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Maria H. Chaluiza Enriquez A# [REDACTED]
[REDACTED] A# [REDACTED] (minor son)
Next Friend Juan H. Cuyo Chaluiza

JAN 14 2026

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [REDACTED] DEPUTY CLERK

JKP

Maria H. Chaluiza Enriquez
[REDACTED] (minor child)
Juan H. Cuyo Chaluiza as Next Friend.

SA 26CA0216

Civil Action No.:

Petitioners/Plaintiffs,

Petition for Writ of Habeas Corpus
Pursuant to 28 U.S.C. § 2241
Oral Argument Requested

v.

JOSE RODRIGUEZ, Jr., facility administrator at Dilley Immigration Processing Center
SYLVESTER ORTEGA, Immigration and Customs Enforcement San Antonio Acting Field Office Director
KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security;
TODD LYONS, in his official capacity as Director, U.S. Immigration and Customs Enforcement; U.S. Department of Homeland Security and Customs Enforcement.

Respondents.

INTRODUCTION

1. Maria H. Chaluiza Enriquez (hereinafter "Petitioner") and her minor son, [REDACTED] [REDACTED] (hereinafter "minor son") are residents of Queens, New York who were arrested by Immigration and Customs Enforcement (I.C.E.) on January 7, 2026.
2. Petitioner and minor son both attended a previously scheduled ICE appointment on January 7, 2026 at 26 Federal Plaza. Both Petitioner and her 13 year old minor son were detained. Her son is very ill, with what we believe is active tuberculosis. He was on

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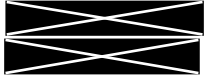
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numerous medications to control his active TB. He was recently hospitalized and had a chest tube placed to drain fluid in his plural cavity.

3. Petitioner and her minor son are noncitizens who have been detained in immigration custody for 2 days even though no neutral decisionmaker, whether a federal judge or an immigration judge, has conducted a hearing to determine whether this incarceration is warranted based on danger or flight risk.
4. Petitioner's unlawful detention without a hearing on danger and flight risk violates the Due Process Clause of the Fifth Amendment.
5. Petitioner and her minor's son's detention have also placed undue burden on their ability to search for or consult with counsel.
6. Additionally, Respondents have not provided Petitioner or her son with the opportunity to have their asylum case heard. Petitioners also have not had access to counsel due to being detained without meaningful interpretation services or phone access but intends to pursue multiple immigration claims in removal hearings.
7. Petitioner is not a flight risk due to the following reasons: Petitioner, a widow, and her minor son have been in the United States since September 24, 2022. They have applied for asylum. They voluntarily attend the ICE appointment as directed by the government.
8. Petitioner merits positive discretion because: She has no criminal history, has no history of violence or terrorism. She is a widow, raising her 13 year old son who is gravely ill with active tuberculosis.
9. Petitioner suffers from the following health conditions: Petitioner's minor son is ill. He was hospitalized in November for a number of days and then continued to lose weight

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and become weaker. He was hospitalized again over Christmas from December 18 to December 28, 2025. He has been treated for active tuberculosis and had a drainage tube inserted in his lungs. He is currently prescribed the following medicines by Dr. D. Chieco of Elmhurst Hospital Center:

Rifampin 300mg- is an antimicrobial class of drugs to treat gram-positive bacterial infections such as tuberculosis

Pyrazinamine 500mg – is to treat tuberculosis infection and it is very important to keep taking the medicine and not to miss a dose.

Isoniazid 300 mg – antibacterial, antitubercular agent

Ethambutol – treatment for Mycobacterium tuberculosis

These medicines need to be taken on a regular basis. Without his medication allows for his tuberculosis medication to mutate and become stronger.

10. Petitioner and her minor son's ongoing detention has caused enormous harm by separating them from family, friends, and their community and risks further harm if not remedied.
11. I.C.E.'s actions violate Petitioner and her minor son's rights under the Fifth Amendment of the U. S. Constitution, the INA, the Administrative Procedure Act and its own federal regulations.
12. Accordingly, this Court should declare I.C.E.'s actions unlawful and order their immediate release. In the alternative, Petitioner must be transferred to a facility closer to New York City.

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PARTIES

13. Petitioner, Maria H. Chaluisa Enriquez, age 52, and her minor son, [REDACTED] age 13, have lived in the United States since September 24, 2022. They are currently detained at the Dilley Immigration Processing Center at 300 El Rancho Way, Dilley, TX 78017. Petitioners are in the custody and direct control of Respondents and their agents.
14. Respondent, Jose Rodriguez Jr., is the facility administrator at Dilley Immigration Processing Center. He is named in his official capacity as a person in charge of the facility holding the Petitioner. In this capacity, Respondent RODRIGUEZ JR. is the immediate physical custodian responsible for the detention of the Petitioner. Respondent Rodriguez Jr.'s address is 300 El Rancho Way, Dilley, TX 78017.
15. Respondent, Sylvester ORTEGA, is the Acting Field Office Director for the San Antonio Immigration and Customs Enforcement (ICE). In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations and is custodian of petitioners. Respondent Ortegas's address is 1777 NE Loop 410, Floor 15, San Antonio, TX 78217.
16. Respondent, Todd LYONS, is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States; routinely transacts business in the Western District of Texas; is legally responsible for pursuing any effort to remove the Petitioner; and as such is a custodian of the Petitioner. Respondent LYONS's address is Immigration and Customs Enforcement, 500 12th St. SW, Mail Stop 5900, Washington,

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17. Respondent, Kristi Noem, is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the Western District of Texas; is legally responsible for pursuing any effort to detain and remove the Petitioner; and as such is a custodian of the Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.5.
18. Respondent Pamela Bondi is Attorney General of the United States. In this capacity, she routinely transacts business in the Western District of Texas; is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(g)(2007); and as such is a custodian of the Petitioner. Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

Jurisdiction and Venue

19. This Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 ("The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public safety may require."). The Suspension Clause protects the right to the writ of habeas corpus where no adequate or effective alternative remedy exists. *See Boumediene v. Bush*, 553 U.S. 723, 745 (2008).

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20. This Court also has subject matter jurisdiction under 28 U.S.C. § 2241 (Habeas Corpus); 28 U.S.C. § 1331 (Federal Question); 28 U.S.C. § 1651 (the All-Writs Act); and 5 U.S.C. § 701 (the Administrative Procedure Act).
21. This Court has additional remedial authority under 28 U.S.C. §§ 2201-02 (the Declaratory Judgment Act), to grant injunctive and declaratory relief.
22. Administrative exhaustion is unnecessary as it would be futile.
23. Venue is proper in the U.S. District Court for the Western District of Texas because Respondents are officers of United States agencies, and at the time of filing, Petitioner is detained at Dilley Immigration Processing Center at 300 El Rancho Way, Dilley, TX 78017, within the jurisdiction of the Western District of Texas. A substantial part of the events or omissions giving rise to these claims occurred in the Western District of Texas, and there is no real property involved in this action. *See* 28 U.S.C. § 1391(e)(1).

RELEVANT FACTS AND PROCEDURAL HISTORY

24. Petitioner and her minor son are a long-time resident of New York City who entered the United States on September 24, 2022.
25. Petitioner first came to the United States in order to seek asylum.
26. Prior to their detention, Petitioner is a widow and the sole caregiver to her minor son who is ill. He had been an 8th grader at [REDACTED] school until he was weakened by tuberculosis and hospitalized.
27. Petitioner has filed an affirmative asylum claim in 2023 with United States Citizenship and Immigration Service. The case was not docketed until she attended an ICE appointment on January 7, 2026 where she and her minor son were issued Notices to Appear in court on March 18, 2026 at 26 Federal Plaza. They were then mysteriously

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detained. The minor son is also eligible for Special Immigrant Juvenile Status as his father is deceased.

28. Petitioner and her minor son are believed to be in Dily, Texas based on a search of the ICE inmate locator.

29. Petitioner and her minor son have been detained for 2 days.

30. As there has been no contact, it is unknown what if any medicine the Petition's son has received for his tuberculosis infection.

31. Petitioner is not a flight risk because she and her minor son have been in the United States since September of 2022. They have applied for asylum. They have attended their ICE appointment. The child attends school and the mother works. There has been no change of circumstances to require detention.

32. Petitioner is not a danger to society because she is a widow raising her 13 year old son. He is weak due to his longstanding illness. Petitioners have not been arrested.

33. Therefore, Petitioner and her minor son bring this action to seek injunctive, habeas, and declaratory relief ordering Respondents to release them. Petitioner and her son's ongoing detention—the purpose of which is presumably remove them from the United States—flow from their unlawful detention on January 7, 2026.

LEGAL FRAMEWORK

A. Petitioner cannot be subject to expedited removal.

34. Since mid-May 2025, the DHS has been employing a new campaign by which counsel for DHS moves to dismiss cases in Immigration Court in order to immediately pursue

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expedited removal. Upon dismissal, ICE officers, waiting in Immigration Court buildings invoke expedited removal to arrest individuals leaving their hearings¹

35. It appears that ICE's selection of individuals to detain in Immigration Courts is random, as individuals in various postures in their immigration proceedings have been detained.

36. ICE has also been detaining increased numbers of individuals and families at routine check-ins, even those with a history of regularly attending their check-ins and following the terms of their Orders of Release on Recognizance.

37. Petitioner is not a flight risk, and has a vested interest in continuing to pursue his/her immigration claims.

38. Petitioner demonstrates a history of responsibility and law abiding nature through their attendance of the following ICE check-in.

39. Petitioners cannot be subjected to expedited removal as they are currently in removal proceedings under section 240 of the INA (8 U.S.C. 1229a), seeking asylum, and has lived in the United States for over two years.

40. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a

¹ See, e.g., Gwynne Hogan, ICE Agents Arrest at Least Seven Immigrants as Courthouse Blitz Continues, The City (May 29, 2025), available at <https://www.thecity.nyc/2025/05/29/ice-arrests-migrants290-broadway-court-trump/>; Luis Ferré-Sadurni and Dana Rubenstein, ICE, Shifting Tactics, Detains High School Student at N.Y.C. Courthouse, The New York Times (May 27, 2025), available at <https://www.nytimes.com/2025/05/27/nyregion/new-york-student-arrested-ice.html>; Ted Hesson and Kristina Cooke, ICE arrests migrants at courthouses, opens door to fast-track deportations, Reuters (May 23, 2025), available at <https://www.reuters.com/world/us/ice-arrests-migrants-courthouses-opens-door-fast-track-deportations-2025-05-23/>; Camilo Montoya-Galvez and Nidia Cavazos, ICE ending migrants' court cases in order to arrest and move to deport them, CBS News (May 23, 2025), available at <https://www.cbsnews.com/news/ice-ending-migrants-court-cases-arrest-move-to-deport-them/>; Michael Elsen-Rooney, A Bronx high schooler showed up for a routine immigration court date. ICE was waiting., Chalkbeat (May 26, 2025), available at <https://www.chalkbeat.org/newyork/2025/05/27/bronx-high-school-student-detained-by-immigration-ice-agents/>.

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response “within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” 28 U.S.C. § 2243 (emphasis added).

41. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

42. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious.”). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.

43. The Court’s ruling in *Zadvydas* is rooted in due process’s requirement that there be “adequate procedural protections” to ensure that the government’s asserted justification for a noncitizen’s physical confinement “outweighs the ‘individual’s constitutionally protected interest in avoiding physical restraint.’” *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S.

B. Defendants’ Pattern of Illegal Conduct Is Officially Sanctioned

44. Defendants’ unlawful stops, arrests, denial of access to counsel and conditions immigration courts and ICE offices, and Moshannon Valley Processing Center are the predictable result of directives from top officials to agents and officers.

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45. In January, the administration gave ICE field offices an arrest quota of 75 arrests a day.²

As offices attempted to carry out such a mandate, workplace raids increased,³ ICE check-ins became traps, and courthouse arrests surged.⁴ Also, to help meet the quota, the administration granted agencies outside of DHS immigration enforcement powers.⁵

46. Meanwhile, the administration began systematically dismantling internal accountability mechanisms and restraints on immigration agents' and officers' conduct. The administration shut down multiple oversight agencies (retaining only a version of their former selves after the administration was sued).⁶ Investigations were closed. Officers no longer had to abide by enforcement priorities.⁷ Long-standing guidance restricting enforcement operations in sensitive locations—schools, hospitals, places of worship and public demonstrations—was rescinded.⁸

² Nick Miroff & Maria Sacchetti, Trump Officials Issue Quotas to ICE Officers to Ramp Up Arrests, *The Washington Post* (last updated Jan. 26, 2025), <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/>.

³ Marianne LeVine, et al., ICE is Arresting Migrants in Worksite Raids. Employers are Largely Escaping Charges, *The Washington Post* (June 30, 2025), <https://www.washingtonpost.com/immigration/2025/06/30/ice-raids-arrests-workers-companies/> (noting an April announcement by ICE officials that the agency had arrested more than 1,000 workers during Trump's first 100 days and collecting stories of workplace raids across the country); Mark Moran, ICE Detains More than 530 People in Workplace 'Raids' in U.S. Northeast, *United Press International* (Jan. 23, 2025), https://www.upi.com/Top_News/US/2025/01/23/ice-details-538-ion-workplace-raids/7811737692376/.

⁴ Julia Ainsley, Trump admin tells immigration judges to dismiss cases in tactic to speed up arrests, *NBC News* (June 11, 2025), <https://www.nbcnews.com/politics/national-security/trump-admin-tells-immigration-judges-dismiss-cases-tactic-speed-arrest-rena212138>; Luis Ferré-Sadumi, Inside a Courthouse, Chaos and Tears as Trump Accelerates Deportations, *N.Y. Times* (June 12, 2025),

⁵ Press Release, DHS, Statement from a DHS Spokesperson on Directive Expanding Immigration Law Enforcement to Some Department of Justice Officials (Jan. 23, 2025), <https://www.dhs.gov/news/2025/01/23/statement-dhs-spokespersondirective-expanding-immigration-law-enforcement>.

⁶ Nicolae Viorel Butler, Court Forces DHS to Preserve Immigrant Rights Offices, *Migrant Insider* (May 27, 2025), https://migrantinsider.com/p/court-forces-dhs-to-preserve-immigrant?utm_source=CLINIC%2BMail&utm_campaign=f9e1ee6428-tips-6-2-25&utm_medium=email&utm_term=0_663ab9ab77-284225192

⁷ Press Release, DHS, Statement from a DHS Spokesperson on Directives Expanding Law Enforcement and Ending the Abuse of Humanitarian Parole (Jan. 21, 2025), <https://www.dhs.gov/news/2025/01/21/statement-dhs-spokesperson-directives-expanding-law-enforcement-and-ending-abuse>

⁸ Marisa Kabas, ICE agents get green light to make unjustified warrantless arrests, *The Handbasket* (June 12, 2025), <https://www.thehandbasket.co/p/ice-warrantless-arrests-castanon-nava>.

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47. But these changes were not enough, according to the administration. In late May, Deputy Chief of Staff Stephen Miller summoned 25 ERO Field Office Directors and 25 HSI Special Agents to a meeting to demand that “everybody” be targeted.⁹

48. Under Miller’s directive, agents no longer needed to develop vetted target lists of individuals suspected of being in the United States unlawfully. ICE agents were instructed in an email to “aggressively “push the envelope,” including by pursuing “collaterals”—individuals that by definition would not have warrants.¹⁰

49. The administration set a new arrest quota of 3,000 arrests per day and reportedly threatened job consequences if officials failed to meet arrest quota.¹¹

50. The overriding message to agents and officers carrying out immigration operations on the ground was to prioritize arrest numbers, regardless of the law. Agents and officers were granted sweeping discretion to achieve this goal.

C. Defendants’ Illegal Conduct Will Continue if Not Enjoined

51. The federal government has repeatedly made clear its intent to continue its operations and unlawful stops, arrests, and detentions. Defendants have been candid about their determination to continue pursuing these unlawful policies and practices, unless this Court enjoins them from doing so.

52. While immigration enforcement may be done lawfully, these statements demonstrate a commitment to continue operations at any cost, including at the expense of individuals’

⁹ Stuard Anderson, Stephen Miller’s Order Likely Sparked Immigration Raids and Protests, *Forbes*, Jun. 9, 2025, <https://www.forbes.com/sites/stuardanderson/2025/06/09/stephen-millers-order-likely-sparked-immigration-arrests-and-protests/>.

¹⁰ José Olivares, US immigration officers ordered to arrest more people even without warrants, *The Guardian* (June 4, 2025), <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>.

¹¹ Elizabeth Findell, et al., *supra* note 2; Julia Ainsley, et al., A sweeping new ICE operation shows how Trump’s focus on immigration is reshaping federal law enforcement, *NBC News* (June 4, 2025), <https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focus-immigration-reshape-federal-lawenforcement-rcna193494>

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constitutional and legal rights. Plaintiffs have already been harmed, and they face a reasonable likelihood of continuing harm, as a result of Defendants' unlawful policies and practices described herein.

53. Plaintiffs have no plain, adequate, or complete remedy at law to address the wrongs described herein. Injunctive and declaratory relief is necessary to redress their ongoing injuries.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION PROCEDURAL DUE PROCESS

58. The allegations in the above paragraphs are realleged and incorporated herein.

59. Petitioner and her minor son are being detained without cause and in violation of their Constitutional right to Due Process under the Fifth Amendment.

60. The Procedural Due Process Clause of the Fifth Amendment prohibits the government from depriving an individual of a protected interest without notice and an opportunity to be heard. Mathews v. Eldridge, 424 U.S. at 319, 333 (1976).

61. Respondents provided Petitioner and her minor son with no notice or opportunity to be heard prior to arresting and detaining them.

62. Respondents have offered Petitioner no meaningful opportunity to be heard or challenge their detention since detaining them.

63. Petitioner and her minor's detention thereby deprives them of their rights to Due Process under the Fifth Amendment of the United States Constitution.

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64. Petitioner has no adequate remedy at law.

COUNT TWO

VIOLATION OF THE OF THE FIRST AND FIFTH AMENDMENTS TO THE UNITED STATES CONSTITUTION

65. Petitioner realleges and incorporates by reference the paragraphs above.

66. U.S. citizens and noncitizens alike are guaranteed the right to due process under the Fifth Amendment to the United States Constitution, which includes the rights to access courts and to participate in state court proceedings as a witness, party or complainant.

67. U.S. citizens and noncitizens alike are guaranteed the right of petition under the First Amendment to the U.S. Constitution, which includes the right to petition the Government for a redress of grievances. This right to petition includes the right to access courts and to participate in court proceedings as a witness, party or complainant.

68. As a result of Respondents' unlawful arrest and detention of Petitioner and her minor son, their rights were violated, and they have and continues to suffer prejudice.

69. Petitioner has no adequate remedy at law.

COUNT THREE

RELEASE ON BAIL PENDING ADJUDICATION

70. Petitioner realleges and incorporates by reference the paragraphs above.

71. This Court has the "inherent authority" to grant bail to habeas petitioners like Maria H. Chaluisa Enriquez and her minor son [REDACTED]. See Vega v. United States, 514 F. Supp. 2d 767, 770 (W.D. Pa. 2007) (citing Johnston v. Marsh, 227 F.2d 528, 531 (3d Cir.1955)); see also Mapp v. Reno, 241 F.3d 221, 230 (2d Cir. 2001).

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72. Bail pending habeas is appropriate when a petitioner raises “substantial constitutional claims upon which he has a high probability of success, and also when extraordinary or exceptional circumstances exist which make the grant of bail necessary to make the habeas remedy effective.” Landano v. Rafferty, 970 F.2d 1230, 1239 (3d Cir. 1992).

73. Petitioner and her minor son meets this standard here. This petition and her minor son raises constitutional claims on which they have a high probability of success. And Petitioner and her minor son’s immediate release is necessary to make this remedy effective. As long as Petitioner and her minor son remains detained, there physical and mental health is at continued, serious risk, and their ability to litigate their asylum and immigration claims is jeopardized.

COUNT FOUR:

**VIOLATION OF THE INA, REGULATIONS THEREUNDER, AND THE FIFTH
AMENDMENT’S DUE PROCESS CLAUSE**

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

75. Respondents presumed basis for detaining Petitioner is unknown.

76. Under the terms of the INA and the governing regulations, Petitioner and her minor son’s detention is unlawful.

COUNT FIVE:

DENIAL OF ACCESS TO COUNSEL

77. Petitioner and her minor’s son repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

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78. Petitioner and her minor son have constitutional and statutory rights to counsel pursuant to the Fifth Amendment, the First Amendment, and the Immigration and Nationality Act, 8 U.S.C. §1362.
79. Immigrants challenging efforts to remove them from the United States have a right to counsel, at their own expense, pursuant to the Fifth Amendment. See United States v. Campos Asencio, 822 F.2d 506, 509 (5th Cir. 1987).
80. Moreover, “[t]here is also a long-recognized First Amendment right to hire and consult an attorney.” Nat’l Fed’n of Indep. Bus. v. Perez, 5:16-CV-00066-C, 2016 WL 3766121, at *31 (N.D. Tex. June 27, 2016). “[T]he scope of the First Amendment’s right is determined by balancing the [plaintiff’s] interests in communication with the government’s interest in preventing communication.” Jacobs v. Schiffer, 204 F.3d 259, 265 (D.C. Cir. 2000).
81. “Restrictions on speech between attorneys and their clients directly undermine the ability of attorneys to offer sound legal advice. As the common law has long recognized, the right to confer with counsel would be hollow if those consulting counsel could not speak freely about their legal problems.” Martin v. Lauer, 686 F.2d 24, 32 (D.C. Cir. 1982). 33
82. Petitioner and her minor son were seized without cause, detained without provided an opportunity to call or reach out to counsel, or even access to a neutral decisionmaker.

COUNT SIX

VIOLATION OF 8 U.S.C. § 1357(A)(2) WARRANTLESS ARRESTS WITHOUT PROBABLE CAUSE OF FLIGHT RISK

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83. Petitioner and her minor son repeat, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
84. 8 U.S.C. § 1357(a)(2) requires that arrests without a warrant be accompanied by “reason to believe” that an individual is “likely to escape before a warrant can be obtained for [their] arrest.”
85. Respondents have a policy, pattern, and practice of making arrests without any warrant without making an individualized determination of flight risk. They have no mechanism for ensuring compliance with the statutory limits of agents’ and officers’ warrantless arrest authority and do not provide guidance to agents and officers on how to make an individualized determination of likelihood of escape. Respondents permit agents and officers to make warrantless arrests carte blanche in violation of law.
86. Respondents’ policy, pattern, and/or practice of making warrantless arrests without the required individualized flight risk analysis is “final agency action” that is “in excess of statutory jurisdiction, authority, or limitations” under 8 U.S.C. § 1357(a)(2). 5 U.S.C. §§ 704, 706(2)(C).
87. Separate from the APA, Respondents’ policy, pattern, and practice of making warrantless arrests without the required individualized flight risk analysis is ultra vires.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- 1) Assume jurisdiction over this matter;
- 2) Declare that Petitioner and her minor son’s detention violates the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act; Section 1225(b)(1)(A) of the

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Immigration and Nationality Act; the First Amendment, and the Rehabilitation Act;

3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner and her minor son immediately.

4) Grant any further relief this Court deems just and proper.

Respectfully submitted,



Maria H. Chaluiza Enriquez

[REDACTED] minor son

Juan H. Cuyo Cahluiza as next friend.

Petitioner, *Pro Se*

Date: January 9, 2026

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[REDACTED] (minor son)

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I, Juan H. Cuyo Chaluisa, as next friend to Maria H. Chaluisa Enriquez and her minor son

[REDACTED] submit this verification on my own behalf. I hereby swear under penalty of perjury that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 9 day of January, 2025.

Juan H. Cuyo Chaluisa

Signature: _____

