

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

MARIA BARAHONA INTERIANO

(A )

Petitioner

v.

KRISTI NOEM, *et al.*,

Respondents.

Case No. 1:26-cv-723

**PETITIONER'S CONSOLIDATED REPLY IN SUPPORT OF PETITION FOR HABEAS
CORPUS AND MOTION FOR TEMPORARY RESTRAINING ORDER**

This Administration has erected every conceivable barrier to the release of noncitizens, like Ms. Barahona, who Immigration and Customs Enforcement (“ICE”) arrest years after they enter the United States. Respondents have attempted to subvert the legislative process by adopting a new “interpretation” of its detention authority to subject noncitizens who have been in the country for years, even those without criminal histories, to mandatory detention. After immigration judges initially rejected Respondents’ new and unsupported interpretation and released noncitizens on bond, Respondents invoked the automatic stay provision at 8 C.F.R. § 1003.19(i)(2)—a regulation this Court and others have roundly rejected as unconstitutional—to effectively veto the immigration judge’s decision and continue holding noncitizens without bond. *See Leal-Hernandez v. Noem*, 803 F. Supp. 409 (D. Md. 2025). Faced with hundreds of district court decisions declaring Respondents’ effort to unilaterally expand their own detention authority contrary to the Immigration and Nationality Act (“INA”) and the Due Process Clause, Respondents have adopted a new tack. Unable to subject noncitizens who enter without inspection to mandatory detention as a statutory matter, handpicked immigration judges now rely on proxy variables at bond hearings to achieve the same outcome—citing “manner of entry” and “speculative relief” to declare noncitizens flight

risks unworthy of release on bond, regardless of their community ties, how long they have resided in this country, or any other mitigating factors. Given Respondents' ongoing violation of Ms. Barahona's statutory and constitutional rights and her inability to obtain meaningful bond review before the immigration courts, the Court should order Ms. Barahona's release.

ARGUMENT

A. Ms. Barahona is Entitled to Release.

"[I]n habeas cases where the Court finds an ongoing detention unlawful, 'the typical remedy for such detention is, of course, release.'" *Azua-Zuniga v. Bondi*, No. 1:26-cv-287, 2026 WL 482453, at *4 (W.D. Tex. Feb. 20, 2026) (quoting *Munaf v. Geren*, 553 U.S. 674, 693 (2008)). In opposing Ms. Barahona's release, Respondents argue that she "cannot establish standing to challenge a harm she has not yet suffered." Resp. 8. Yet Respondents' argument misses the point. There is no ripeness issue here. Respondents' detention of Ms. Barahona has given rise to statutory and constitutional violations, and Respondents do not meaningfully contest Ms. Barahona's claim that her continued detention without bond violates her due process rights. *See generally* Resp. 6-15. Moreover, Respondents' initial due process violation has spawned others as Respondents have taken advantage of Ms. Barahona's unconstitutional detention to further infringe on her constitutional rights in her removal proceedings—advancing them without notice and providing false documents to transfer venue. *See* TRO Mot. 2-4. And as explained in her petition, Pet. ¶¶ 73-75, a bond hearing before an immigration court no longer provides the "opportunity to be heard at a meaningful time and in a meaningful manner" guaranteed by the Due Process Clause. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

Rather than force Ms. Barahona to play a game of constitutional whack-a-mole, requiring her to file a fresh habeas petition to swat down each new constitutional violation Respondents place in her path, the Court should follow the lead of other district courts and order her release from detention. *See Dominguez Izaguirre v. Mason*, No. 2:26-CV-00121, 2026 WL 561235, at *6 (S.D. W. Va. Feb. 27, 2026)

(ordering petitioner released and noting that “[t]he Constitution does not contemplate violations in installments.”); *Jorge v. Crawford*, No. 2:26CV134, 2026 WL 561188, at *3 (E.D. Va. Feb. 27, 2026) (“The appropriate relief is Petitioner’s release, return of Petitioner’s property, and a prohibition of Respondents’ ability to re-arrest and detain Petitioner pending further order of this Court.”); *Fernandez-Flores v. Aldrige*, No. CV 3:26-0082, 2026 WL 483476, at *4 n.3 (S.D.W. Va. Feb. 20, 2026) (listing cases); *Afghan v. Noem*, No. CV SAG-25-04105, 2025 WL 3713732, at *2 (D. Md. Dec. 23, 2025); Order *Afghan v. Noem*, No. 1:25-cv-04104 (D. Md. Jan. 7, 2025) (Griggsby, J.) (ordering petitioner’s immediate release).

B. Ms. Barahona Should Not be Required to Apply for Bond Before Seeking Relief from the Court.

In opposing Ms. Barahona’s request for release, Respondents argue that she is “free to request a bond hearing in the Immigration Court,” arguing that “[t]his is plainly the proper avenue for relief from custody where Petitioner has been detained under § 1226.” Resp. 7. Yet Respondents have not conceded that § 1226 argument governs the detention of noncitizens like Ms. Barahona. *See* Joint Notice 1, ECF No. 9. Indeed, in the Joint Notice filed with the Court, Respondents cite the Fifth Circuit’s decision in *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. Feb. 6, 2026), affirming Respondents’ view that Ms. Barahona and others like her are subject to § 1225(b)(2) detention. *Id.* at 2. Respondents also incorporated similar arguments presented in briefs they submitted in prior cases before this Court. *Id.* at 1. Thus, their reliance on Judge Rubin’s opinion in *Garcia Vigil v. Noem*, No. 1:25-cv-03329 (D. Md. Nov. 4, 2025) for the proposition that Ms. Barahona must seek bond before appealing to this Court for relief is misplaced. While Judge Rubin denied the habeas petition “in view of Respondents’ express statement that Petitioner [was] entitled to seek a bond hearing and that his detention [was] discretionary pursuant to 8 U.S.C. § 1226(a),” Respondents made no such concession here. Respondents cannot fault Ms. Barahona for failing to pursue administrative relief that they continue to insist she is not entitled to.

C. The Court Should Issue A Temporary Restraining Order in This Case and Grant Ms. Barahona's Immediate Release.

The Court should grant the Motion for a Temporary Restraining Order and order Ms. Barahona's release as each of the *Winter* factors tips strongly in favor of relief. First, Ms. Barahona is likely to succeed on the merits of her habeas petition. This Court has consistently held that subjecting noncitizens like Ms. Barahona to mandatory detention violates both the INA and the Due Process Clause. *See, e.g., Villanueva Funes v. Noem*, No. CV 25-3860-TDC, 2026 WL 92860, at *4 (D. Md. Jan. 13, 2026). Respondents answer that Ms. Barahona "cannot establish a likelihood of success on the merits of habeas petition based on her speculative and unripe claims that she will be denied due process before an immigration judge" or her "claims based on the filing of an I-830 and its impact on her asylum proceedings." Resp. 10. But these "claims" do not form the basis for Ms. Barahona's habeas petition. She raises the former to show that, should this Court find her continued detention unlawful as it has in the past, a bond hearing within the immigration court system will not provide her the process she is due. The argument goes to the proper remedy, not the underlying claim.

Similarly, Ms. Barahona does not raise the false I-830 Respondents submitted in her removal proceedings as a stand-alone claim. Rather, it speaks to the irreparable injury in this case and the need for immediate release. Respondents in this case have unlawfully detained Ms. Barahona without the opportunity to seek release on bond and have taken advantage of the initial violation of Ms. Barahona's rights to railroad her in her removal proceedings, transferring venue far from her immigration counsel based on a false document submitted to the immigration court and rapidly accelerating her removal proceedings with almost no notice. The initial constitutional violation alone is sufficient to establish irreparable injury. *See Leaders of a Beautiful Struggle v. Baltimore Police Dep't*, 2 F.4th 330, 346 (4th Cir. 2021). Yet, the additional due process concerns flowing from Respondents' submission of a false document to transfer venue and the advancement of her removal proceedings only compound the injury

and demonstrate the urgent need for outright release in this case.

These concerns also further tip the balance of equities and public interest in favor of preliminary relief as “upholding constitutional rights surely serves the public interest.” *Giovani Carandola, Ltd. v. Bason*, 303 F.3d 507, 521 (4th Cir. 2002). In response, Respondents cite their “interest in evaluating Petitioner’s flight risk and risk to the community prior to her release, especially in light of her numerous ATD violations.” Resp. 14. Yet Respondents exhibit purporting to demonstrate Ms. Barahona’s noncompliance with the terms of her ATD programs offers only a partial picture, omitting all instances of compliance over the past two-plus years. *See* ECF No. 11-3. Moreover, Ms. Barahona is illiterate and has difficulty navigating the phone application and understanding messages when others are not home to help her, resulting in instances of non-compliance when, for example, the photograph she submitted did not meet requested parameters or was a few minutes late. And critically, Ms. Barahona has dutifully appeared for all of her immigration court hearings. Her issues navigating ICE’s phone application do not tip the balance of the equities in the Government’s favor nor should it persuade the Court to deny the relief to which Ms. Barahona is entitled—release from detention.

CONCLUSION

For the foregoing reasons, the Court should grant the motion and order Ms. Barahona’s release from detention.

Dated: March 2, 2026

Respectfully submitted,

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