

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:26-cv-21018-KMM

ALEJANDRA SALAZAR-ARIAS,

Petitioner,

v.

FIELD OFFICE DIRECTOR, Miami Field
Office, U.S. Immigration and Customs
Enforcement,

Respondent.

ORDER TO SHOW CAUSE

THIS CAUSE came before the Court upon Petitioner Alejandra Salazar-Arias's ("Petitioner") Emergency Verified Petition for Writ of Habeas Corpus (the "Petition" or "Pet.") (ECF No. 1) and Petitioner's Emergency Motion for Order to Show Cause, Production of Evidence and the Petitioner's Body, and for Stay of Removal (the "Motion" or "Mot.") (ECF No. 4). In the Petition, Petitioner alleges that she is in the physical custody of Respondent at the Broward Transitional Center in Pompano Beach, Florida after being detained while boarding a domestic flight. Pet. ¶ 4. Petitioner asserts that she was admitted into the United States as a non-immigrant tourist on January 30, 2001, and was included in her parents' affirmative asylum application "[s]ome time after being admitted." *See id.* ¶¶ 26–27. On April 7, 2004, an Immigration and Naturalization Service Supervisory Asylum Officer issued a notice to appear for removal proceedings against Petitioner pursuant to 8 U.S.C. § 1229(a). *Id.* ¶ 28. On September 7, 2004, an Immigration Judge ("IJ") granted Petitioner withholding of removal from Colombia but did not order Petitioner to be removed, instead terminating Petitioner's "removal proceedings in conjunction with the grant of withholding of removal." *Id.* ¶¶ 31–33. The Department of

Homeland Security waived its appeal of the IJ's Order. *Id.* ¶¶ 31, 34. Petitioner alleges that since the IJ's Order, she "has lived in the United States as a member of the community, renewing a driver license and employment authorization documents on a yearly basis," is "a single mother and principal caretaker of her two U. S. citizen children," who are seven and eleven years old, and has no criminal arrest history. *Id.* ¶¶ 36–38.

Petitioner alleges that she was detained on January 29, 2026, "to remove her to some other country that the [G]overnment has not even identified yet . . . with no order of removal in place." *Id.* ¶ 4. Petitioner alleges that she is not subject to civil immigration detention under the provisions of 8 U. S. C. §§ 1231, 1225, or 1226, and that no statutory basis for her detention exists. *Id.* ¶¶ 59–62. Thus, Petitioner asserts that her "ongoing detention violates substantive and procedural due process, and is unconstitutionally punitive." *Id.* ¶ 65. In the alternative, Petitioner alleges that even if she were subject to an existing order of removal, her detention would still be unlawful because: (1) Immigration and Customs Enforcement ("ICE") "is not currently affording" Petitioner the opportunity to a reasonable fear interview prior to her removal to a third country; and (2) Respondent cannot "establish a significant likelihood of removal in the reasonably foreseeable future." *Id.* ¶¶ 68–69, 80–84, 91, 95.

Petitioner brings three Counts: (1) Count I alleging that civil immigration detention is not authorized by statute; (2) Count II alleging a lack of meaningful opportunity to contest third country removal through claims of fear of persecution or torture, and claims of chain nonrefoulement; and (3) Count III alleging no significant likelihood of removal in the reasonably foreseeable future. *See id.* ¶¶ 58–96. Thus, Petitioner asks the Court to: (1) assume jurisdiction over this matter; (2) set this matter for expedited consideration pursuant to 28 U.S.C. § 1657; (3) order Respondent to show cause as to why the writ should not be granted within three days, and

allow Petitioner three days to file a traverse, and, if necessary, set a hearing on the Petition within five days of the submission of the return, pursuant to 28 U. S. C. § 2243; (4) order Respondent to refrain from transferring Petitioner out of the jurisdiction of this Court during the pendency of this proceeding and while Petitioner remains in Respondent's custody; (5) enjoin Respondent from removing Petitioner from the United States while this case is pending; (6) grant, with respect to Count I and, alternatively, Count III, Petitioner a writ of habeas corpus and order her immediate release from Respondent's custody; (7) grant, alternatively, with respect to Count II, Petitioner a writ of habeas corpus and order her immediate release from Respondent's custody unless she is afforded the full reasonable fear and withholding-only proceeding process used in reinstatement of removal cases with regard to any third country of removal that ICE wishes to designate; and (8) award Petitioner attorneys' fees and costs under the Equal Access to Justice Act and on any other basis justified under law. *Id.* at 22–23.

In the Motion, Petitioner seeks a stay of removal under the All Writs Act, 28 U.S.C. § 1651 or alternatively under the standard for a stay established in *Nken v. Holder*, 556 U.S. 418 (2009). Mot. at 1–2. Petitioner further seeks an ex parte order to show cause: (1) directing the Clerk of Court to serve a copy of the Petition upon the U.S. Attorney's Office; (2) requiring Respondent to respond to the Petition on an expedited basis with time for Petitioner to reply to the same; (3) requiring Respondent to produce a copy of the full record in removal proceedings and all other materials in support of its response; and (4) ordering Respondent to produce Petitioner's body for the Court to take custody while her case is being decided. *Id.* at 3. The Motion otherwise generally reprises the legal and factual grounds asserted in the Petition. *See id.* at 4–8.

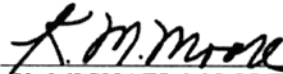
UPON CONSIDERATION of the Petition and the Motion, the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED as follows:

1. The Court finds that it has jurisdiction over the Petition pursuant to, *inter alia*, 28 U.S.C. § 2241, and that venue is proper pursuant to *Braden v. 30th Jud. Cir. Ct. of Ky.*, 410 U.S. 484 (1973) because Petitioner is detained in this District;
2. Petitioner is not to be transferred until these proceedings have terminated, and therefore Respondent shall maintain Petitioner's detention within the Southern District of Florida for the pendency of the Petition, and direct any applicable authorities to maintain the same;
3. On or before February 23, 2026, Respondent shall notify the Court of the attorney to whom this case is assigned;
4. On or before February 26, 2026, Respondent shall file one (1) consolidated memorandum of fact and law to show cause why the Petition should not be granted and file all documents necessary for its resolution;
5. Counsel for Respondent must caption the memorandum as a "Response" rather than a Motion to Dismiss, and is cautioned that any requests for extension of time to respond will only be granted for good cause shown and must comply with 28 U.S.C. § 2243, Local Rule 7.1(a), and the Federal Rules of Civil Procedure;
6. Respondent is reminded that it must provide Petitioner full and complete copies of all documents filed in support of its Response pursuant to Fed. R. Civ. P. 10(c) and *Rodriguez v. Fla. Dep't of Corr.*, 748 F.3d 1073, 1077 (11th Cir. 2014);
7. Petitioner may, but is not required to, file a Reply within seven (7) days of Respondent's Response, not to exceed ten (10) pages and in compliance with the Federal Rules of Civil

Procedure and the Local Rules, any untimely filing of which will not be excused absent unforeseen and unavoidable circumstances;

8. The Motion (ECF No. 4) is GRANTED IN PART to the extent the relief granted herein encompasses the relief requested in the Motion, and is otherwise DENIED WITHOUT PREJUDICE, as Petitioner's counsel indicates service of process has already been initiated, Mot. at 12 n.5, and the request to produce Petitioner's body is premature where no hearing has been scheduled;
9. The Court will address Petitioner's other requested relief after having reviewed the Response and Reply.

DONE AND ORDERED in Chambers at Miami, Florida, this 20th day of February, 2026.



K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE

c: All counsel of record