

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FILED

FEB 09 2026

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

In re: BARBARA NAZARETH TOYO VARGAS

A-Number: 

Case No.: 5:26-CV-00156-XR

Judge: Xavier Rodriguez

**EMERGENCY MOTION BASED ON RESPONDENT'S FAILURE TO COMPLY
WITH COURT ORDER AND TO COMPEL RESPONSE
OR, IN THE ALTERNATIVE, FOR TEMPORARY RELEASE**

COMES NOW Amilcar Rivero, appearing as Next Friend on behalf of Petitioner Barbara Nazareth Toyo Vargas, and respectfully moves this Honorable Court to take notice of Respondent's failure to comply with this Court's prior Order, to compel an immediate response, or, in the alternative, to grant Petitioner's temporary release. In support thereof, Petitioner states as follows:

PROCEDURAL HISTORY

1. Petitioner Barbara Nazareth Toyo Vargas is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Dilley Immigration Processing Center in Dilley, Texas.
2. On January 14, 2026, Petitioner filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.
3. On January 28, 2026, this Honorable Court issued a Notice and Order directing Respondent to file a response within the time period set by the Court.

4. The record reflects that Respondent received proper notice of the Court's Order.
5. As of the date of this filing, the docket does not reflect that Respondent has filed a response or requested an extension of time.

FAILURE TO COMPLY AND COURT AUTHORITY

6. Respondent's failure to comply with a clear Order of this Court impedes the orderly administration of justice and deprives Petitioner of timely judicial review.
7. Although default relief is not automatic in habeas proceedings, this Court retains broad equitable authority to enforce its Orders and to prevent prolonged and unjustified detention resulting from governmental inaction.
8. Respondent's continued failure to respond, as reflected on the docket, exacerbates the ongoing harm suffered by Petitioner.

CONTINUING PREJUDICE

9. Each additional day of detention while Respondent remains noncompliant constitutes irreparable harm to Petitioner's liberty interests and undermines the effectiveness of judicial oversight.

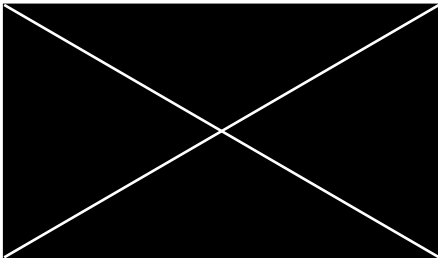
REQUEST FOR RELIEF

10. Find that Respondent has failed to comply with this Court's prior Order;
11. Order Respondent to file an immediate response to the pending Petition for Writ of Habeas Corpus;
12. In the alternative, grant the temporary release of Barbara Nazareth Toyo Vargas under such conditions as the Court deems appropriate;
13. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,


Amílcar Rivero

Next Friend of Barbara Nazareth Toyo Vargas



Date: February 9, 2026