IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

IRIS MADAY SANCHEZ GAMEZ,

PETITIONER.

v.

KRISTI NOEM, et al.,

RESPONDENTS.

Civil Case No. 1:26-cv-00055

PETITIONER'S EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION

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INTRODUCTION

Petitioner, Iris Maday Sanchez Gamez, is a forty-year-old female, native and citizen of Honduras. She came to the United States for the first time on August 20, 2004 by entering the United States without inspection. She was apprehended at the border but released on her own recognizance. She was issued a Notice to Appear (NTA) in immigration court, which was filed with the Executive Office for Immigration Review (EOIR), thus initiating removal proceedings against her. On November 22, 2004, an order of removal was entered against her. Petitioner was deported from the United States in approximately December 2009.

On May 1, 2010, the Petitioner reentered the Unites States without inspection (EWI). She was apprehended at the border, and her previous deportation order was reinstated on May 11, 2010. However, Petitioner expressed a fear of return to her native country and was thus given a Reasonable Fear interview with an asylum officer. The reasonable fear interview occurred on or about June 30, 2010. On June 30, 2010, the asylum officer issued a decision determining that Petitioner had established a reasonable fear of persecution in her home country. On August 11, 2010, the asylum officer referred the matter to an immigration judge for a request for withholding of removal only.

On or about October 5, 2010, the Petitioner was released from custody under an Order of Supervision. Thus, on information and belief, the Petitioner was in post-removal order custody May 1, 2010 to October 5, 2010.

Petitioner filed her application for withholding of removal on April 14, 2011. On May 3, 2011, a merits hearing was held on Petitioner's application for withholding of

removal before an immigration judge (IJ). The IJ denied the application on that same date. The Petitioner timely appealed to the Board of Immigration Appeals (BIA).

On November 3, 2016, the BIA remanded the decision to the IJ to enter new findings relating to certain aspects of the Petitioner's withholding-only claim. On July 26, 2021, the Petitioner appeared for another merits hearing on her withholding-only application. On that same date, the IJ issued an oral decision denying the application again. On August 26, 2021, the IJ issued a supplemental written decision providing further reasoning for the denial of the Petitioner's application. The Petitioner timely appealed to the BIA.

The Petitioner was re-detained by Immigration and Customs Enforcement (ICE) on or about November 21, 2025. She is currently detained at the Bluebonnet Detention Center in Anson, Texas. As of the filing of this motion and the corresponding petition for writ of habeas corpus (Dkt. 1), on information and belief, the appeal of her withholding-only application remains pending with the BIA.

The Petitioner's detention is in violation of the Supreme Court's decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001), as well as her constitutional rights to substantive and procedural due process, because she is being held beyond the presumptively reasonable six-month post-removal order detention period established in *Zadvydas*, and there is no significant likelihood of removal in the reasonably foreseeable future. The Petitioner seeks a Temporary Restraining Order to restore the status quo prior to her detention, i.e. having been at liberty for nearly sixteen years in the U.S.

STATEMENT CONCERNING THE NEED FOR PROMPT REVIEW AND ADJUDICATION

This motion is predicated on a petition for a Writ of Habeas Corpus (Dkt. 1) under 28 U.S.C. § 2241, a remedy that Congress and the courts have long recognized demands swift judicial review. Indeed, 28 U.S.C. § 2243 mandates an expedited show-cause response precisely because the petition's central claim is an ongoing, unlawful deprivation of liberty. It is axiomatic that the loss of liberty, even for a single day, constitutes profound and irreparable harm. Therefore, the failure to rule on the requested injunction within 14 days is not mere delay; it is a constructive denial of the motion itself. Each day of inaction inflicts the very irreparable injury the petition seeks to prevent, rendering the extraordinary remedy of habeas functionally meaningless and frustrating the "swift" relief that § 2243 requires.

The irreparable harm of Petitioner's unlawful detention is particularly pointed when one considers that it is occurring against the backdrop of a vast, nationwide expansion of immigration-related detentions by ICE which began in early to mid-2025. Although the legal theories at issue in the resulting tidal wave of habeas cases often differ from those at issue in this matter, it is still worth considering that Petitioner's detention occurred within the larger context of this enormous crackdown which the vast majority of judges have found both unnecessary and unlawful.

This expansive new ICE policy weaponizes detention as a coercive tool, forcing aliens into an untenable "cost-benefit" analysis, forcing them to weigh the *possibility* of winning their case—which is never guaranteed—against the *certainty* of remaining in detention for months. Faced with the harsh realities of confinement for what may be a 50/50 chance of success, many individuals who are otherwise eligible for relief provided by

Congress are pressured to "throw in the towel" and accept removal. This expanded detention strategy effectively deters aliens from pursuing the very relief Congress intended to make available, using procedural detention not as a tool for public safety but as a means to force capitulation. Thus, delay in the adjudication of this habeas petition facilitates exactly what the government is trying to achieve. Accordingly, the failure to promptly address Petitioner's motion (in no more than 14 days) effectively acts as a constructive denial of it.

LEGAL STANDARD

The purpose of a TRO is to preserve the status quo and prevent irreparable harm until the court makes a final decision on injunctive relief.[1] To obtain a TRO, an applicant must establish four elements: (1) substantial likelihood of success on the merits; (2) substantial threat of irreparable harm; (3) the threatened injury outweighs any harm the order might cause the defendant; and (4) the injunction will not disserve the public interest.[2]

I. Petitioner Is Likely to Succeed on the Merits of her Claims.

A. Petitioner Is Likely to Succeed on the Merits of Her Claim that Her Detention Violates the Supreme Court Ruling in *Zadvydas v. Davis*.

Petitioner is substantially likely to succeed on the merits of her claim because her detention is unlawful under the Supreme Court's ruling in *Zadvydas v. Davis*, 533 U.S. 678

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[1] *Granny Goose Foods, Inc. v. Bhd. Of Teamsters & Auto Truck Drivers Loc. No. 70 of Alameda Cnty.*, 415 U.S. 423, 439 (1974).

[2] *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *see Enrique Bernat F., S.A. v. Guadalajara, Inc.*, 210 F.3d 439, 442 (5th Cir. 2000).

(2001). Specifically, she is currently being detained beyond the presumptively reasonable six-month post-removal order detention period established in *Zadvydas*, and there is no signficant likelihood of removal in the reasonably foreseeable future. The fact that she is currently seeking withholding of removal following reinstatement of a prior deportation order does not change the fact that removal is not reasonably foreseeable when one considers that her withholding-only proceedings have been ongoing for nearly sixteen years already, including two periods of detention, and the proceedings are still incomplete. Additionally, the adjudicating agency (EOIR) is profoundly more under-resourced today than it was in 2010 when Petitioner's withholding-only proceedings began due to the exponential growth in the volume of cases under adjudication by the agency in the last 15+ years, plus a quadrupling of ICE detains in just the last year alone. Against this backdrop, it is fair to say that there is no foreseeable end to her withholding-only proceedings within a reasonable timeframe, and thus no significant likelihood of removal of the Petitioner in the reasonably foreseeable future.

II. Petitioner Faces Immediate and Irreparable Harm.

A movant "must show a real and immediate threat of future or continuing injury apart from any past injury."[3] Continued unlawful detention is, by its very nature, an irreparable injury. The Supreme Court has affirmed that "[f]reedom from imprisonment . . . lies at the heart of the liberty" protected by the Due Process Clause.[4] Each day Petitioner

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[3] *Aransas Project v. Shaw*, 775 F.3d 641, 648 (5th Cir. 2014).

[4] *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

remains in custody, she is irreparably harmed by the loss of her fundamental liberty—a cruel irony for a woman who spent the better part of the last sixteen years at liberty with the permission of the U.S. government.

The harm is not merely abstract. Petitioner has already been subjected to being transported to a detention center in ICE custody—and all the humiliating and degrading things that go along with being transported while in custody (cuffs, chains, and repeated searches). Absent relief from this Court, Petitioner will remain detained and potentially moved again, in what is becoming an increasingly long removal process, and as a result, denied her liberty, removed from her livelihood and freedom, and removed from what had previously been a community where she belongs.

III. The Balance of Equities and Public Interest Weighs in Petitioner's Favor.

The final two factors for a preliminary injunction—the balance of hardships and public interest—"merge when the Government is the opposing party."[5] Here, the balance of hardships weighs overwhelmingly in Petitioner's favor. The injury to Petitioner—unconstitutional detention and risk to her well-being—is severe and immediate. Moreover, it is always in the public interest to prevent violations of the U.S. Constitution and ensure the rule of law.[6]

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[5] *Nken v. Holder*, 556 U.S. 418, 435 (2009).

[6] *Id.* at 436 (describing public interest in preventing noncitizens "from being wrongfully removed, particularly to countries where they are likely to face substantial harm"); *see also Rosa v. McAleenan*, 583 F. Supp. 3d 840 (S.D. Tex. 2019).

Conversely, the harm to Respondents is nonexistent. Petitioner is not a danger to the community or a flight risk. Moreover, to the extent the government disagrees with any of these statements, it has the same recourse it has had for decades: making those arguments to a neutral adjudicator during a bond hearing. Surely, Respondents cannot claim any, much less substantial, harm would be caused by affording Petitioner a bond hearing when she has already spent almost sixteen years at liberty in the United States since her last entry. Furthermore, the public interest is served by preserving "life, liberty, and happiness" and by preventing the waste of taxpayer resources on unlawful and unnecessary detention.

PRAYER & CONCLUSION

Petitioner seeks injunctive relief to maintain the status quo by requiring ICE to either immediately release her or at least promptly provide her with a bond hearing before a neutral IJ. The status quo ante litem is "the last uncontested status which preceded the pending controversy." These remedies preserve rather than alter the status quo.[7]

For the foregoing reasons, Petitioner respectfully requests that the Court immediately grant her petition and this motion and issue a Temporary Restraining Order and/or Preliminary Injunction ordering her immediate release from ICE custody, or in the alternative a prompt bond hearing at which the government bears the burden of demonstrating flight or safety risk by clear and convincing evidence.

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[7] *Nguyen v. Scott*, 796 F. Supp. 3d 703, 718 (W.D. Wash. 2025) (citing *Pham v. Beccerra*, No. 2:25-cv-01757-DC-JDP, 2025 WL 1993735, at *6 (E.D. Cal. July 16, 2025); *Pinchi v. Noem*, No. 25-cv-05632-RMI-RML, 2025 WL 1853763, at *3 (N.D. Cal. July 4, 2024) (finding the "moment prior to the Petitioner's likely illegal detention" was the status quo).

RESPECTFULLY SUBMITTED,

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