UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA

SILVIA DE LOS ANGEL GONZALEZ SARMIENTO
Petitioner,

v.

JASON STREEVAL,
Warden, Stewart Detention Facility

KRISTIN SULLIVAN
ERO/ICE Atlanta Field Office Director

TODD LYONS,
Acting Director, United States Immigration and Customs Enforcement

MAKRWAYNE MULLIN,
Secretary, United States Department of Homeland Security

PAMELA BONDI
Attorney General of the United States

U.S. DEPARTMENT OF HOMELAND SECURITY

Respondents.

Civil Action No.:

PETITIONER'S BRIEF IN SUPPORT OF PETITION FOR A WRIT OF HABEAS CORPUS

Petitioner, Silvia De Los Angel Gonzalez Sarmiento (hereafter "Petitioner") respectfully moves this honorable Court for immediate relief from the unlawful detention to which she has been and continues to be subjected to at the direction of the above-named government Respondents. This Petitioner has no criminal history and no criminal charges pending against her but remains detained for over one-hundred-eighty (180) days at Stewart Detention Facility in Lumpkin, Georgia. Petitioner remains, to date, in immediate custody of Respondents.

I. PARTIES

1. Petitioner is the individual Silvia De Los Angel Gonzalez Sarmiento, a native and citizen of Venezuela, who, prior to her detention lived in Georgia with her partner and family.
2. Respondent Jason Streeval is the Warden of the Stewart Detention Center in Lumpkin, Georgia. Respondent Streeval is named in his official capacity only.
3. Respondent Kristen Sullivan is the Acting Director of the ERO/ICE Field Office, Atlanta, Georgia. Respondent Sullivan is named in her official capacity only.
4. Respondent Todd Lyons is Acting Director of U.S. Immigration and Customs Enforcement. Respondent Lyons' office is located at 500 12th Street, SW, Washington D.C., 20536. Respondent Lyons is named in his official capacity only.
5. Respondent, Markwayne Mullin is the acting Secretary of the Department of Homeland Security, is named in his official capacity only.
6. Respondent, Pamela Bondi, is the acting Secretary of the Department of Homeland Security, is named in her official capacity only.
7. The United States Department of Homeland Security is named in its capacity as the overseeing government agency.

II. JURISDICTION

1. This Court has jurisdiction over the parties, and the matter, as Petitioner is currently detained in Lumpkin, Georgia, at Stewart Detention Center located at 146 CCA Road, Lumpkin, GA., 31815.
2. Stewart Detention Center is located within the jurisdiction of the United States District Court for the Middle District of Georgia.

3. This action arises under the U.S. Constitution and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

4. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause).

5. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

6. This action also arises under the Due Process Clause and Equal Protection clauses of the Fifth Amendment and the INA. 8 U.S.C. § 1227 *et. seq.*

7. Petitioner seeks relief pursuant to the United States Supreme Court Ruling in: *Zadvydas v. Davis* 533 U.S. 678 *(2001)*.

III. VENUE

Venue is proper under 28 U.S.C. §§ 1391(b)(2), (e) and 28 U.S.C. §§ 2241 *et seq.* Petitioner is detained within this District, and a substantial part of the events giving rise to the claims and relevant facts occurred within the District, including Petitioner's unlawful continued detention in this District and her denial of a bond by an immigration judge.

IV. BACKGROUND

Petitioner, Silvia De Los Angel Gonzalez Sarmiento, is a native and citizen of Venezuela, who entered the United States on or about December 4, 2021, with a B1/B2 nonimmigrant visitor visa at the Hartsfield Jackson International Airport in Atlanta, Georgia. *See Petitioner's Exhibit B: Immigration Documents at pgs. 1-3.* On the same day, the United States Customs and Border Protection referred Petitioner to secondary inspection and Petitioner did not overcome the

presumption of being an intending immigrant. *Id.* At that time. Petitioner was placed into Expedited Removal proceedings under Immigration and Nationality Act ("INA") § 235(b)(1) and entered Immigration and Customs Enforcement, Enforcement and Removal Operations ("ICE/ERO") custody on December 5, 2021. *Id at 1.* On December 17, 2021, United States Citizen and Immigration Services served Petitioner a Notice to Appear ("NTA") charging her as an arriving alien removable under INA § 212(a)(7)(A)(i)(I). *Id.* On December 23, 2021, Petitioner was paroled from ICE/ERO custody. *Id.*

On December 15, 2022, Petitioner filed an application for relief from removal, specifically, an Application for Asylum, Withholding of Removal and Protection under the Convention Against Torture. On August 22, 2023, Petitioner appeared for her initial master calendar hearing, and conceded the allegations and charges under INA § 212(a)(7)(A)(i)(I). The Immigration Judge ("IJ") sustained the charges of removability and designated Venezuela as the country of removal. The case was re-set to a hearing on the merits of Petitioner's application for relief from removal on November 13, 2025. *See Petitioner's Exhibit A: Case Information at pgs. 1-2.*

On September 24, 2025, Petitioner was encountered by ICE/ERO during the execution of a search warrant in Lawrenceville, Georgia, by law enforcement. Petitioner was not the subject of the warrant and has no criminal history or knowledge of illegal conduct. Petitioner entered ICE/ERO custody on that same day and has remained detained in Georgia since said date. *Id.* On October 8, 2025, the IJ held a bond redetermination hearing and denied Petitioner's request for bond finding that the court did not have jurisdiction to redetermine bond pursuant to 8 C.F.R. § 1003.19(h)(2)(f)(B), (ii). *Id at 7.*

On November 4, 2025, a hearing on the merits of the application for relief was held, the IJ denied Petitioner's application for relief and ordered Petitioner removed to Venezuela. *Id at 9.* Petitioner reserved her rights to appeal to the Board of Immigration Appeals, and the appeal is

due on or about December 4, 2025. *Id.* Petitioner promptly filed a Notice of Appeal from Decision of an Immigration Judge with the Board of Immigration Appeals (BIA). The appeal remains pending to date. *Id at 1.* Further, Petitioner has sent the Respondent's a letter requesting her release on March 9, 2026, and received no response to date. *See Petitioner's Exhibit B: Immigration Documents at pg. 13.* Petitioner now files the instant petition, contending that her continued detention is unlawful as it has exceeded the "presumptively reasonable 180 days" afforded to Respondents; it violates the Due Process Clause of the U.S. Constitution, as Petitioner has not been afforded a custody redetermination hearing on the merits; and because when petitioner was released from custody in 2021, she ceased to be an "arriving alien." As such, this Court should order her immediate release, or in the alternative, order the Executive Office of Immigration Review (EOIR) to find jurisdiction and hold a custody redetermination hearing, where Respondent's bear the burden or proof that Petitioner is a flight risk or a danger to the community.

V. COUNT ONE: PETITIONER'S CONTINUED DETENTION IS UNREASONABLE AS IT HAS EXCEEDED 180 DAYS

Petitioner has remained continuously detained by Respondents since September 24, 2025. To date, Petitioner has been detained for one hundred and eighty-seven (187) days without a single review of her custody status. Her detention serves no legitimate regulatory or public safety purpose. Her asylum case is currently on appeal before the Board of Immigration Appeals (BIA). *See Petitioner's Exhibit A: Case Information at pg. 1.* That appeal, is non-frivolous, rendering her removal neither imminent nor reasonably foreseeable. Detention during the pendency of a non-frivolous appeal is punitive rather than administrative. Given the current procedural posture, and the currently volatile, and changing country conditions in Venezuela, her removal is not "significantly likely in the reasonably foreseeable future." *See: Zadvydas v. Davis*, 533 U.S. 678 (2001).

Once an individual enters the United States, the government may not deprive that individual of liberty without due process of law. *U.S. Constitution, Amendment XIV, Section 1.* Although immigration detention is civil in nature and may be justified for limited regulatory purposes, such as ensuring appearance at proceedings or protecting the community, it must remain reasonably related to those purposes and may not become punitive. The Supreme Court has made clear that Congress did not authorize indefinite detention, and detention is permissible only for a period reasonably necessary to effectuate removal. *Zadvydas v. Davis*, 533 U.S. 678 (2001). Where removal is not "significantly likely in the reasonably foreseeable future," continued detention violates due process. Here, Petitioner has been detained since September 24, 2025, exceeding the statutorily permitted six months and violating her right to due process of law.

Respondents continue to contend that if Petitioner becomes subject to a final order of removal, there is a significant likelihood of removal in the reasonably foreseeable future. However, Respondent's position is speculative, as the BIA appeal has not yet been decided in her removal case, and BIA appeal processing times range from six to eighteen (6-18) months. Petitioner's appeal was filed just four (4) months ago in December 2025. Detention during the pendency of such proceedings operates as punishment rather than administration of immigration laws. Additionally, Petitioner is not in possession of a valid travel document, nor have Respondent's attempted to obtain a valid travel document on her behalf during the past six months that Petitioner has been in their custody. As such, not only is Petitioner's removal not reasonably foreseeable, it is speculative at best.

VI. COUNT TWO: REPONDENT'S HAVE NOT PROVIDED PETITIONER WITH A CUSTODY REDETERMINATION HEARING IN VIOLATION OF THE DUE PROCESS CLAUSE

Petitioner's continued detention without an individualized custody redetermination hearing violates the Due Process Clause of the Fifth Amendment. It is well established that the protections of the Due Process Clause extend to all persons within the United States, including noncitizens, regardless of whether their presence is lawful, unlawful, temporary, or permanent. *Plyler v. Doe*, 457 U.S. 202, 210 (1982).

On October 8, 2025, the Immigration Judge denied Petitioner's request for a bond redetermination hearing, concluding that the court lacked jurisdiction pursuant to 8 C.F.R. § 1003.19(h)(2)(i)(B), treating Petitioner as an arriving alien. Subsequently, on November 4, 2025, the Immigration Judge denied Petitioner's application for relief and ordered her removed to Venezuela. Petitioner timely reserved and pursued her appeal before the Board of Immigration Appeals, where the matter remains pending. Against this statutory and regulatory backdrop, Respondents continue to detain Petitioner under INA § 235(b)(1) as an arriving alien; however, once Petitioner was placed into full removal proceedings and is actively pursuing relief on appeal, the general detention framework of INA § 236 governs her custody, thereby entitling her to a bond hearing.

The government's continued reliance on INA § 235 to deny bond improperly deprives Petitioner of access to procedural safeguards guaranteed under the Due Process Clause. Accordingly, Respondents' continued detention of Petitioner without providing access to a bond hearing under INA § 236 violates the Due Process Clause. This Court should grant the writ of habeas corpus and order her release or, at minimum, require a prompt individualized custody redetermination hearing.

Moreover, Petitioner was previously paroled from ICE/ERO custody on December 23, 2021, demonstrating that she does not pose a flight risk or danger to the community, and there has been no material change in circumstances to justify her continued detention. *See Petitioner's Exhibit B: Immigration Documents at pgs. 2-4*. In truth, the factors to be considered by the

Immigration Judge at a bond hearing weight heavily in Petitioner's favor. Petitioner has no criminal history, is a law-abiding citizen, and has extensive and deeply rooted community ties in Georgia, including multiple members of her immediate family who reside there and eagerly await her release. *See Petitioner's Exhibits C & D.* In the absence of a meaningful likelihood of removal and without the provision of an individualized bond hearing, Petitioner's prolonged detention has become arbitrary and unconstitutional. Accordingly, this Court should grant the writ of habeas corpus and order Petitioner's immediate release, or, at minimum, require Respondents to provide a prompt individualized custody redetermination hearing.

Materially, in *Sopo v. U.S. Attorney General*, the Eleventh circuit joined the First, Third, and Sixth circuits in adopting a case by case analysis as to reasonableness of detention without review. In *Sopo*, Petitioner was detained by ICE for four years without a custody redetermination hearing after serving a committed sentence on a felony conviction. In *Sopo*, the Court considered several factors in evaluating whether Petitioner's Habeas Corpus should be granted, and in turn, whether Petitioner should receive an individualized custody redetermination hearing. The factors which the Court evaluated are (1) first, the amount of time that the criminal alien has been in detention without a bond hearing; (2) why the removal proceedings have become protracted, urging courts to consider whether the government or the criminal alien have failed to participate actively in the removal proceedings or sought continuances and filing extensions that delayed the case's progress; (3) third, whether it will be possible to remove the criminal alien after there is a final order of removal; (4) fourth, whether the alien's civil immigration detention exceeds the time the alien spent in prison for the crime that rendered him removable; and (5) whether the facility for the civil immigration detention is meaningfully different from a penal institution for criminal detention. *See: Sopo v. U.S. Attorney General*, No. 14-11421 (11th Cir. 2016). If the balance of the weighed factors tips in the alien's favor, the district court must grant the § 2241

habeas petition and order the government to afford the criminal alien an individualized bond inquiry. *Id. At pg. 42.*

The *Sopo* Court noted that the list of factors is not exhaustive. The reasonableness inquiry is necessarily fact intensive, and the factors that should be considered will vary depending on the individual circumstances present in each case. *Id. See Also: Diop v. ICE/Homeland Sec., 656 F.3d 221, 231-32 (3d Cir. 2011)* relied on by the *Sopo* Court, in which it was concluded that the statute implicitly authorizes detention for a reasonable amount of time, after which the authorities must make an individualized inquiry into whether detention is still necessary to fulfill the statute's purposes of ensuring that an alien attends removal proceedings and that his release will not pose a danger to the community." *And See: Ly v. Hansen, 351 F.3d 263, 267-68, 270-71 (6th Cir. 2003)* "Therefore, we hold that the INS may detain prima facie removable aliens for a time reasonably required to complete removal proceedings in a timely manner. If the process takes an unreasonably long time, the detainee may seek relief in habeas proceedings." Further, in *Demore*, the Court concurred that § 1226(c) does contain an implicit temporal limitation at which point the government must provide an individualized bond hearing to detained criminal aliens whose removal proceedings have become unreasonably prolonged. The need for a bond inquiry is likely to arise in the six-month to one-year window, at which time a court must determine whether the purposes of the statute—preventing flight and criminal acts—are being fulfilled, and whether the government is incarcerating the alien for reasons other than risk of flight or dangerousness. *See Demore*, 538 U.S. at 532-33, 123 S. Ct. at 1722.

In the instant case, considering the *Sopo* factors, the balance of the factor's not only tips in Petitioner's favor, there are no factors which weigh against Petitioner. The first factor weighs heavily in Petitioner's favor as she has been detained for over six months without a custody redetermination hearing on the merits. The second factor also weighs in Petitioner's favor, as she has caused no delay to her own case. Petitioner promptly filed an appeal with the BIA following

the November 13, 2025, merits hearings. The appeal remains pending before the Board, with no briefing scheduled issued to date. The third factor also weighs in Petitioner's favor since Petitioner is not in possession of a valid travel document, and Respondent's have not made efforts to obtain one on her behalf during the six months that she has been in their custody, rendering removal presently impossible in the event of a final order being issued. Additionally, the country conditions in Venezuela are presently volatile. The fourth factor weighs heavily for Petitioner, as she has never been the subject of a criminal complaint, has no criminal record, has never served a committed sentence, and has no criminal history whatsoever in the United States or abroad. Lastly, the fifth factor further supports Petitioner's position, as she has been detained at Steward Detention Center in Lumpkin, Georgia, for the past six months. There is no meaningful difference between Stewart Detention Center, and a prison used for penal detention of criminals. It has been reported by multiple outlets that Stewart Detention Center implements penal-like practices such as solitary confinement, and disallowing detainees access to necessary nutrients and the outdoors. Stewart Detention Center houses over 2,000 individuals at a time, is surrounded by chain-link fences, and requires extensive visitor screening prior to entry. There are no facts about Stewart Detention Center which differentiate it from a criminal facility. As such, based on the Court's analysis, the instant Petitioner is even more so entitled to relief as compared to Petitioner in *Sopo*. Therefore, this Court should grant her petition for a Writ of Habeas Corpus and order Respondents to hold an individualized custody redetermination hearing at which they bear the burden of proof.

VII. COUNT THREE: RESPONDENTS IMPROPERLY DESIGNATED PETITIONER AS AN "ARRIVING ALIEN"

It is statutorily established that detention of all arriving aliens is mandatory under 8 U.S.C § 1225(b)(1)(B)(ii) ("If the officer determines at the time of the interview that an alien has a credible fear of persecution, the alien *shall be detained* for further consideration of the

application for asylum." 8 U.S.C. § 1225(b)(2)(A) ("[I]f the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien *shall be detained* for a proceeding under [8 U.S.C. §] 1229a . . . ." The only exception is that ICE/ERO may—in its discretion—release arriving aliens on parole. 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. §§ **212.5(b), 235.3(c).** Petitioner asserts that Respondents have violated the INA and her due process rights by detaining her pursuant to 8 U.S.C § 1225(b)(1)(B)(ii)—as opposed to 8 U.S.C. § 1226(a), and all but ignoring the fact that she was paroled from their custody in 2021 after nineteen (19) days of detention.

Petitioner has been living in Georgia with her family since her 2021 release. She is a loving care giver to her grandchildren and her two daughters. *See Petitioner's Exhibit D: Letters of Support at pgs. 1-7.* She has the emotional and financial support of her family and has been working with authorization as a category C8 Asylum Applicant since 2022. *See Petitioner's Exhibit C: Proof of Financial Sponsorship at pgs. 1-48.* Petitioner is a contributing member of her community and maintains that she did "enter" the United States when she was paroled from ICE custody in 2021. The "distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001), *see also Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958) ("[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality." Wherefore, petitioner asserts that Respondents have applied the incorrect statute to her detention and that in addition to ordering that a bond hearing be set, this Court should order that the Immigration Judge find jurisdiction over her case on such basis.

VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this court:

1. (i) order her immediate release, or, in the alternative;
2. (ii) issue an order directed to the Respondents to show cause as to why the Petitioner should not be released from custody, scheduling a hearing as soon as the Court's schedule will allow and offer such relief as requested in (i) above;
3. (iii) award reasonable attorney's fees; and
4. (iii) grant Petitioner such other and further relief as this Court determines appropriate.

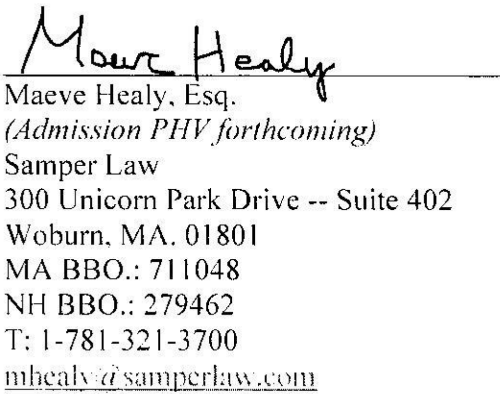
IX. CONCLUSION

As Petitioner, Ms. Silvia De Los Angel Gonzalez Sarmiento, is in ICE custody in Lumpkin, Georgia, she hereby respectfully requests that this Honorable Court find that her continued detention lacks a valid statutory basis and violates due process. Therefore, this Court should grant the writ of habeas corpus and order her immediate release, or in the alternative, provide an individualized bond hearing pursuant to 8 U.S.C. § 1226(a).

Respectfully Submitted,
Name Name-Name,
By his Attorneys,

//s// Alexis Ruiz

Alexis Ruiz, Esq.
Ruiz Immigration Law
2100 Riveredge Pkwy NW – Suite 725
Atlanta, GA. 30328
GA BBO.: 419757
T: 1-770-769-5822
aruiz@ruizimmigration.com



Maeve Healy, Esq.
(Admission PHV forthcoming)
Samper Law
300 Unicorn Park Drive -- Suite 402
Woburn, MA. 01801
MA BBO.: 711048
NH BBO.: 279462
T: 1-781-321-3700
mhealy@samperlaw.com

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