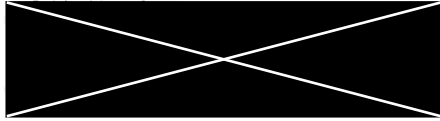


**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND**

Karolay FLORES ALVAREZ



Petitioner,

v.

Kristi Noem, Secretary of DHS
2707 Martin Luther King Jr Ave, SE
Washington, DC 20528-0525

Pam Bondi, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530-0001

Todd Lyons, Acting Director
Immigrations and Customs Enforcement
500 12th Street SW
Washington, DC 20536

Vernon Liggins, Acting Director
ICE Baltimore Field Office
31 Hopkins Plaza #630
Baltimore, MD 21201

Respondents.

No.

PETITION FOR WRIT OF
HABEAS CORPUS

PETITION FOR A WRIT OF HABEAS CORPUS

INTRODUCTION

1. Ms. Karolay FLORES ALVAREZ is a 32-year-old native and citizen of Peru. On or about February 25, 2024, Petitioner was apprehended by CBP at the U.S. border. CBP decided to release her and her minor son into the U.S. under an order of supervision. She has lived with her minor son in the U.S. since that time without any incident. She has been attending her removal hearings and attended her asylum merits hearing yesterday, February 19, 2026. At the asylum merits hearing, Petitioner did not get the opportunity to present her asylum claim, as her asylum application was pretermitted based on the Asylum Cooperative Agreements with Ecuador and Honduras. Petitioner was thereafter ordered removed to Ecuador, or in the alternative, Honduras. Although Petitioner had 30 days to file an appeal with the Board of Immigration Appeals, Petitioner timely filed a Notice of Appeal with the Board on February 19, 2026, the same day the decision was issued. (A copy of Petitioner's timely filed notice of appeal is attached hereto and made a part hereof as Exhibit 1). That appeal is now pending before the BIA. Thus, she does not have a final administrative order of removal. Petitioner has committed no crimes and has been reporting to ICE as requested. There has been no real change in her circumstances since the time of her release at the border.
2. Petitioner is the mother and sole caregiver of her minor son. Her twelve-year-old son does not currently have anyone to care for him while his mother is in ICE custody.
3. Petitioner was required to report to ICE/ISAP in Baltimore regularly, and she consistently did so. However, on February 20, 2026, when Petitioner arrived at Baltimore ICE/ISAP for her reporting appointment, she was abruptly arrested by ICE officials without a warrant and detained without explanation or just cause. Petitioner is held at the Immigration and

Customs Enforcement Baltimore Field Office at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201, in deplorable and inhumane conditions.

4. Petitioner Karolay FLORES ALVAREZ petitions this Honorable Court to issue a Writ of Habeas Corpus seeking relief to remedy her arbitrary, capricious, and unlawful detention by ICE. 28 U.S.C. § 2241.
5. Petitioner Karolay FLORES ALVAREZ has very strong family and community ties in Maryland, including her twelve-year-old son. Further, and importantly, to the best of our knowledge and belief, Petitioner has no criminal record.

CUSTODY

6. Petitioner is in the physical custody of Respondents. Petitioner is detained at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201. Petitioner is under the direct control of Respondents and/or their agents.

JURISDICTION AND VENUE

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (APA), 5 U.S.C. § 701, et seq. 4. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I § 9, cl. 2 of the United States Constitution (Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in custody under the alleged color of authority of the United States, and such custody is in violation of the Constitution, laws, and/or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.

8. Venue is proper in the District of Maryland because that is where Petitioner is detained and that is where Petitioner resides. *See* 28 U.S.C. § 1391(b); *Kholyavskiy v. Achim*, 443 F.3d 946 (7th Cir. 2006).

THE PARTIES

9. Petitioner Karolay FLORES ALVAREZ is a female citizen and national of Peru who has been present in the U.S. since February 25, 2024.
10. Defendant Krisiti Noem is the Secretary of the Department of Homeland Security in Washington, D.C. Ms. Noem is responsible for the enforcement of the U.S. immigration laws, including those governing the admissibility of foreign nationals in the U.S. Ms. Noem and agents acting under her direction are at present detaining Petitioner. Ms. Noem is being sued in her official capacity only.
11. Defendant Todd Lyons is the Acting Director of Immigration and Customs Enforcement in Washington, D.C. Mr. Lyons is responsible for the enforcement of the U.S. immigration laws, and the agents holding Ms. FLORES ALVAREZ are under his direction. Mr. Lyons is being sued in his official capacity only.
12. Defendant Vernon Liggins is the current Acting Deputy Director of the ICE Baltimore Field Office, the facility where Petitioner is currently detained. Mr. Liggins is responsible for ICE operations in the Maryland area. Ms. FLORES ALVAREZ is held by ICE agents under Mr. Liggins's direction. Mr. Liggins is being sued in her official capacity only.

FACTUAL ALLEGATIONS

13. Petitioner is a national and citizen of Peru who was apprehended by CBP at the border on or about February 25, 2024, and then released by CBP into the United States with her minor son. They have not departed the United States since 2024.

14. On February 20, 2026, Petitioner reported for her monthly check-in with ICE/ISAP. Shortly after arrival, Petitioner was arrested by ICE officers without a warrant and without being informed of the reasons for her sudden arrest and detention, where no change in circumstances existed. Petitioner is being held at the Immigration and Customs Enforcement Baltimore Field Office at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201, in deplorable conditions.
15. Ms. FLORES ALVAREZ does not have a final administrative order of removal, but is in the midst of her removal proceedings. Petitioner timely filed an appeal of the immigration judge's decision with the Board of Immigration Appeals; it is currently pending. At present, the Board is taking between three and five years to issue a decision on a pending appeal.
16. Petitioner resides with her twelve-year-old son. She is the sole primary caregiver and financial provider for her son. Since Petitioner FLORES ALVAREZ's detention, her twelve-year-old son has been left with no one to care for them.

LEGAL BACKGROUND

A. Statutory and Constitutional Limits for Immigration Detention

17. The Fifth Amendment to the U.S. Constitution provides limits on detention. As the Supreme Court has noted, "[i]t is well-established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Hyung Joon 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 liberty," that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678,690 (2001). This fundamental due process protection applies to all noncitizens, even if they are removable or inadmissible. *See id.* at 721

- (Kennedy, J., dissenting) ("(B)oth removable and inadmissible aliens are entitled to be free from detention that is arbitrary or capricious."). Under these due process principles, detention must "bear [a] reasonable relation to the purpose for which the individual [was] committed." *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).
18. Due process, therefore requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690 (internal quotations omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 538.
19. Following *Zadvydas*, *supra* and *Demore*, *supra*, most circuit courts to confront the issue have protected the due process rights of people detained in civil immigration detention by requiring a custody hearing for noncitizens subject to unreasonably prolonged detention pending removal proceedings. *See Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199 (11th Cir. 2016); *Reid v. Donelan*, 819 F.3d 486 (1st Cir. 2016); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015); *Rodriguez v. Robbins (Rodriguez III)*, 804 F.3d 1060 (9th Cir. 2015); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011); *Ly v. Hansen*, 351 F.3d 263 (6th Cir.2003).
20. In addition to the amount of time in detention, courts weigh the following factors when assessing reasonableness: (1) how long the detention will likely continue in the absence of judicial relief; (2) the nature and extent of removal proceedings, including whether any delays are attributable to the government or the immigrant; (3) the conditions of detention;

and (4) the likelihood that the proceedings and judicial review will end with a removal order.

21. Importantly, the INA draws a clear statutory distinction between noncitizens detained at the time of arrival under 8 U.S.C. § 1225 and those detained after they are already present in the United States under 8 U.S.C. § 1226. Section 1225 governs “applicants for admission” encountered at or near the border and mandates detention during expedited or initial admission proceedings, while § 1226(a) is the “default rule” governing detention of noncitizens already inside the country pending removal proceedings and expressly authorizes release on bond or conditional parole. *Jennings v. Rodriguez*, 583 U.S. 281, 289, 303 (2018). In *Said v. Noem*, the court held that although the petitioner was initially apprehended at the border and processed under § 1225, DHS’s subsequent issuance of a Notice to Appear placing him in standard removal proceedings under INA § 240 and classifying him as “present in the United States without admission or parole” triggered detention authority under § 1226(a) going forward. *Said v. Noem*, No. 3:25-cv-00938-MOC, 2025 LX 592150 (W.D.N.C. Dec. 17, 2025). The court emphasized that DHS may not retroactively “rebrand” a noncitizen as an arriving alien subject to mandatory detention after allowing him to reside in the United States on parole and proceed through § 240 removal proceedings, as such recharacterization conflicts with the statutory distinction between noncitizens “on the threshold of entry” and those who have effected entry into the country. *Id.* at 12–14 (citing *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958)). Accordingly, the court concluded that a noncitizen apprehended at the border, later released, and subsequently detained at a routine check-in

appointment is subject to discretionary detention under § 1226(a), not mandatory detention under § 1225. *Id.* at *14–16.

22. Further, the Fourth Amendment prohibits arbitrary, warrantless seizures unsupported by any legitimate governmental purpose. U.S. Const. amend. IV. A warrantless arrest is per se unreasonable unless the government establishes that it was justified by probable cause based on specific, articulable facts, not speculation or conclusory assertions. As Judge Howell, in the DC District Court, held in *Escobar Molina et al. v. DHS*, warrantless civil immigration arrests are unlawful where immigration officers fail to make an individualized, pre-arrest determination that the noncitizen poses an escape risk. *See Escobar Molina*, Civ. Action No. 25-3417 (D.D.C. Dec. 2, 2025) (granting class action injunction in DC against warrantless arrests lacking escape-risk probable cause).
23. Finally, under the APA, a court shall “hold unlawful and set aside agency action” that is arbitrary and capricious. 5 U.S.C. § 706(2)(A). An agency action is arbitrary and capricious if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

FIRST CLAIM FOR RELIEF

VIOLATION OF THE DUE PROCESS CLAUSE OF THE U.S. CONSTITUTION

24. Petitioner re-alleges and incorporates by reference the paragraphs above.
25. Petitioner's detention violates the substantive and procedural Due Process guarantees of the United States Constitution. Petitioner entered the United States on February 24, 2024, and was initially apprehended at the border. DHS thereafter issued a Notice to Appear placing her in standard removal proceedings and designated her as a noncitizen "present in the United States without admission or parole." After releasing Petitioner into the United States, DHS subjected her to re-detention during a routine check-in appointment. Because DHS elected to proceed under regular removal proceedings and treated Petitioner as already present in the United States, her subsequent detention is governed by the discretionary framework of 8 U.S.C. § 1226(a), not the mandatory detention provisions of 8 U.S.C. § 1225. Petitioner's re-detention without an individualized bond hearing, therefore, violates both substantive and procedural due process. *See Said, supra*; *Velasquez v. Noem*, Civil Action No. GLR-25-3215, 2025 LX 400577 (D. Md. Oct. 27, 2025); *Maldonado de Leon v. Baker*, Civil Action No. 25-3084-TDC, 2025 LX 473505 (D. Md. Oct. 21, 2025).
26. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. Amend. V. "[T]he Due Process Clause applies to all 'persons' within the United States, including [non-U.S. citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas, supra*, at 693 (2001). For this reason, even "removable and inadmissible [non-

U.S. citizens] are entitled to be free from detention that is arbitrary and capricious,” *Id.* at 721 (Kennedy, J., dissenting).

27. Before depriving Petitioner of her liberty interest, she should at least be afforded an opportunity to be heard before a neutral decision maker. Procedural due process requires, at a minimum, an opportunity to be heard “at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Applying the Mathews factors, courts consistently find that: (a) the private interest in freedom from physical restraint is “the most elemental of liberty interests”; (b) the risk of erroneous deprivation is high where detention occurs without a hearing; and (c) the government’s interest in immediate detention without process is minimal. *See P.T. v. Hermosillo*, No. 2:2025cv02259 (W.D.W.A) (applying Mathews and finding detention unconstitutional where ICE failed to provide pre-deprivation process); *see also Ngha v. Noem*, No. 8:25-C-V-04055-BAH, 2025 (D. Md. Dec. 11, 2025). Applying the three factors to Petitioner’s facts show: 1) Petitioner FLORES ALVAREZ invokes “the most significant liberty interest there is—the interest in being free from imprisonment,” and a “person’s liberty interest cannot be abridged without adequate procedural protections;” 2) the risk of erroneous deprivation is high because Petitioner was not afforded a hearing before a neutral decision maker, before or at the time of, Petitioner’s arrest; and 3) the Government’s interest in immediate detention without process is minimal. *See Artiga v. Genalo*, No. 25-CV-5208, Mem. & Order at 19 (E.D.N.Y. Oct. 5, 2025). Due to Petitioner’s unique circumstances, including her minor son, who currently has no one to care for him, and who depends on her for financial and emotional support, her pending appeal, and no criminal record, her *Mathews* factors

support that she should be entitled to be free from unlawful, arbitrary, and capricious detention under the inter alia due process clause.

28. Additionally, Respondents' arrest and detention of Petitioner violates her substantive due process rights. The Supreme Court in *Zadvydas v. Davis*, 522 U.S. 678 (2001), held that detention where removal cannot occur within the reasonably foreseeable future is unconstitutional and found that a six-month period is a presumptive maximum period of reasonable detention. Here, Petitioner's removal is not reasonably foreseeable, as she does not have a final order of removal and her appeal remains pending before the Board. The Board of Immigration Appeals is currently taking three to four years to adjudicate appeals. Thus, Petitioner's continued custody exceeds statutory authority and violates due process.
29. Finally, this Court "cannot ignore the conditions of confinement." *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Where "the facility for the civil immigration detention is [not] meaningfully different from a penal institution for criminal detention[.]" prolonged immigration detention is more likely to be unreasonable. *Sopo*, 825 F.3d at 1218 (citing *Chavez-Alvarez*, 783 F.3d at 478; *Ly v. Hansen*, 351 F.3d 263, 272 (6th Cir. 2003)). Petitioner is currently being held at the ICE Baltimore Field Office, where there are no beds or blankets, and little to no food.
30. Petitioner should be released or at least be permitted an immigration bond hearing regarding the alleged change in circumstances or any other reasons for why she was unexpectedly arrested and re-detained on February 20, 2026, because she falls under 8 U.S.C. § 1226(a).

SECOND CLAIM FOR RELIEF

VIOLATION OF THE FOURTH AMENDMENT OF THE U.S. CONSTITUTION

31. The Fourth Amendment prohibits arbitrary, warrantless seizures unsupported by any legitimate governmental purpose. U.S. Const. amend. IV. A warrantless arrest is per se unreasonable unless the government establishes that it was justified by probable cause based on specific, articulable facts, not speculation or conclusory assertions.
32. Petitioner's arrest was unlawful because ICE effected a warrantless civil immigration arrest while she was voluntarily appearing for a scheduled ICE check-in, without probable cause to believe she was likely to escape before a warrant could be obtained, as required by 8 U.S.C. § 1357(a)(2). As Judge Howell, in the DC District Court, held in *Escobar Molina et al. v. DHS*, warrantless civil immigration arrests are unlawful where immigration officers fail to make an individualized, pre-arrest determination that the noncitizen poses an escape risk. *See Escobar Molina*, Civ. Action No. 25-3417 (D.D.C. Dec. 2, 2025) (granting class action injunction in DC against warrantless arrests lacking escape-risk probable cause). Arresting Petitioner while she was affirmatively reporting to ICE, rather than evading authorities, demonstrates the absence of any plausible escape risk and renders the warrantless arrest statutorily and constitutionally unlawful.

THIRD CLAIM FOR RELIEF

VIOLATION OF 28 U.S.C. § 1361 (Writ of Mandamus)

33. Petitioner re-alleges and incorporates by reference the paragraphs above.
34. Petitioner's detention despite having nearly two years of presence in the United States, a minor child who depends on her, a pending appeal, employment, family, and community ties, is an abuse of discretion, arbitrary, capricious, and unlawful.

FOURTH CLAIM FOR RELIEF

VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT

35. Petitioner re-alleges and incorporates by reference the paragraphs above.
36. Under the APA, a court shall “hold unlawful and set aside agency action” that is arbitrary and capricious. 5 U.S.C. § 706(2)(A). An agency action is arbitrary and capricious if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).
37. Here, ICE’s decision to detain and attempt to transfer Petitioner, who does not have a final removal order, was complying with ICE supervision requirements, no criminal record, and has strong family and community ties in Maryland, is arbitrary and capricious. Despite this, Respondents abruptly arrested and detained Petitioner without articulating any change in real factual circumstances, legal authority, or public-safety justification.
38. For these reasons, this Court should order Immigration and Customs Enforcement to immediately release Petitioner from detention and/or order a bond hearing based on violations of, inter alia, her Fourth and Fifth Amendment rights, her pending appeal before the Board of Immigration Appeals, and strong family and community ties within the United States. She is not a danger to the community, nor is she likely to abscond due to her ties here in the community. Petitioner’s minor son, who does not currently have anyone to care for him, wholly depends on her for his well-being and care.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

- 1) Assume jurisdiction over this matter;
- 2) Grant a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, on reasonable conditions of supervision if necessary, and/or order Respondents to conduct a bond hearing within seven days;
- 3) Order Respondents to show cause pursuant to 28 U.S.C. §2243, as to why the relief requested in this petition should not be granted;
- 4) Declare the Petitioner's detention is unlawful and violates, inter alia, Due Process; and
- 5) Grant such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Ronald D. Richey

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