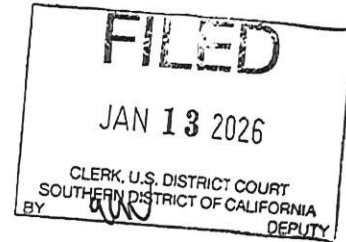


PETITION FOR WRIT OF HABEAS CORPUS  
(28 U.S.C. § 2241)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

United States District Court – Southern District of California  
333 West Broadway, Suite 420  
San Diego, California 92101



KATYA ALEXANDRA GARCÍA-HENRÍQUEZ

'26 CV0249 RBM BJW

  
Petitioner,

v.

DIRECTOR, OTAY MESA DETENTION CENTER,

SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY,

DIRECTOR OF U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE),  
Respondents.

PETITION FOR WRIT OF HABEAS CORPUS  
FOR UNLAWFUL AND PROLONGED DETENTION  
AND REQUEST FOR IMMEDIATE RELEASE  
OR, IN THE ALTERNATIVE, A BOND HEARING

#### I. JURISDICTION AND VENUE

This Honorable Court has jurisdiction pursuant to 28 U.S.C. § 2241, as Petitioner is currently deprived of her liberty under federal custody by ICE.

Petitioner is detained at the Otay Mesa Detention Center, located at:

7488 Calzada de la Fuente

San Diego, California 92154

Petitioner's detention occurs within the territorial jurisdiction of the Southern District of California, rendering this Court the proper venue for this Petition.

Petitioner's detention violates the Due Process Clause of the Fifth Amendment to the United States Constitution.

#### II. IDENTITY OF THE PETITIONER

Petitioner Katya Alexandra García-Henríquez is a woman and single mother, a citizen and national of El Salvador.

She has no criminal history in the United States.

She has been detained by ICE since July 2025, without a bond hearing or any adequate judicial review of her custody.

### III. FACTUAL BACKGROUND

#### A. Entry and Initial Release

Petitioner entered the United States in 2023 and was processed by U.S. Border Patrol. She was released under Form I-220A (Release on Own Recognizance) and placed in removal proceedings pursuant to 8 U.S.C. § 1229a (§240). Petitioner fully complied with all imposed conditions and appeared at all scheduled immigration court hearings.

#### B. Dismissal of the Case and Unlawful Arrest

In July 2025, during a hearing before the Immigration Court in San Diego, the Department of Homeland Security dismissed the case because Petitioner had never been afforded a credible fear interview.

Upon exiting the courthouse, ICE agents arrested Petitioner without:

A judicial arrest warrant

Any violation of her I-220A conditions

Any new alleged misconduct

The arrest occurred after the dismissal of her case, constituting arbitrary and unlawful detention in violation of due process.

#### C. Improper Use of the Credible Fear Process

ICE justified Petitioner's detention on the alleged need to conduct a credible fear interview. That interview was conducted while Petitioner was in custody and resulted in a POSITIVE credible fear determination.

As a result:

The case was reopened; and

Petitioner re-filed her application for asylum (Form I-589) with all supporting evidence.

#### D. Immigration Proceedings Without Meaningful Progress

Following the reopening of the case:

A hearing was set for August 30,

followed by a hearing on September 25,

then a hearing on December 31, which was rescheduled to January 6,

and later rescheduled again to January 12, designated as a preliminary (Master Calendar) hearing.

The case is currently before Immigration Judge Eugene H. Robinson Jr.

There is no final hearing scheduled and no estimated date of resolution.

Despite this, Petitioner remains indefinitely detained while her case remains at an early procedural stage.

### IV. LEGAL ARGUMENTS

#### A. UNLAWFUL DETENTION FROM ITS INCEPTION

Petitioner was arrested after her case was dismissed and upon leaving Immigration Court, without a warrant or any lawful basis.

Such arrests interfere with access to justice and constitute arbitrary deprivation of liberty, in violation of the Fifth Amendment.

ICE failed to produce:

A judicial warrant

An individualized custody determination

Any written justification for re-detention

Accordingly, Petitioner's detention has been unlawful from its inception.

#### B. PROLONGED DETENTION WITHOUT A BOND HEARING

Petitioner has been detained for more than six months without a bond hearing.

In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that immigration detention may not be indefinite and that the Government must justify continued detention beyond a reasonable period.

In *Diouf v. Napolitano*, 634 F.3d 1081 (9th Cir. 2011), the Ninth Circuit held that prolonged detention requires a bond hearing, with the burden of proof on the Government.

The Government has provided neither a bond hearing nor any justification, violating due process.

#### C. LOSS OF ANY LEGITIMATE PURPOSE FOR DETENTION

The sole justification asserted for Petitioner's detention was the completion of a credible fear interview.

That interview has already been completed with a positive result.

Petitioner's immigration case remains in a preliminary phase, with no resolution forthcoming.

Under *Jennings v. Rodriguez*, 583 U.S. 513 (2018), when detention violates due process, constitutional habeas corpus is the appropriate remedy.

Petitioner's continued detention is punitive rather than administrative, and therefore unconstitutional.

#### D. LACK OF INDIVIDUALIZED CUSTODY DETERMINATION

In *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017), the Ninth Circuit held that detention without an individualized custody assessment violates due process.

Petitioner:

Has no criminal record

Appeared voluntarily at all hearings

Was previously released under I-220A

ICE never conducted any individualized custody evaluation.

#### E. CONDITION AS A SALVADORAN WOMAN

Petitioner is a female asylum seeker from El Salvador, a country recognized for systemic gender-based violence.

Prolonged detention exacerbates psychological harm and contradicts humanitarian and constitutional principles.

This factor further underscores the disproportionality and unconstitutionality of her detention.

#### V. CONSTITUTIONAL INJURY

Petitioner suffers:

Arbitrary deprivation of liberty

Severe anxiety and prolonged uncertainty

Her detention lacks necessity, proportionality, and individualized justification.

VI. REQUEST FOR RELIEF

For the foregoing reasons, Petitioner respectfully requests that this Court:

A. Declare her detention unlawful and unconstitutional;

B. Order her immediate release;

OR, in the alternative:

C. Order an immediate bond hearing, with the burden of proof on the Government; and

D. Grant any other relief the Court deems just and proper.

VII. DESIGNATION OF ADDRESS FOR SERVICE

Petitioner respectfully requests that all notices, orders, and communications related to this case be sent to the following alternative address, rather than the detention facility, due to her incarceration and limited access to mail:

Mailing Address:



VIII. DECLARATION UNDER PENALTY OF PERJURY

I, Katya Alexandra García-Henríquez,  declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

*Katya Garcia*

SIGNATURE

Katya Alexandra García-Henríquez



Otay Mesa Detention Center

7488 Calzada de la Fuente

San Diego, CA 92154

Date: 01-07-2026

CERTIFICATE / PROOF OF SERVICE

I certify that on 01-07-2025, I served a true and correct copy of this Petition upon:

U.S. Attorney – Southern District of California

880 Front Street, Room 6293

San Diego, CA 92101

Secretary of Homeland Security

2707 Martin Luther King Jr. Ave SE

Washington, DC 20528

Director, U.S. Immigration and Customs Enforcement  
500 12th Street SW  
Washington, DC 20536

ICE – OPLA San Diego  
880 Front Street, Suite 2246  
San Diego, CA 92101

Director, Otay Mesa Detention Center  
7488 Calzada de la Fuente  
San Diego, CA 92154

*Katya Garcia*

Katya Alexandra García-Henríquez



Date: 01-07-2026