

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

Karina Ramirez-Vera

Petitioner,

v.

Miguel Vergara, ET AL

Respondents.

Case No.: 5:26-cv-331

PETITIONER'S REPLY TO RESPONDENTS' MOTION TO DISMISS

Petitioner, through undersigned counsel, respectfully submits this Petitioner's Reply to Respondents' Motion to Dismiss. The Government's position is inconsistent, riddled with inaccuracies and is incomplete.

I. SUMMARY OF ARGUMENT

A. The Government's Theory That This Court Does Not Have Jurisdiction Is Incorrect as a Matter of Law

This Court has Habeas Jurisdiction. This Court has repeatedly rejected Respondents' jurisdictional arguments, determining the statutory basis of detention is a pure legal question that falls within the Court's habeas jurisdiction under 28 U.S.C. § 2241. Sections 1252(b)(9) and 1252(g) do not bar this Court's review.

B. Exhaustion is Not Required Because it is Futile

The Immigration Judges are denying custody redetermination solely because *Matter of Hurtado* barred jurisdiction for aliens that did not enter the United States with a visa, parole, or other legal entry means. For aliens that have entered the United States with a visa, parole, or other

means of legal entry, Immigration Judges have ruled flight risk for aliens that do not have criminal history regardless of the length of time in the United States, Community or Family ties to the United States, or with petitions for relief filed before United State Citizenship and Immigration Services (USCIS). For aliens that have any criminal history albeit a sole conviction that does not statutorily bar the alien to relief, Immigration Judges have denied custody redeterminations citing danger to the community. In other words, in the 5th Circuit, if an alien does not have a legal entry, they are under mandatory detention and as a catch-all, Immigration Judges are denying bonds for flight risk or danger to the community regardless of the facts. In the present case, Petitioner entered the United States with a valid visa and because of her legal entry she was provided a custody redetermination before the Immigration Court. However, Petitioner's custody redetermination was denied and the Immigration Judge cited danger to the community due to Petitioner's sole DWI conviction.

Because Petitioner fell under the catch-all category, the Immigration Judge did not consider the following facts. Petitioner has resided in the United States for over 23 years and has a sole conviction for driving while intoxicated BAC above .15 in Harris County and was sentenced to a 15-month probation. It is well worth noting that Petitioner never received an Immigration Hold after being arrested for said DWI and was released on bond from Harris County to commence a 15-month probation.

An Immigration Hold is placed on any alien who is charged criminally without regard to the outcome of the case. The Department of Homeland Security (DHS) / Immigration and Customs Enforcement (ICE), places an Immigration Hold on all aliens who are believed to be a danger to the community after being alleged to have committed a crime. No Immigration Hold was placed on Petitioner when bonding out of Harris County which would indicate that DHS and ICE did not believe that Petitioner posed a danger whatsoever. Petitioner was never given a notice to appear or charged in Immigration Court. At no time did Immigration and Customs Enforcement (ICE),

Department of Homeland Security (DHS) mention or deem Petitioner a danger to the community which would have resulted in an Immigration Hold while in Harris County Custody and Petitioner was therefore released from Harris County custody and commenced her probation sentence successfully and without issue. Petitioner was out of Harris County custody for over a year complying with her conditions of bond and probation when, on December 15, 2025, Petitioner was apprehended at a traffic checkpoint and taken into custody without question and Petitioner was placed into removal proceedings without regard that Petitioner also a pending U-Visa before USCIS in which she has received a Bonafide determination which will lead to Petitioner's Lawful Residence in the United States. In addition to receiving a Bonafide determination for Petitioner's U-Visa, Petitioner was also given Employment Authorization which is valid from 08/13/2024 to 08/12/2028. As mentioned above, Petitioner, while out on bond from Harris County complied with all conditions of bond and probation, and did not pose any danger to the community or a danger to anyone whatsoever. Petitioner would eventually be terminated early from said probation for successful completing all requirements. Petitioner did not have any restrictions or limitations in her daily activities. *Please see the Bond Supplemental Documents that were filed for the Petitioner's bond hearing, as Exhibit 1.*

Respondent's Motion to Dismiss should be denied and Petitioner should be afforded the opportunity to continue to pursue Petitioner's Lawful Resident Status through the Pending U-Visa before USCIS. Relief that would be lost otherwise.

C. Conclusion

For these reasons, and those stated in the Petition, Petitioner respectfully requests that this Court:

1. Assume Jurisdiction in this Habeas action under U.S.C. 28 § 2241.
2. Deny Respondent's Motion to Dismiss;
3. Order Petitioner's immediate release under appropriate conditions;

4. Grant such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Nathaniel Green

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CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2026, I presented the foregoing to the Clerk of Court for filing and uploading to the CM/ECF system which will send notification of such filing to the following: Miguel Vergara, et al.

/s/ Nathaniel Green

Attorney for Petitioner