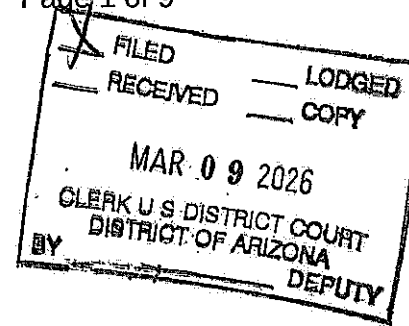




**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT COURT OF ARIZONA**
U.S. Courthouse, suite 130
401 West Washington Street, SPC10
Phoenix, Arizona 85003-2119

SHIRLEY AZUCENA GAVILANES MEDINA

A# 

Petitioner,

CV26-01615-PHX-SPL--ASB

V.

Pam Bondi,
US ATTORNEY GENERAL;
Kristi Noem,
SECRETARY OF DEPARTMENT OF
HOMELAND SECURITY;
John E. Cantu,
FIELD OFFICE DIRECTOR FOR THE
PHOENIX FIELD OFFICE;
Warden Eloy detention center
Respondents,

**PETITION FOR A WRIT OF
HABEAS CORPUS UNDER
28 U.S.C. 2241**

Petitioner, **SHIRLEY AZUCENA GAVILANES MEDINA** brings this habeas petition seeking relief pursuant to 28 U.S.C. 2241 on the ground that her continued detention in post-removal-order custody is unlawful since there is not significant likelihood of removal in the reasonable foreseeable future and it has exceeded the presumptively reasonable period established under the due process standards set forth by the United States Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001).

On January 21, 2026 the Honorable judge Michael T. Liburdi dismissed petitioner habeas petition case No. **CV-26-00178-PHX-MTL(DMF)** without prejudice. Respondent argued that less than six months have passed since petitioner order's of removal became administrative final. Petitioner was advice that a denial of her petition without prejudice means that a new petition or habeas corpus may be filed at an appropriate time. Petitioner filed a Habeas corpus petition again. The six-month period expired on March 4, 2026, and ICE has failed to remove Petitioner.

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at the Eloy Detention Center in Eloy, Arizona. ICE has contracted with Eloy detention center to house immigration detainees such as Petitioner. Petitioner is under the direct control of Respondents and their agents. Petitioner was detained at the border of U.S and Mexico on January 3, 2025. Petitioner was transferred to Eloy Detention Center in Eloy, Arizona on January 3, 2025.

JURISDICTION

2. This action arises under the constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. 1101 et seq. as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. 701 et seq.

3. 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 color of the authority of the United States, and such custody is in violation of the Constitution, law, or treaties of the United State. 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.

4. Petitioner has exhausted any and all administrative remedies to the extend require by law.

VENUE

5. Pursuant to Braden V. 30th Judicial Circuit Ct., 410 u.s. 484, 495-96, 93 S. Ct. 1123,35 L. Ed. 2d 443 (1973); Roman V. Ashcroft, 340 F.3d 314, 318-20 (6th Cir. 2003). Thus, because the petition indicates that Petitioner is currently incarcerated at Eloy Detention Center, the proper venue for this action is the United States District Court for the District of Arizona, the judicial district in which Petitioner resides.

PARTIES

6. Petitioner is a native and citizen of Ecuador. Petitioner was taken into ICE custody on January 3, 2025 and has remained in ICE custody continuously since that date. Petitioner was ordered remove on September 4, 2025.

7. Respondent Pam Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement

of the Immigration & Nationality Act (INA). As such, Mrs. Bondi has ultimate custodial authority over Petitioner.

8. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Nationality Act (INA). As such, Mrs. Noem is the legal custodian of Petitioner.

9. Respondent John E. Cantu is one of the ICE Field Director of the Phoenix Field Office of ICE and is Petitioner's immediate custodian who has signed Petitioner's continued Detention Letters. See Vasquez v. Reno 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001).

10. Respondent Warden of Eloy detention Center, where Petitioner is currently detained under the authority of ICE, alternatively, may be considered to be Petitioner's immediate custodian.

FACTUAL ALLEGATIONS

11. Petitioner, SHIRLEY AZUCENA GAVILANES MEDINA is a native and citizen of Ecuador. Petitioner has been in ICE custody since January 3, 2025. An Immigration Judge Granted Petitioner withholding of removal under the convention against torture on September 4, 2025. The DHS waived their right to appeal the IJ decision and the IJ order of removal became administrative final on September 4, 2025.

12. Petitioner entered the United States on or about January 3, 2025 as an asylum applicant and she has not left since arriving.

13. Petitioner has no criminal record.

14. ICE tried obtaining respondent's travel documents from a third country and unsuccessfully failed to obtain them. There are not travel plans to remove petitioner in the reasonably foreseeable future.

LEGAL FRAME OF WORK FOR RELIEF SOUGHT

15. Detention, release, and removal of aliens ordered removed is governed by the provisions of 8 U.S.C. 1231. Under 1231(a), the Attorney General has ninety days to remove an alien from the United States after his order of removal, during which time detention is mandatory. Section 1231(a)(1)(B) provides the following:

The removal period begins to run on the latest of the following:

- (i) The date the order of removal becomes administratively final.
- (ii) If the removal order is judicially reviewed and if the court orders a stay of the removal of the alien, the date of the court's final order.
- (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement. 8 U.S.C. 1231.

16. At the conclusion of the ninety-day period, the alien may be held in continued detention, or may be released under continued supervision, 8 U.S.C. 1231(a)(3) &(6). The statute "limits an alien's post-removal-period detention to a period reasonably necessary to bring about the alien's removal from the United States. It does not permit indefinite detention." *Zadvydas V. Davis*, 533 U.S. 678, 689, 121 s. Ct. 2491, 150 L. Ed. 2d 653 (2001). "Once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

17. If the alien provides good reason to believe that there is no significant likelihood of deportation in the reasonably foreseeable future, the burden shifts to the government to "respond with evidence sufficient to rebut that showing." *Zadvydas*, 533 U.S. at 701.

18. Here, the presumptively reasonable six-month period began running on September 4, 2025, the date the order of removal became administratively final. The six-month period expired on March 4, 2026, and ICE has failed to remove Petitioner. She argues that no special circumstances exist to justify his continued detention and that there is no significant likelihood of removal in the reasonably foreseeable future and, thus, his detention violates statutes, regulations, and the Constitution.

19. Petitioner argues that there is no significant likelihood of removal now because he has no contacts with any third country, and ICE has not begun the

process of identifying a third country either by interviewing her or securing documents from any third country for her removal.

20. Petitioner notes that in situations where individuals are granted a withholding of removal, “ only 1.6% of noncitizens... were actually removed to an alternative country.”(Id)(citing *Johnson v. Guzman Chavez*, 594 U.S. 523, 141 S. Ct. 2271, 2286, 210 L. Ed. 2d 656 (2021)). (citing American Immigration Council & National Immigrant Justice Center, *The Difference Between Asylum and Withholding of Removal* 7(Oct, 2020),

www.americanimmigrationcouncil.org/sites/default/files/research/the_difference_between_asylum_and_withholding_of_removal.pdf).

21. Moreover, she has presented evidence satisfying her burden that there is no significant likelihood of his removal in the reasonably foreseeable future as required by *Zadvydas*, 533 U.S. at 701. Consequently, she has shown that his detention is statutorily unauthorized or violates due process. See, e.g., *Joseph V. United States*, 127 F. App'x 79, 81 (3d Cir. 2005).

22. As noted in the emergency motion or request for expedite handling, the petitioner facts in this case are nearly identical to those in the case of *Rivera v. Price*, No. 25-CV-03444-PHX-SHD (MTM), (D. AZ.Dec.17,2025), which led to a grant of habeas relief. It appears that based on *Rivera* (in addition to other cases cited), the likelihood of success for Petitioner on her actual habeas petition is exceedingly high.

As such, the continued detention is unlawful, unconstitutional, and petitioner must be released immediately.

CLAIMS FOR RELIEF
COUNT ONE
STATUTORY VIOLATION

23. Petitioner re-alleges and incorporates by reference paragraphs through 22 above.

24. The Fifth Amendment's Due Process Clause prevents the Government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const, amend. V. "Freedom from imprisonment from government custody, detention, or other forms of physical restraint lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas V. Davis*, 533 U.S. 678, 690 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). It is well established that protection extends to noncitizens, including in removal proceedings. *Reno V. Flores*, 507 U.S. 292, 306, 113 s. Ct. 1439, 123 L. Ed. 2d (1993).

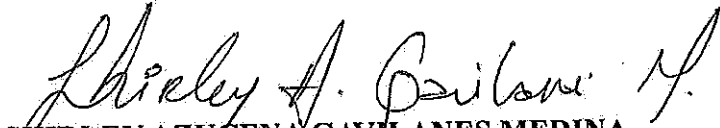
Moreover, "due process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake... are both particularly important and more substantial than mere loss of money. *ce Cooper V. Oklahoma*, 517 U.S. 348, 363, 116 S. Ct. 1373, 134 L. Ed. 2d (1996).

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;

2. Grant Petitioner a writ of habeas corpus directing Respondents to immediately release Petitioner from custody;
3. Award Petitioner attorney's fees and cot under Equal Access to Justice Act (EAJA"), as amended, 5 U.S.C. 504 and 28 U.S.C. 2412 and on any other basis justified under law; and
4. Grant any other and further relief that this Court deems just and proper. affirm, under penalty of perjury, that the foregoing is true and correct.


SHIRLEY AZUCENA GAVILANES MEDINA
A# 
Eloy Detention Center
1705 East Hanna Road
Eloy, AZ 85131

Dated: March 4, 2025