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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

Diana Carolina Lora-Osorio,
Petitioner,

Case No.: 8:26-cv-1183

v.

Facility Administrator, Flagler County Jail; Garrett J. Ripa, Field Office Director, ICE Jacksonville Field Office; Todd Lyons, Director of U.S. Immigration and Customs Enforcement; Markwayne Mullin, Secretary of the U.S. Department of Homeland Security; and Todd Blanche, Acting Attorney General of the United States,
Respondents.

PETITION FOR WRIT OF
HABEAS CORPUS
IMMIGRATION HABEAS CASE

PRELIMINARY STATEMENT

COMES NOW, Petitioner Diana Carolina Lora-Osorio, by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging the legality of her continued civil immigration detention by the United States Department of Homeland Security ("DHS") and U.S. Immigration and Customs Enforcement ("ICE").

Petitioner is a national of Colombia who entered the United States on March 5, 2024, at Eagle Pass, Texas, presented herself to immigration authorities, and was found to have a credible fear of persecution or torture. She was placed in removal proceedings under section 240 of the Immigration and Nationality Act and filed a timely application for asylum (Form I-589). Her

removal hearing before the Orlando Immigration Court is not scheduled until August 3, 2028. She attended every required hearing. No final order of removal has been entered against her.

Petitioner was taken into ICE custody on February 1, 2026, at Flagler County Jail, Bunnell, Florida, ostensibly in connection with a domestic battery charge arising from a custody dispute over her infant U.S. citizen son in Manatee County, Florida. The circumstances of that charge -- which arose when Petitioner attempted to exercise her court-ordered 50/50 custody rights and her former partner refused to return their child -- underscore rather than undermine the case for her release. Petitioner has a one-year-old U.S. citizen son, I [REDACTED], born [REDACTED] [REDACTED] at Manatee Memorial Hospital in Bradenton, Florida. Active family court proceedings involving her son's custody are pending in this state and cannot be meaningfully participated in from a detention facility in New Mexico.

This petition is filed on an emergency basis because, according to ICE Form I-830E filed on April 23, 2026, Respondents intend to transfer Petitioner to the Otero County Processing Center, 26 McGregor Road, Chaparral, New Mexico 88081, on or about April 24, 2026. Such a transfer would deprive this Court of jurisdiction, disrupt Petitioner's access to counsel, impair her ability to participate in family court proceedings involving her U.S. citizen son, and render any meaningful habeas relief impossible.

For the reasons set forth herein, Petitioner respectfully requests that this Court: (1) issue an emergency order enjoining Respondents from transferring Petitioner outside the Middle District of Florida pending adjudication of this Petition; (2) declare that her detention is unlawful under the Constitution and laws of the United States; and (3) order her immediate release or, in the alternative, a constitutionally adequate bond hearing.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 2241, which authorizes federal district courts to grant writs of habeas corpus to persons held in custody under or by color of the authority of the United States in violation of the Constitution or laws of the United States.
2. This Court also has jurisdiction pursuant to 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States. Petitioner alleges that her continued

detention without constitutionally adequate process violates the Due Process Clause of the Fifth Amendment.

3. Venue is proper in this District because Petitioner is currently detained within its territorial jurisdiction, and her removal proceedings are pending before the Orlando Immigration Court, which is located within the Middle District of Florida. Flagler County, where Petitioner is currently confined at Flagler County Jail, is within the Middle District of Florida.
4. This Court retains habeas jurisdiction even if transfer is imminent or has occurred, as the petition was filed while Petitioner remained within this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 440-41 (2004).

PARTIES

5. Petitioner Diana Carolina Lora-Osorio is a noncitizen currently detained by U.S. Immigration and Customs Enforcement at Flagler County Jail in Bunnell, Florida, within the Middle District of Florida. Her alien registration number is A .
6. Respondent Facility Administrator, Flagler County Jail, 1002 Justice Lane, Bunnell, Florida, is Petitioner's immediate custodian and is responsible for her day-to-day detention. Upon information and belief, ICE intends to transfer Petitioner to the Otero County Processing Center, Chaparral, New Mexico, on or about April 24, 2026.
7. Respondent Garrett J. Ripa is the Field Office Director for ICE's Jacksonville Field Office, responsible for overseeing immigration enforcement and detention operations in this region.
8. Respondent Todd Lyons is the Director of U.S. Immigration and Customs Enforcement, responsible for the administration and enforcement of immigration detention policies nationwide.
9. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security, responsible for the overall administration and enforcement of the immigration laws of the United States, including the detention of noncitizens.

10. Respondent Todd Blanche is the Acting Attorney General of the United States and is responsible for the administration of the immigration court system through the Executive Office for Immigration Review.

FACTUAL AND PROCEDURAL BACKGROUND

A. Petitioner's Entry, Credible Fear Finding, and Asylum Proceedings

11. Petitioner Diana Carolina Lora-Osorio is a native and citizen of Colombia, born [REDACTED]
[REDACTED]
12. On March 5, 2024, Petitioner entered the United States at or near Eagle Pass, Texas, and immediately presented herself to U.S. Customs and Border Protection officers.
13. After a credible fear interview, an asylum officer found that Petitioner had demonstrated a credible fear of persecution or torture. This finding is reflected on the Notice to Appear (DHS Form I-862) issued on March 14, 2024.
14. Petitioner was issued a Notice to Appear (NTA) charging her as an alien present in the United States without being admitted or paroled under INA § 212(a)(6)(A)(i). A hearing before the Orlando Immigration Court was scheduled for August 3, 2028.
15. Petitioner timely filed a Form I-589, Application for Asylum and Withholding of Removal. Her asylum case remains pending and no final order of removal has been entered.
16. Petitioner attended all required hearings and complied with all conditions of her release. She resided at [REDACTED]

B. Petitioner's U.S. Citizen Child and Family Court Proceedings

17. On [REDACTED] Petitioner gave birth to a U.S. citizen son, I [REDACTED]
[REDACTED] at Manatee Memorial Hospital in Bradenton, Manatee County, Florida. I [REDACTED]'s birth is documented in State of Florida Certification of Birth, State File Number [REDACTED]
18. Petitioner and the father of I [REDACTED], Arturo Hesli Rodriguez Gomez, are divorced. Their divorce is finalized and they share a court-ordered 50/50 custody arrangement.

19. The parties share a finalized court-ordered 50/50 custody arrangement entered in Manatee County, Florida. Petitioner's ability to exercise her parental custody rights and enforce that order is fundamentally incompatible with detention in New Mexico, 1,500 miles away from her child.
20. Petitioner's U.S. citizen son is one year old. His mother is his primary caregiver and attachment figure. Petitioner's prolonged detention and threatened transfer to New Mexico would cause irreparable harm not only to Petitioner but to her U.S. citizen child.

C. Circumstances of Petitioner's ICE Detention

21. On February 1, 2026, ICE detained Petitioner at Flagler County Jail in Bunnell, Florida, where she has remained since that date.
22. Petitioner's detention arose in connection with a domestic battery charge in Manatee County, Florida. The charge itself arose under deeply troubling circumstances: Petitioner went to retrieve her infant son pursuant to the parties' court-ordered 50/50 custody arrangement; her former partner refused to return the child; a physical altercation ensued in which Petitioner pushed him; and the former partner called police.
23. The battery charge was not the product of Petitioner posing a danger to the community. Rather, it arose from a dispute in which Petitioner was attempting to exercise her legal right to custody of her own child, while her former partner was denying access to their baby. The stress of being denied access to her infant son, who was only months old at the time, was a direct cause of the altercation.
24. Petitioner has not been convicted of any crime. The domestic battery charge is a misdemeanor. It does not render her a mandatory detainee under INA § 236(c).
25. According to ICE Form I-830E filed on April 23, 2026, Respondents intend to transfer Petitioner to the Otero County Processing Center, 26 McGregor Road, Chaparral, New Mexico 88081, on or about April 24, 2026.
26. Such a transfer is imminent and constitutes an emergency requiring immediate judicial intervention.

STATUTORY AND CONSTITUTIONAL FRAMEWORK GOVERNING DETENTION

27. The Immigration and Nationality Act authorizes the detention of noncitizens in certain circumstances during the pendency of removal proceedings. The Government's authority here derives, at most, from 8 U.S.C. § 1226(a), which allows discretionary detention of a noncitizen pending a decision on removal.
28. To the extent the Government relies on 8 U.S.C. § 1225(b)(2)(A) as the basis for detention -- treating Petitioner as an arriving alien subject to mandatory expedited removal -- that classification is legally untenable. The great majority of judges in this District have rejected the Government's position that individuals who entered without inspection and passed credible fear interviews remain subject to § 1225's mandatory detention scheme once placed in § 240 removal proceedings. See *Martinez Chavez v. Orange County Jail et al.*, No. 6:26-cv-00881-GAP-RMN (M.D. Fla. Apr. 23, 2026); *Guaiquire v. Quinones et al.*, No. 6:26-cv-169-RBD-RMN (M.D. Fla. Feb. 3, 2026); *Perez v. Quinones et al.*, No. 6:26-cv-228-GAP-DCI (M.D. Fla. Feb. 9, 2026).
29. Even if detention is considered under § 1226(a), the Supreme Court's decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), and the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) -- which the Chief Immigration Judge reaffirmed in January 2026 -- effectively eliminate any meaningful opportunity for a fair bond hearing. As this Court held in *Correa Cabral v. Quinones et al.*, No. 6:26-cv-425-GAP-LHP (M.D. Fla. Mar. 4, 2026), requesting a bond hearing under these circumstances is futile, and continued detention without such a hearing renders the detention "contrary to law."
30. The Supreme Court has recognized that civil immigration detention is constitutionally permissible only insofar as it bears a reasonable relation to its regulatory purposes and is not excessive in relation to those purposes. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
31. The Fifth Amendment prohibits the Government from depriving any person of liberty without due process of law, and this protection extends to all persons within the United States, including noncitizens in removal proceedings. *Id.* at 693.
32. As detention becomes prolonged, due process requires a meaningful individualized determination by a neutral adjudicator as to whether continued detention is justified.

CLAIMS FOR RELIEF

COUNT I: UNLAWFUL DETENTION UNDER 8 U.S.C. § 1225 (ALTERNATIVE)

33. Petitioner re-alleges and incorporates by reference paragraphs 1 through 32 as if fully set forth herein.
34. To the extent Respondents claim authority to detain Petitioner as an arriving alien under 8 U.S.C. § 1225(b)(2)(A), that detention is unlawful. Petitioner was placed in regular § 240 removal proceedings after passing a credible fear interview, and the § 1225 mandatory detention regime does not apply to individuals in that posture.
35. As this Court and its colleagues have repeatedly held, the Government's effort to apply § 1225 to individuals such as Petitioner is contrary to law and warrants immediate release. See *Martinez Chavez*, No. 6:26-cv-00881 (M.D. Fla. Apr. 23, 2026).

COUNT II: PROLONGED DETENTION IN VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

36. Petitioner re-alleges and incorporates by reference paragraphs 1 through 35 as if fully set forth herein.
37. Petitioner has been detained since February 1, 2026 -- nearly three months -- and her detention will continue indefinitely while her removal proceedings remain pending through at least August 2028.
38. Petitioner has not been provided a constitutionally adequate, individualized bond hearing before a neutral decisionmaker at which the Government bears the burden of justifying continued detention.
39. The binding precedent of *Matter of Yajure Hurtado* renders any request for such a hearing futile, as immigration judges lack meaningful discretion to conduct fair bond hearings for § 1226(a) detainees.
40. Petitioner faces the prospect of detention without any fair process for a period that will likely span years. This is precisely the situation the Due Process Clause forbids.

41. Petitioner is not a danger to the community. The only charge against her is a misdemeanor domestic battery arising from her attempt to retrieve her infant son during a custody dispute. She has no criminal history.
42. Petitioner is not a flight risk. She has a U.S. citizen infant son in Florida, active family court proceedings in Manatee County, and an asylum case pending before the Orlando Immigration Court to which she has consistently appeared.
43. Petitioner's continued confinement violates the Due Process Clause of the Fifth Amendment and is subject to correction by this Court through habeas corpus.

**COUNT III: UNLAWFUL DETENTION IN EXCESS OF STATUTORY AUTHORITY
UNDER 8 U.S.C. § 1226**

44. Petitioner re-alleges and incorporates by reference paragraphs 1 through 43 as if fully set forth herein.
45. Section 1226 authorizes detention only for the limited regulatory purposes of ensuring appearance at removal proceedings and protecting the community. Petitioner's continued detention without a current, individualized determination that it serves those purposes exceeds the statute's authorization.
46. Petitioner's detention is not reasonably related to ensuring her appearance: she attended every required hearing before her detention, has a pending asylum case, has a U.S. citizen infant son in Florida, and has deep community ties making flight implausible.
47. Petitioner's detention is not reasonably related to protecting the community: she has no criminal history and the only charge against her is a misdemeanor arising from a custody dispute.
48. Continued detention under these circumstances exceeds the scope of statutory authorization and is independently unlawful.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

49. There is no statutory exhaustion requirement for habeas petitions brought pursuant to 28 U.S.C. § 2241 challenging the legality of immigration detention.

50. To the extent exhaustion is required, it is excused because administrative remedies are inadequate and futile. Immigration Judges lack authority to grant the full relief sought herein, and binding BIA precedent (*Matter of Yajure Hurtado*) precludes any meaningful bond hearing. See *Sundar v. INS*, 328 F.3d 1320, 1323 (11th Cir. 2003); *McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992).

51. Moreover, requiring exhaustion in the face of imminent transfer out of the jurisdiction would result in irreparable harm that cannot be remedied later.

REQUESTED RELIEF

WHEREFORE, Petitioner Diana Carolina Lora-Osorio respectfully requests that this Court grant the following relief:

1. IMMEDIATELY enjoin Respondents from transferring Petitioner outside the Middle District of Florida pending adjudication of this Petition;
2. Issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241 declaring that Petitioner's continued detention violates the Constitution and laws of the United States;
3. Order Petitioner's immediate release from custody under reasonable conditions of supervision;
4. In the alternative, order Respondents to provide Petitioner with a prompt bond hearing before a neutral adjudicator that comports with the requirements of due process, at which the Government bears the burden of justifying continued detention by clear and convincing evidence, within seven (7) days of this Court's order;
5. Order that the Immigration Judge consider less restrictive alternatives to detention, including supervision, electronic monitoring, and regular check-ins;
6. Pending final resolution of this Petition, enjoin Respondents from re-arresting or detaining Petitioner on the same or similar grounds absent further order of this Court;
7. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

April 23, 2026

/s/ Anny Leon

Anny Leon

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905-506-1915

Attorney for Petitioner

VERIFICATION

I, Anny Leon, am counsel for Petitioner Diana Carolina Lora-Osorio in this habeas corpus proceeding. Petitioner is currently detained in immigration custody and is therefore unable to personally verify this Petition.

Pursuant to 28 U.S.C. § 2242, I verify on behalf of Petitioner that the factual statements contained in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief, based upon my communications with Petitioner and review of records and information available to me.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 23rd day of April, 2026, at Jacksonville, Florida.

/s/ Anny Leon

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April, 2026, a true and correct copy of the foregoing Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 was filed with the Clerk of the Court.

I further certify that a true and correct copy of the foregoing Petition is being served upon Respondents in accordance with Rule 4(i) of the Federal Rules of Civil Procedure, including service upon the Office of the United States Attorney for the Middle District of Florida, and the United States Attorney General.

Date: April 23, 2026

/s/ Anny Leon

Anny Leon, Esq.

Attorney for Petitioner