

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS – SAN ANTONIO**

SOHEILIESTAHBANATI,

Behnaz

A 

Petitioner,

v.

Pamela Jo Bondi,

Attorney General of the

United States of America,

Kristi Noem,

Secretary of the Department of

Homeland Security, (DHS),

Todd Lyons,

Acting Director,

United States Immigration and

Customs Enforcement (ICE),

Miguel Vergara,

Field Office Director,

San Antonio Field Office,

United States Immigration and

Customs Enforcement (ICE) and,

Warden of the

ERO Karnes County Immigration

Processing Center

Respondents.

Civil Action No. 5:26-CV-00154-FB

**PETITIONER’S REPLY TO
RESPONDENT’S RESPONSE TO
PETITION FOR WRIT OF HABEAS
CORPUS**

PETITIONER’S REPLY

Petitioner, Ms. Behnaz Soheiliestahbanati (hereinafter “Petitioner”), hereby submits this Reply to Respondent’s Response to the Petition for Writ of Habeas Corpus. As set forth below, Respondent’s answer fails to rebut the factual allegations and legal grounds raised in the Petition and confirms that Petitioner is entitled to habeas relief.

FACTS

1. Petitioner was granted withholding of removal under the Convention Against Torture on November 29, 2022 to not be returned to Iran. In the alternative, the Immigration Judge ordered her removed to Ecuador.

2. However, the Ecuadorian government declined to accept Petitioner because she lacks any lawful status there and Ecuador is unwilling to receive her as a deportee.

3. During her more than three years (3) in the United States, not only has Petitioner obtained withholding of removal, but she has been fully and consistently complied with an Order of Supervision (“OSUP”) under the Department of Homeland Security’s U.S. Immigration and Customs Enforcement. She also has no prior criminal history, violations, or interactions with law enforcement in the United States.

4. Respondents abruptly and without justification detained Petitioner, for the purported purpose of removing her to Ecuador, a goal the government failed to accomplish nearly four years ago when the statutory period for removal expired following the issuance of a final order of removal.

5. Despite Petitioner’s full compliance with the terms and conditions of supervised release, she has been in prolonged detention.

ARGUMENT

Petitioner respectfully reiterates that her re-detention constitutes a flagrant and ongoing violation of the Due Process Clause of the Fifth Amendment, the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the mandatory regulatory procedures governing re-detention set forth in 8 C.F.R. § 241.13(h).

“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause.”

Zadvydas v. Davis, 533 U.S. 678, 690 (2001). Individuals released on parole or other forms of conditional release have a liberty interest in their “continued liberty.” *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Such liberty is protected by the Fifth Amendment because it “includes many of the core values of unqualified liberty,” such as the ability to be gainfully employed and live with family. *Id.* Any termination of such liberty inflicts “a ‘grievous loss’ on the [released individual] and often on others.” *Id.*

To protect against arbitrary re-detention and to ensure the right to liberty, due process requires “adequate procedural protections” that test whether the government’s asserted justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (citation modified). Several courts, including this one, have recognized that these principles apply with respect to the re-detention of the many noncitizens that DHS has arbitrarily begun taking back into custody, often after such persons have been released for months and years.

Here, the government’s renewed attempt to remove Petitioner is squarely contradicted by its own long failure to effectuate removal. Furthermore, Petitioner’s continued confinement is not administrative in nature but punitive, indefinite, and unconstitutional. Each additional day of this unlawful detention inflicts new and irreparable injury on Petitioner through the profound deprivation of liberty and the forced separation from her U.S. citizen family (sister).

Furthermore, the government has failed to demonstrate any lawful mechanism for removing Petitioner to Ecuador. The Ecuadorian government has expressly confirmed that Petitioner no longer holds lawful status in Ecuador and is therefore ineligible for admission. Under

Ecuador's own residency laws, permanent residence is automatically cancelled when a foreign national remains outside the country for more than 180 days each year.¹ Petitioner's extended absence was compelled by safety concerns and legally protected fear, making the loss of her Ecuadorian residency a predictable and unavoidable legal consequence—not evidence of voluntary abandonment, refusal to cooperate, or dilatory conduct.

On June 27, 2025, documentary evidence of Ecuador's refusal and Petitioner's lack of lawful status there was submitted to ICE, confirming that Ecuador would not accept her as a deportee absent a valid visa. That evidence was again provided on July 24, 2025, in support of a formal request that ICE release Petitioner on an Order of Supervision. Despite this clear and repeated notice, the government has failed to identify any lawful or practicable basis for removal to Ecuador.

Ultimately, what the Government asks of Petitioner is virtually impossible because the Immigration Judge has already ordered withholding of removal to Iran and the Government of Ecuador has stated that it will not accept Petitioner.

Thus, Petitioner should be immediately released from DHS custody. Her continued detention violates the Constitution, including her substantive and procedural due process rights, as there is no significant likelihood of removal in the reasonably foreseeable future. She has consistently complied with all immigration requirements, including appearing at every ICE check-in, and there is no realistic or lawful destination to which she can be removed. Under these circumstances, continued detention serves no legitimate governmental purpose. Release is the only lawful and just outcome.

¹ <https://www.ecuaassist.com/single-post/permanent-residency-visa-for-time-of-permanency>

Therefore, Petitioner respectfully requests for this Court to grant the Petition for a Writ of *Habeas Corpus* and to enjoin ICE from continuing to detain Petitioner in violation of the Constitution and laws of the United States.

Dated: February 6, 2026

/s/ Ruby L. Powers
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