

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Nicolasa Sebastian Matacua,)	
)	
Petitioner)	PETITION FOR WRIT
)	OF HABEAS CORPUS AND APA
v.)	
)	CASE No: 0:26-cv-00756
David Easterwood, Acting Director of St.)	
Paul Enforcement and Removal)	
Operations, Immigration and Customs)	
Enforcement; Kristi Noem, Secretary of)	
the Department of Homeland Security;)	
Todd Lyons, Acting Director, U.S)	
Immigration and Customs Enforcement;)	
and Pamela Bondi, Attorney General of)	
the United States, in their official)	
capacities,)	
)	
Respondents.)	

PETITION FOR WRIT OF HABEAS CORPUS AND ADMINISTRATIVE
PROCEDURE ACT

INTRODUCTION

1. Petitioner, Nicolasa Sebastian Matacua, is a mother of United States citizen children with no criminal history who was detained by the Department of Homeland Security beyond the statutory removal period authorized by 8 U.S.C. § 1231(a). Although DHS reinstated a prior order of removal in January 2024, Petitioner was released to supervision, complied with all conditions, and presented no danger or flight risk. In January 2026, without any change in circumstances and despite successful compliance, ICE re-detained her. Removal is not reasonably foreseeable. DHS cannot lawfully

remove Petitioner without first providing a fear screening interview, and it has not demonstrated a viable plan for removal to Mexico. Petitioner's civil detention therefore violates § 1231 as construed by *Zadvydas*, the Fifth Amendment's Due Process Clause, the Administrative Procedure Act, and the Suspension Clause.

2. In light of the information and belief that ICE has moved other petitioners to detention centers far from Minnesota after they filed petitions for writs of habeas corpus in this District, this petition also requests that the Court specifically enjoin Respondents from moving or transferring Petitioner outside of the District of Minnesota in the Order to Show Cause, or to the extent Petitioner has already been moved out of this District, this petition requests that the Court order Respondents to return petitioner to this District in the Order to Show Cause. Enjoining Petitioner's transfer, or ordering her return, through an Order to Show Cause would avoid the repetitive briefing and strain on the Court's resources presented by a separate motion for a temporary restraining order.

JURISDICTION

3. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is in custody in violation of the Constitution and laws of the United States.

4. The Court also has jurisdiction under 28 U.S.C. § 1331 (federal question), the APA, 5 U.S.C. § 701 et seq., and Article I, § 9, clause 2 of the United States Constitution (Suspension Clause).

5. Nothing in the INA bars judicial review of Petitioner's challenge to the lawfulness of her civil detention. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41

(2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar constitutional challenges to immigration detention).

VENUE

6. Venue lies in this District pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), because Petitioner is detained within the jurisdiction and Respondents may be reached for service of process here.

7. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are officers of the United States and a substantial part of the events giving rise to this petition occurred within this District.

CUSTODY

8. Petitioner is in the physical custody of ICE, an agency of the Department of Homeland Security, within this District.

9. Petitioner's custody arises from the reinstatement of a prior removal order under 8 U.S.C. § 1231(a)(5).

10. Petitioner has never been afforded a bond hearing and has never been found dangerous or a flight risk by any adjudicator.

11. Petitioner complied with supervision for approximately two years, demonstrating that alternatives to detention are effective and less restrictive. ICE nevertheless re-detained her at her place of work on January 27, 2026.

PARTIES

12. Petitioner is a native and citizen of Mexico and the mother of United States citizen children, including an adult U.S. citizen child who has petitioned for her.

13. Respondent David Easterwood is the Acting Field Office Director for Enforcement and Removal Operations in this jurisdiction and is Petitioner's immediate custodian.

14. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is responsible for the agency's enforcement policies and custodial decisions.

15. Respondent Kristi Noem is the Secretary of the Department of Homeland Security and has authority over ICE and its policies.

16. Respondent Pamela Bondi is the Attorney General of the United States and has authority over the Executive Office for Immigration Review.

FACTUAL BACKGROUND

17. Petitioner first entered the United States many years ago, established family ties, and raised United States citizen children 25, 23, 19 and 14 years old. One (1) of those children is her Petitioner for a family based I-130 that is currently pending with the United States Citizenship and Immigration Service (USCIS). She has no criminal history.

18. On January 13, 2024, DHS issued a Notice of Intent/Decision to Reinstate a Prior Order of Removal under 8 U.S.C. § 1231(a)(5) after she re-entered the United States with CBP One Parole. Petitioner did not receive a bond hearing.

19. Following reinstatement, ICE released Petitioner from custody and placed her under supervision through the Intensive Supervision Appearance Program (ISAP). Petitioner complied with all conditions of supervision, including check-ins and monitoring.

20. Petitioner's compliance demonstrated that she is neither a danger to the community nor a flight risk, and that alternatives to detention sufficiently serve any governmental interest.

21. Petitioner has a credible fear of return to Mexico. Her fear arises from cartel-related and gender-related violence, including a recent attempt to traffic her minor United States citizen child into the cartel. Petitioner has not yet undergone a fear screening interview. DHS has neither initiated withholding-only proceedings nor lawfully effected removal.

22. Petitioner has significant family ties in the United States. She has United States citizen children, including an adult U.S. citizen child who has filed a Form I-130 petition on her behalf.

23. Despite her compliance with supervision and absence of any adverse incidents, on January 27, 2026, ICE re-detained Petitioner. ICE did not identify any change in circumstances or conduct that would justify detention over supervision and did not provide pre-deprivation hearing.

24. DHS has not conducted credible fear screening, has not initiated withholding-only proceedings, has not obtained travel documents, and has not identified an imminent plan for removal to Mexico.

25. Petitioner was detained under 8 U.S.C. § 1231(a) well beyond the presumptively reasonable 90-day removal period and beyond the 180-day period recognized in the regulations.

26. On January 27, 2026, Respondents notified counsel of an intent to transfer the Petitioner to Texas.

STATUTORY FRAMEWORK

Reinstatement

27. Under 8 U.S.C. § 1231(a)(5), if DHS reinstates a prior order of removal, the prior order “is reinstated from its original date and is not subject to being reopened or reviewed.”

Detention under INA § 1231

28. Section 1231(a)(1) establishes a “removal period” of 90 days during which DHS “shall” remove the noncitizen.

29. Detention during this 90-day period is mandatory. § 1231(a)(2) (“During the removal period, the Attorney General shall detain the alien.”).

30. The removal period begins on the latest of the events identified in § 1231(a)(1)(B), including the date an order of removal becomes final or, in reinstatement cases, the date DHS reinstates the prior order.

31. After the 90-day removal period, detention becomes discretionary under § 1231(a)(6). Continued detention must be tethered to removal and may not be prolonged

where removal is not reasonably foreseeable. *Zadvydas v. Davis*, 533 U.S. 678, 689–90 (2001).

32. *Zadvydas* construed § 1231(a)(6) to contain an implicit reasonableness limit on detention and identified six months as a “presumptively reasonable period of detention.” *Id.* at 701.

33. After six months (180 days), once the noncitizen provides “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” the burden shifts to the Government to rebut that showing. *Id.*

34. Implementing regulations likewise distinguish between detention during and after the 90-day removal period. *See* 8 C.F.R. § 241.4.

35. Under § 241.4, DHS must conduct custody reviews after expiration of the removal period and is required to determine whether continued detention is justified based on risk of flight or danger and whether removal is reasonably foreseeable.

36. Where a noncitizen asserts that removal is not significantly likely in the reasonably foreseeable future, DHS must follow procedures under 8 C.F.R. § 241.13. That regulation implements *Zadvydas* and provides a mechanism for release when detention no longer serves its statutory purpose.

37. Section 241.13 further provides that DHS must either rebut the noncitizen’s showing with evidence of a significant likelihood of removal or release the noncitizen under supervision. 8 C.F.R. § 241.13(g)(3), (h).

38. The regulations contemplate custody review and conditional release, not prolonged detention, as the ordinary response to delayed or impracticable removal.

39. DHS also promulgated 8 C.F.R. § 241.14, which authorizes specialized prolonged detention in narrow and extraordinary categories, such as national security threats and highly contagious diseases, none of which apply to Petitioner. The presence of § 241.14 confirms that discretionary prolonged detention under § 1231(a)(6) is exceptional and must be justified.

40. Currently, the Respondents would hold the Petitioner lawfully only if she was a national security risk or serious threat to public safety, because the 90-day mandatory removal period and the six-month presumptively reasonable period identified in *Zadvydas* and the regulations have passed.

41. DHS has not demonstrated a significant likelihood of removal in the reasonably foreseeable future and has not complied with § 241.4 or § 241.13 procedures.

42. Petitioner is not subject to § 241.14, has no criminal history, and previously demonstrated that alternatives to detention are effective through ISAP supervision.

43. Accordingly, both the statute and its implementing regulations confirm that Petitioner's continued detention is unlawful.

44. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that detention under § 1231(a) is limited to a period "reasonably necessary" to effectuate removal.

Reasonable Fear

45. DHS may not lawfully remove a person subject to reinstatement who expresses fear of return without first providing a fear screening under regulations implementing withholding of removal and the Convention Against Torture.

46. DHS has not conducted such screening in Petitioner's case, rendering removal legally impossible at this time.

47. Detention that cannot serve its statutory purpose, i.e., effectuating removal, ceases to be constitutionally permissible.

Fifth Amendment Due Process

48. Immigration detention is civil in nature, and the Fifth Amendment places substantive and procedural limits on the Government's ability to detain noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

49. The Due Process Clause prohibits detention that is arbitrary, indefinite, or not reasonably related to its purported purpose. *Zadvydas*, 533 U.S. at 690; *Kansas v. Hendricks*, 521 U.S. 346, 358 (1997).

50. Procedurally, the Due Process Clause requires a meaningful opportunity to challenge detention and an individualized assessment of dangerousness or flight risk when liberty is at stake. *See Mathews v. Eldridge*, 424 U.S. 319, 332–35 (1976); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 28–29 (1st Cir. 2021) (requiring individualized bond hearings for prolonged detention).

51. Post-removal-period detention under § 1231(a)(6) therefore must conform to constitutional limits, and prolonged detention without an individualized assessment of necessity raises serious due process concerns.

Administrative Procedure Act

52. Petitioner's detention is also reviewable under the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

53. Under § 706(2)(A), a reviewing court shall "hold unlawful and set aside agency action, findings, and conclusions" that are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

54. Agency detention decisions that disregard statutory limits, fail to consider less-restrictive alternatives, ignore relevant factors, or rely on post hoc justifications are arbitrary and capricious.

55. Section 706(1) further authorizes courts to "compel agency action unlawfully withheld or unreasonably delayed," including legally-required custody reviews and fear screenings under 8 C.F.R. §§ 241.4 and 241.13.

56. The APA applies because neither § 1231 nor its implementing regulations preclude judicial review of custody decisions, and constitutional claims fall outside any INA channeling provisions. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41 (2018).

57. In the context of prolonged detention, the APA reinforces constitutional limits and confirms that detention must remain tethered to removal and grounded in individualized assessment, rather than automatic or indefinite confinement.

ARGUMENT

I. PETITIONER'S DETENTION UNDER 8 U.S.C. § 1231 IS UNLAWFUL

58. Petitioner was detained well beyond the presumptively reasonable 90-day removal period established by 8 U.S.C. § 1231(a)(1) and beyond the six-month benchmark articulated in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

59. Here, removal is not reasonably foreseeable because DHS cannot legally remove Petitioner to Mexico without first providing her a fear screening interview and an opportunity to seek withholding of removal and protection under the Convention Against Torture.

60. Petitioner has expressed fear of return to Mexico on the basis of cartel-related and gender-based harm, including a recent attempted trafficking of her minor U.S. citizen child and inducing them to become a part of the cartel.

61. DHS has not conducted a credible fear or reasonable fear screening, has not initiated withholding-only proceedings, and has not taken concrete steps to effectuate removal.

62. The Government cannot make any pertinent showing on the present record of their own attempts to remove Petitioner in the relevant statutory period. Continued detention therefore violates § 1231(a)(6) as construed by *Zadvydas* and must end.

II. DETENTION VIOLATES THE DUE PROCESS CLAUSE UNDER *MATHEWS* *v. ELDRIDGE*

63. Civil immigration detention is subject to due process limits. *See Zadvydas*, 533 U.S. at 690; *Jennings v. Rodriguez*, 138 S. Ct. 830, 852 (2018).

64. In assessing procedural due process, courts apply the balancing test of *Mathews v. Eldridge*, 424 U.S. 319 (1976), which considers: (1) the private interest at stake; (2) the risk of erroneous deprivation; and (3) the government's interest and burdens.

(1) Private Interest

65. Petitioner's interest in freedom from physical restraint lies at the core of the liberty that the Due Process Clause protects. *See Zadvydas*, 533 U.S. at 690; *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

66. Petitioner has deep ties to the United States, including United States citizen children and an adult U.S. citizen petitioner. She has no criminal history and complied with supervision. The private interest is therefore substantial.

(2) Risk of Erroneous Deprivation

67. The risk of erroneous deprivation is high where noncitizens are detained indefinitely without a pre-deprivation bond hearing and without judicial inquiry into flight risk or danger.

68. That risk is heightened here because DHS re-detained Petitioner after substantial compliance with ISAP, without any individualized assessment, and without any change in circumstances.

(3) Government Interests

69. The Government has an interest in ensuring appearance and effectuating removal. But those interests can be served by less-restrictive means, as demonstrated by Petitioner's period of successful supervision.

70. The administrative burden of a bond hearing is minimal compared to the severe deprivation of liberty at stake. *See Hernandez-Lara v. Lyons*, 10 F.4th 19, 28–29 (1st Cir. 2021).

71. Under *Mathews*, due process requires at minimum an individualized bond hearing at which the Government bears the burden of showing by clear and convincing evidence that detention remains necessary.

III. DETENTION IS ARBITRARY AND CAPRICIOUS UNDER THE APA

72. The APA bars agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A).

73. ICE's redetention of Petitioner despite her compliance with supervision, without identifying danger or flight risk, and without a foreseeable removal path, is arbitrary and capricious.

74. Detention that cannot serve its statutory purpose of removal is unlawful. *Zadvydas*, 533 U.S. at 690.

75. The agency's failure to consider less restrictive means, including continued supervision through ISAP, likewise violates the APA.

CLAIMS

COUNT I — VIOLATION OF 8 U.S.C. § 1231

76. Petitioner realleges and incorporates the foregoing paragraphs.

77. Detention under 8 U.S.C. § 1231(a) is limited to a period reasonably necessary to effectuate removal.

78. Removal is not reasonably foreseeable in Petitioner's case because DHS cannot lawfully remove her without fear screening and has not taken steps toward obtaining travel documents or effectuating removal.

79. Petitioner was detained well beyond the 90-day removal period and the six-month presumptively reasonable period identified in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

80. Continued detention therefore violates § 1231(a)(6) as construed by *Zadvydas*.

COUNT II — VIOLATION OF THE FIFTH AMENDMENT'S PROCEDURAL AND SUBSTANTIVE DUE PROCESS CLAUSE

81. Petitioner realleges and incorporates the foregoing paragraphs.

82. The Due Process Clause prohibits detention that is arbitrary, indefinite, or not reasonably related to its purpose. *Zadvydas*, 533 U.S. at 690.

83. Civil detention must be accompanied by adequate procedural protections and individualized findings of necessity. *Mathews v. Eldridge*, 424 U.S. 319 (1976).

84. Petitioner has never received an individualized bond hearing and DHS has never made findings of dangerousness or flight risk.

85. Petitioner successfully complied with supervision, demonstrating that less restrictive means are adequate.

86. Continued detention without meaningful process violates the Fifth Amendment.

COUNT III — VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT (5 U.S.C. § 701 et seq.)

87. Petitioner realleges and incorporates the foregoing paragraphs.

88. The APA prohibits agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A).

89. DHS's redetention of Petitioner after a period of successful ISAP supervision, without considering less restrictive alternatives or articulating a removal plan, is arbitrary and capricious.

90. DHS's failure to conduct custody reviews required under 8 C.F.R. § 241.4 and § 241.13 constitutes agency action unlawfully withheld or unreasonably delayed under § 706(1).

91. Detention that cannot serve the statutory purpose of removal violates *Zadvydas* and is not in accordance with law under the APA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Order her immediate release from custody under reasonable conditions of supervision; or, in the alternative,

2. Order Respondents do not remove or re-detain Petitioner without a constitutionally adequate pre-deprivation hearing before a neutral adjudicator at which the Government bears the burden of proving by clear and convincing evidence that continued detention is necessary to prevent flight or danger;

3. Declare that Petitioner's continued detention violates 8 U.S.C. § 1231(a)(6) as construed by *Zadvydas*, the Fifth Amendment, the Administrative Procedure Act, and the Suspension Clause; and

4. Award such other and further relief as the Court deems just and proper, including attorney's fees and costs if authorized.

DATED: January 28, 2026

Respectfully Submitted,

/s/ Hannah Brown
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