

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF GEORGIA

ALBANY DIVISION

201 West Broad Avenue

Albany, GA 31701

FILED
MAY 7 2026
CDL

EMILIA ARCOS AVILA

A# 

Stewart Detention Center

146 CCA Road

Lumpkin, Georgia 31815

Petitioner,

v. Civil Action No. _____

1. WARDEN, STEWART DETENTION CENTER
2. ACTING DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE)
3. SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY
4. ATTORNEY GENERAL OF THE UNITED STATES

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

PURSUANT TO 28 U.S.C. § 2241

I. INTRODUCTION

Petitioner, EMILIA ARCOS AVILA, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging her unlawful detention by Immigration and Customs Enforcement (“ICE”).

Petitioner is currently detained at Stewart Detention Center in Lumpkin, Georgia, following her arrest in April 2026. Despite this severe deprivation of liberty, she has not been afforded a meaningful bond hearing or an individualized determination justifying her continued detention.

The Due Process Clause of the Fifth Amendment to the United States Constitution provides that no person shall be deprived of liberty without due process of law. U.S. CONST. amend. V.

Petitioner respectfully submits this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging the legality of her current detention by immigration authorities. Petitioner is presently in custody without a lawful basis for continued detention and without a meaningful opportunity for release. She has no criminal history, poses no danger to the community, and is not a flight risk. Accordingly, Petitioner seeks immediate release on recognizance or, in the alternative, a constitutionally adequate bond hearing with a reasonable bond.

II. JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. § 2241(c)(3), which authorizes federal courts to grant habeas relief to individuals held in custody in violation of the Constitution or laws of the United States.

Venue is proper under 28 U.S.C. § 1391(e) because Petitioner is detained within the Southern District of Georgia.

III. PARTIES

Petitioner is a noncitizen who has resided in the United States for approximately thirteen (13) years and has established strong family and community ties.

Respondents are federal officials responsible for Petitioner's detention under color of federal law.

IV. FACTUAL BACKGROUND

1. Petitioner has lived in the United States for over thirteen years.
 2. She has established strong family ties, including dependent grandchildren.
 3. Petitioner is the primary financial and emotional support for her household.
 4. Her family includes a minor grandchild (6 years old) and an infant (2 months old).
 5. Petitioner was arrested in April 2026 and transferred into ICE custody.
 6. She has not been provided with a meaningful bond hearing.
 7. She has not been given adequate notice or opportunity to challenge her detention.
 8. Petitioner has no history of violent criminal conduct.
 9. Any alleged offenses are non-violent misdemeanor conduct.
 10. Her continued detention is causing severe harm to her and her family.
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V. LEGAL STANDARD

The Fifth Amendment guarantees due process protections to all persons within the United States, including noncitizens. See *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Civil detention must bear a reasonable relationship to a legitimate government objective and may not be excessive in relation to that purpose. *Id.* at 690.

The Supreme Court has recognized that prolonged or unjustified detention without adequate procedural safeguards violates due process. See *Demore v. Kim*, 538 U.S. 510, 532 (2003).

Additionally, agency action that is arbitrary or capricious must be set aside under the Administrative Procedure Act. 5 U.S.C. § 706(2)(A).

VI. ARGUMENT

A. DETENTION WITHOUT A MEANINGFUL BOND HEARING VIOLATES DUE PROCESS

Petitioner has been detained without a meaningful individualized bond hearing.

Due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

The Government bears the burden of justifying continued detention. See *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

Failure to provide these safeguards renders detention unconstitutional under the Fifth Amendment.

B. DETENTION IS ARBITRARY AND CAPRICIOUS

Under the Administrative Procedure Act, agency action must not be arbitrary, capricious, or an abuse of discretion. 5 U.S.C. § 706(2)(A).

Respondents have failed to provide any individualized justification for Petitioner's detention.

Where the Government fails to consider relevant factors or provide a rational explanation, its actions must be set aside. *Motor Vehicle Mfrs Ass'n v State Farm*, 463 U.S. 29, 43 (1983).

C. PETITIONER IS NOT A DANGER OR A FLIGHT RISK

Petitioner has lived in the United States for over a decade and has strong family and community ties.

She has no violent criminal history and poses no danger to the community.

Civil detention is permissible only where necessary to prevent danger or flight risk. See *Demore v. Kim*, 538 U.S. 510 (2003)

In the absence of such evidence, continued detention is unlawful.

D. DETENTION IS CAUSING IRREPARABLE HARM

Petitioner's continued detention is causing severe and irreparable harm:

- Emotional harm to minor child
- Deprivation of care to infant
- Financial instability for her family

- Psychological harm including anxiety and depression

The Supreme Court has held that loss of liberty constitutes irreparable injury. *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

Family separation and deprivation of fundamental liberty interests further support immediate relief.

F. DETENTION IS NOT REASONABLY RELATED TO A LEGITIMATE PURPOSE

Civil immigration detention must be regulatory, not punitive. *Zadvydas*, 533 U.S. at 690.

Where detention serves no legitimate purpose, it violates due process.

Respondents have not demonstrated that detention is necessary to effect removal or protect the public.

VII. RELIEF REQUESTED

Petitioner respectfully requests that this Court:

1. Grant the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241;
2. Order her immediate release from custody;
3. Alternatively, order a prompt individualized bond hearing;
4. Declare her continued detention unconstitutional;
5. Grant such other relief as the Court deems just and proper.

WHEREFORE, Petitioner respectfully requests that this Court:

1. Order Petitioner's immediate release; or
2. In the alternative, order a bond hearing and set a reasonable bond, and
3. Grant any other relief the Court deems just and proper.

VIII. CONCLUSION

Petitioner's detention violates the Constitution, federal law, and fundamental principles of due process.

Immediate judicial intervention is necessary to prevent further irreparable harm.

Respectfully submitted,

Emilia Arcos

EMILIA ARCOS AVILA



Pro Se Petitioner:

Stewart Detention Center

146 CCA Road

Lumpkin, Georgia 31815

Date: 04-28-26