith be returned to the custody from which [s]he was paroled and thereafter h[er] case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.” *Id.* The applicable regulations further codify this mandate, only permitting parole to be terminated when the purpose of parole is accomplished or humanitarian reasons and public benefit no longer warrant parole. 8 C.F.R. § 212.5(e)(2)(i). Several courts have found that revocation for parole requires the same individualized review as a grant of parole. See *Tezara Munoz v. Lynch*, Case No. 1:25-cv-1642, 2025 WL 3687338 (W.D. Mich. Dec. 19, 2025) (collecting cases).

21. The second provision concerning detention, § 1226, allows for discretionary bond determinations for individuals “who are found in the country unlawfully and are arrested.” *Id.* at

*3. Certain noncitizens who are arrested, charged with, or convicted of specified crimes are subject to mandatory detention until removal proceedings are concluded under 8 U.S.C. § 1226(c). Petitioner here concedes that because she sought admission at a port of entry, she would be subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), that is, if she were currently in removal proceedings and/or if Respondents followed proper procedures to revoke her parole.

22. There are two bases for removing an individual from the United States. The first is through typical removal proceedings under 8 U.S.C. § 1229a, commonly known as Section 240 proceedings, because they are found under INA § 240. The second form is expedited removal under 8 U.S.C. § 1225.

23. Removal proceedings under § 1229a are performed before an immigration judge, while expedited removal proceedings under § 1225 are performed by an immigration officer. 8 C.F.R. § 235.3(b)(2)(i). The officer asks the individual about their fear of returning to their country in what is called a “credible fear interview.” *Id.* If the individual establishes a credible fear, they are placed into § 1229a proceedings, but if not, they are subject to expedited removal.

24. As discussed in *CHIRLA*, individuals eligible for expedited removal include those who are inadmissible to the United States based on lack of proper entry documents or false applications for admission. 8 U.S.C. § 1225(b)(1)(A)(i). This is only applicable to individuals “arriving in the United States” and those who “ha[ve] not been admitted or paroled into the United States” and cannot show that they have been present in the United States continuously for two years prior to the inadmissibility determination. *Id.* § 1225(b)(1)(A)(i)-(iii). In *CHIRLA*, the district court found that the statute “forbids the expedited removal of noncitizens who have been, at any point in time, paroled into the United States.” *CHIRLA*, --- F. Supp. 3d at ----, 2025 WL 2192986, at *22.

25. In *Make the Road New York v. Noem*, --- F. Supp. 3d ----, 2025 WL 2494908 (D.D.C. Aug. 29, 2025), the U.S. District Court for the District of District of Columbia found that the petitioners were likely to succeed on the merits of their claim that the application of § 1225 to individuals paroled and later apprehended inside the United States violates Due Process.

26. While it does not appear that Ms. Aguiar Hernandez has been given an expedited removal order, even if she had, two courts in this Circuit have already determined that doing so would be in violation of a Petitioner's due process rights. In *Perez v. Mordant*, Case No. 2:25-cv-00947, 2025 WL 3466956 (M.D. Fla. Dec. 3, 2025), the U.S. District Court for the Middle District of Florida addressed a similar case. In that case, a Cuban citizen's removal proceedings were dismissed on October 8, 2025, and he was detained by ICE and designated for expedited removal. *Id.* at *1. That court found that ICE violated the petitioner's due process rights by detaining him and designating him for expedited removal after revoking his parole without any change to his circumstances such as whether he was a threat to national security or a flight risk. *Id.* at *4. That court found that the petitioner had no opportunity to contest the expedited removal order, the revocation of his parole, or his detention. *Id.* Thus, that court granted the petitioner's habeas petition and ordered him released from custody within 24 hours. *Id.* at *6. That same court adopted identical reasoning in a separate case more recently. See *Gonzalez Carmona v. Ripa*, Case No. 2:25-cv-1128, 2025 WL 3649577 (M.D. Fla. Dec. 17, 2025).

CLAIMS FOR RELIEF

COUNT I

Violation of 8 U.S.C. § 1225 and 1226 Unlawful Detention for Client Not in Proceedings

27. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

28. Ms. Aguiar Hernandez is not in Section 240 proceedings or expedited removal proceedings, and there is no legitimate basis for her detention. Because her proceedings were dismissed in June, she is no longer in Section 240 proceedings. She could only be detained “pending removal proceedings,” but her proceedings were dismissed more than six months ago. *J.A.M. v. Streeval*, No. 25-cv-342, 2025 WL 3050094, at *2 (M.D. Ga. Nov. 1, 2025). Ms. Aguiar Hernandez also cannot be put into expedited removal proceedings pursuant to the *CHIRLA* order, and to counsel’s knowledge, she is not currently subject to an expedited removal order.

29. Therefore, Respondents have no authority to detain Ms. Aguiar Hernandez because she is not in proceedings and she does not have a final order of removal.

COUNT II

Violation of the Fifth Amendment Due Process

30. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

31. Under the Fifth Amendment of the Constitution, no person shall be deprived of liberty without due process of law. Freedom from imprisonment and government custody lies at the core of the liberty protected by the Due Process Clause. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The protections of the Due Process Clause extend to all persons within the United States, regardless of immigration status. *Id.* at 693.

32. Respondents have subjected Ms. Aguiar Hernandez to indefinite detention with no legal basis and no way to challenge that detention. Further, Respondents revoked Ms. Aguiar Hernandez’s parole without any form of due process. Revocation of her parole required an analysis that the purpose of parole is accomplished or that humanitarian reasons and the public

benefit no longer warrant parole, which was not performed here. 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5(e)(2)(i).

33. Even if for some reason Ms. Aguiar Hernandez has an expedited removal order violation of the *CHIRLA* order, dismissing her parole and ordering her removed on an expedited basis with no opportunity to challenge that decision and keeping her detained violates her due process rights. *See Perez v. Mordant*, Case No. 2:25-cv-00947, 2025 WL 3466956 (M.D. Fla. Dec. 3, 2025); *Gonzalez Carmona v. Ripa*, Case No. 2:25-cv-1128, 2025 WL 3649577 (M.D. Fla. Dec. 17, 2025). Thus, Ms. Aguiar Hernandez requests that this Court order her released from detention and restore her to the conditions that existed under Ms. Aguiar Hernandez's previous parole under § 1182(d)(5)(A). *Tezara Munoz v. Lynch*, Case No. 1:25-cv-1642, 2025 WL 3687338, at *6.

COUNT III

Violation of the Order in *CHIRLA*

34. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

35. Respondents' detention of Petitioner and attempts to schedule her for a credible fear interview is in direct violation of the court's order in *CHIRLA*, which stayed this process for individuals that were apprehended inside the United States after being paroled. Thus, ICE may not pursue expedited removal against Petitioner, and any efforts that may have been made to subject her to expedite removal should be vacated.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Mileidys Zamara Aguiar Hernandez prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted within **three days**, pursuant to 28 U.S.C. § 2243;
3. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from detention;
4. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
5. In the event the Court determines a genuine dispute of material fact exists regarding Petitioner's entitlement to habeas relief, schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243;
6. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
7. Declare that Petitioner's detention violates the INA;
8. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
9. Declare that Petitioner's detention violates the order in *CHIRLA* and thus enjoin any efforts from the Respondents to subject her to expedited removal under 8 U.S.C. § 1225;
10. If for some reason Respondents have issued an expedited removal, vacate that order because Petitioner may not be subjected to expedited removal;
11. Restore Petitioner to her previous parole status under 8 U.S.C. § 1182(d)(5)(A);

12. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
13. Grant such further relief as this Court deems just and proper.

Dated: December 30

VERIFICATION

I, Thomas Evans, counsel for Petitioner hereby verify under penalty of perjury pursuant to 28 U.S.C. § 1746 that the factual allegations in this petition are true and correct to the best of my knowledge, information, and belief, based upon the records available and information provided by Petitioner.

Dated: December 30, 2025

Respectfully submitted,
/s/ Thomas Evans
Thomas Evans

, 2025

Respectfully submitted,

/s/ Thomas Evans

Thomas Evans

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