



**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MARIANA SOCORRO VARELA-ROMERO,
Petitioner,

Civil Action No. '26CV3723 RBM DDL

v.

Immigration No. 

MARKWAYNE MULLIN, in his official
capacity as
Secretary of the Department of Homeland
Security;
DAVID J. VENTURELLA, in his official
capacity as
Senior Official Performing the Duties of the
Director,
U.S. Immigration and Customs Enforcement;
FIELD OFFICE DIRECTOR,
ICE ENFORCEMENT AND REMOVAL
OPERATIONS,
SAN DIEGO FIELD OFFICE,
in his or her official capacity;
FACILITY ADMINISTRATOR / WARDEN,
OTAY MESA DETENTION CENTER,
in his or her official capacity;

**PETITIONER'S ORIGINAL
VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS
PRO SE
UNDER 28 U.S.C. § 2241**

Respondents.

I. INTRODUCTION

1. Petitioner Mariana Socorro Varela-Romero respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging the lawfulness of her current civil immigration detention by U.S. Immigration and Customs Enforcement ("ICE").

2. Petitioner is currently detained in ICE custody within the jurisdiction of this Court, as reflected in the official ICE detention locator identifying Petitioner as being held at Otay Mesa Detention Center, 7488 Calzada de la Fuente, San Diego, California 92154. See Ex. A.

3. Petitioner is currently in removal proceedings under INA § 240, 8 U.S.C. § 1229a, and the current EOIR automated case information reflected in the record confirms the pendency of her immigration proceedings. See Ex. B.

4. Petitioner is a citizen and national of Venezuela, as reflected in her Venezuelan passport and identity documentation submitted with this Petition. See Ex. C.

5. Petitioner has sought humanitarian protection under United States immigration law, including filing an Application for Asylum and for Withholding of Removal (Form I-589), which remains part of the immigration record. See Ex. I.

6. Petitioner was previously placed in removal proceedings through a Notice to Appear issued by the Department of Homeland Security, and her immigration history reflects that she has been known to DHS and EOIR since 2022. See Ex. J.

7. Petitioner's authorization to work lawfully in the United States is reflected through her Employment Authorization Document and related Social Security documentation issued in connection with her pending immigration protection process. See Ex. K.

8. Petitioner has also pursued protection and relief connected to Temporary Protected Status ("TPS") for Venezuelan nationals, including materials related to TPS-Alliance membership and the ongoing federal litigation National TPS Alliance, et al. v. Noem. See Ex. H.

9. Petitioner has now been transferred from Stewart Detention Center in Georgia to Otay Mesa Detention Center in San Diego, California. This transfer materially changes the proper habeas venue because Petitioner is now physically detained within the Southern District of California, and her immediate custodian is located within this District. See Ex. A.

10. Petitioner states that, while in ICE custody, she was informed that a pregnancy test administered or reported by detention medical staff came back positive. Petitioner does not currently possess the medical record or written test result, but she respectfully requests that

Respondents preserve and produce any pregnancy-related medical records, including medical intake records, pregnancy test results, prenatal screening records, transfer-related medical records, and any records concerning pregnancy-related care. See Ex. T.

11. Based on Petitioner's statement that ICE informed her of a positive pregnancy test, Petitioner requires prompt medical evaluation, continuity of pregnancy-related care, appropriate nutrition, monitoring, and medically appropriate custody consideration. Continued civil detention, further transfers, or lack of meaningful individualized custody review may interfere with Petitioner's access to prenatal care, medical continuity, family support, nutrition, and a safe release plan. See Ex. T.

12. The prior transfer from Georgia to California further demonstrates the practical risk that ICE may move Petitioner without meaningful advance notice, thereby frustrating habeas review, disrupting access to legal materials and family support, and interfering with continuity of medical care. See Ex. A.

13. The present Petition arises within a broader legal landscape in which immigration courts have relied on recent Board of Immigration Appeals ("BIA") precedent, including *Matter of Q. Li* and *Matter of Yajure Hurtado*, in evaluating bond determinations and custody decisions. See Ex. D. However, numerous federal courts have reaffirmed that civil immigration detention remains subject to constitutional limits, that prolonged detention without constitutionally adequate procedures violates the Due Process Clause of the Fifth Amendment, and that habeas relief under 28 U.S.C. § 2241 remains available to remedy unlawful detention. See Ex. G.

14. Petitioner's record contains substantial evidence of identity, family unity, employment authorization, work history, tax compliance, community ties, and a concrete release plan supported by family members, an employer, community members, and a proposed sponsor. See Exs. L–V.

15. Petitioner's statement that she was informed of a positive pregnancy test while in ICE custody presents an additional medical and humanitarian equity that must be considered in any constitutionally adequate custody determination. At minimum, Respondents should be required to

preserve and produce the relevant medical records and to ensure that any custody review meaningfully considers Petitioner's reported pregnancy, medical vulnerability, need for prenatal evaluation, and available less restrictive alternatives. See Ex. T.

16. Despite these constitutional protections and despite the evidence showing that Petitioner is neither a danger to the community nor a flight risk, Petitioner remains detained without constitutionally adequate process sufficient to justify continued civil confinement. Civil immigration detention may not be maintained without meaningful individualized procedures demonstrating that continued detention remains necessary and lawful.

17. Petitioner therefore respectfully petitions this Court for habeas relief under 28 U.S.C. § 2241 and seeks injunctive relief directing Respondents to release her, or alternatively to provide a constitutionally adequate individualized custody hearing without delay, to restore Petitioner's constitutional and statutory rights, to prevent continued unlawful detention, and to protect Petitioner's pregnancy-related medical needs.

18. Petitioner seeks immediate release, or in the alternative, a constitutionally adequate bond hearing at which the Government bears the burden of proof consistent with the requirements of due process under the Fifth Amendment. Petitioner further requests that any custody hearing include meaningful individualized consideration of her reported pregnancy, medical vulnerability, need for prenatal care, family support, sponsor-supported release plan, and available alternatives to detention.

II. JURISDICTION AND VENUE

19. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal question) and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202.

20. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner Mariana Socorro Varela-Romero is in federal immigration custody and challenges the legality of that custody under the

Constitution and laws of the United States. This action also invokes the Court's authority under the All Writs Act, 28 U.S.C. § 1651.

21. Venue is proper in the Southern District of California because Petitioner is physically detained at Otay Mesa Detention Center in San Diego, California, and her immediate custodian is located within this District. See Ex. A.

22. Jurisdiction and venue are proper under *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004), because this Petition names Petitioner's immediate custodian and is filed in the district of confinement.

23. Petitioner is currently in removal proceedings under INA § 240, 8 U.S.C. § 1229a, and the EOIR automated case information confirms that her immigration proceedings remain pending. See Ex. B.

24. Where multiple documents are submitted together, they are designated as Group Exhibits and cited collectively.

25. This Court retains jurisdiction to remedy ongoing unlawful detention notwithstanding Respondents' characterization of custody as discretionary, mandatory, or otherwise governed by immigration custody classifications, because Petitioner challenges the statutory and constitutional basis for detention itself.

26. Federal district courts retain habeas jurisdiction under 28 U.S.C. § 2241 to review the legality of immigration detention notwithstanding the jurisdiction-limiting provisions of the Immigration and Nationality Act, because this Petition challenges the fact and legality of custody rather than a discretionary immigration decision.

27. Petitioner does not ask this Court to review, reverse, or interfere with the merits of her removal proceedings. Rather, Petitioner seeks habeas review of her present physical detention and the constitutional adequacy of the custody process used to justify that detention.

28. Accordingly, this Court has jurisdiction and venue to consider this Petition and to grant appropriate habeas and injunctive relief.

III. PARTIES

29. Petitioner, Mariana Socorro Varela-Romero,  is a citizen and national of Venezuela. See Ex. C. Petitioner is currently in removal proceedings under 8 U.S.C. § 1229a (INA § 240), as reflected in the EOIR automated case information contained in the record. See Ex. B.

30. Respondent, Facility Administrator / Warden of Otay Mesa Detention Center, where Petitioner is detained, is Petitioner's immediate physical custodian for purposes of habeas jurisdiction. This Respondent is sued in his or her official capacity.

31. Respondent, Markwayne Mullin, is the Secretary of the U.S. Department of Homeland Security ("DHS") and is responsible for the administration and enforcement of federal immigration laws, including the detention of noncitizens under DHS authority. He is sued in his official capacity.

32. Respondent, David J. Venturella, is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement ("ICE"), an agency within the Department of Homeland Security responsible for the civil immigration detention of noncitizens, including Petitioner. He is sued in his official capacity.

33. Respondent, Field Office Director, ICE Enforcement and Removal Operations, San Diego Field Office, is the DHS official responsible for overseeing immigration detention operations within the geographic region that includes San Diego, California, and the facility where Petitioner is currently detained. This Respondent is sued in his or her official capacity.

IV. STATEMENT OF FACTS

34. Petitioner, Mariana Socorro Varela-Romero, [REDACTED] is a citizen and national of Venezuela. See Ex. C.

35. Petitioner is currently detained in ICE custody at Otay Mesa Detention Center in San Diego, California, as reflected in the official ICE detention information submitted with this Petition. See Ex. A.

36. Petitioner is currently in removal proceedings under INA § 240, 8 U.S.C. § 1229a, as reflected in the EOIR automated case information included in the record. See Ex. B.

37. Petitioner was placed in removal proceedings through a Notice to Appear issued by the Department of Homeland Security. See Ex. J.

38. Petitioner has sought humanitarian protection under United States immigration law, including filing an Application for Asylum and for Withholding of Removal (Form I-589), which remains part of the immigration record. See Ex. I.

39. Petitioner has also pursued protection connected to Temporary Protected Status (“TPS”) for Venezuelan nationals. The record includes TPS-related materials, including TPS-Alliance membership and materials concerning National TPS Alliance, et al. v. Kristi Noem, et al. See Ex. H.

40. Petitioner has been authorized to work in the United States, as reflected in her Employment Authorization Document and Social Security documentation submitted with this Petition. See Ex. K.

41. Petitioner’s identity, nationality, and date of birth are further supported by her Venezuelan passport and birth certificate. See Ex. C; Ex. L.

42. The record reflects that Petitioner entered the United States as a minor and has developed substantial family, employment, and community ties in this country. Petitioner's own written statement explains that she entered the United States on June 27, 2022, with her mother and siblings when she was only sixteen years old, seeking safety, stability, and a better future with her family. See Ex. T.

43. Petitioner's statement further explains that, after arriving in the United States, she attempted to study and build a positive life, but later had to help her mother financially and support her younger brother. See Ex. T.

44. Petitioner states that while in ICE custody she was informed that a pregnancy test administered or reported by detention medical staff came back positive. Petitioner has not been provided a copy of the written test result or her pregnancy-related medical records. See Ex. T.

45. Petitioner is concerned because she is detained, far from her family and support system, and needs prompt prenatal evaluation, proper nutrition, medical monitoring, continuity of care, and access to her medical records. See Ex. T.

46. Petitioner respectfully requests preservation and production of all pregnancy-related medical records in Respondents' possession, including pregnancy test results, medical intake records, prenatal screening or treatment records, medical requests, records regarding nutrition or pregnancy-related accommodations, and transfer-related medical records.

47. Petitioner's transfer from Stewart Detention Center in Georgia to Otay Mesa Detention Center in California demonstrates the real risk that she may be transferred again, which could further disrupt court access, communication with family, access to records, and continuity of pregnancy-related medical care. See Ex. A.

48. Petitioner's family support is reflected in multiple letters submitted with this Petition, including letters from her mother, brother, and partner. These letters describe Petitioner's role in the family,

her emotional and financial support to relatives, her work ethic, and the hardship caused by her continued detention. See Ex. M; Ex. P; Ex. Q.

49. Petitioner's partner, Franleimer Luque, describes Petitioner as a young woman who does not pose a danger to the community, who is hardworking, humble, devoted to her family, and committed to building a stable life in the United States. See Ex. M.

50. Petitioner's brother describes Petitioner's close family relationship, her arrival in the United States as a minor, her efforts to adapt to life in this country, and her decision to help support the household and her younger brother. See Ex. P.

51. Petitioner's mother describes Petitioner as respectful, hardworking, studious, principled, and as a significant emotional and financial support to the family. See Ex. Q.

52. The record also includes employment-related support. Petitioner's employer and workplace references describe her as responsible, punctual, respectful, hardworking, and not a danger to the workplace or community. See Ex. N; Ex. R.

53. Petitioner's community support is further reflected in the letter from Alondra Michel, who describes Petitioner as a person of strong moral character, honesty, responsibility, and community ties. See Ex. O.

54. Petitioner has also demonstrated economic integration and financial responsibility in the United States, including through tax records submitted with this Petition. See Ex. U.

55. Petitioner's community ties are further reflected through bills and other community-tie documentation submitted with the record. See Ex. V.

56. Petitioner has a proposed release plan supported by Pedro Rene Rivas Rodriguez, who submitted a letter of support as sponsor. The sponsor states that Petitioner may reside with him if

released and that he is prepared to support her compliance with all immigration court hearings, court conditions, transportation needs, and required appointments. See Ex. S.

57. The record therefore contains substantial evidence that Petitioner has family support, community ties, employment history, tax compliance, a proposed sponsor, and a concrete release plan. See Exs. M–V.

58. Petitioner’s reported pregnancy makes the proposed release plan even more important because release would allow Petitioner to access family support, prenatal evaluation, medical continuity, appropriate nutrition, and community-based care while complying with all immigration requirements. See Ex. S; Ex. T.

59. The exhibits further include recent Board of Immigration Appeals precedent concerning bond and custody determinations, including *Matter of Q. Li* and *Matter of Yajure Hurtado*. See Ex. D.

60. The exhibits also include bond-related authorities and decisions addressing danger, flight risk, and individualized custody analysis, including *Matter of Guerra* and related BIA bond decisions. See Ex. E.

61. The record includes sample immigration judge decisions denying bond and sample immigration judge bond orders denying release based on generalized “flight risk” findings following federal habeas intervention. These materials illustrate the broader custody context relevant to the habeas issues raised in this Petition. See Ex. F; Ex. W.

62. The record further includes an Appendix of Recent Habeas Decisions demonstrating that federal district courts retain authority under 28 U.S.C. § 2241 to review unlawful immigration detention and to order constitutionally adequate custody review where detention lacks adequate individualized justification. See Ex. G.

63. In light of the record evidence, including Petitioner’s pending immigration proceedings, humanitarian protection applications, work authorization, family support, tax records, community

ties, proposed sponsor, and statement regarding a positive pregnancy test reported by ICE medical staff, continued civil immigration detention without constitutionally adequate individualized procedures imposes severe and ongoing hardship. See Exs. A–C; Exs. H–V.

64. Petitioner respectfully submits that the record evidence demonstrates substantial equities supporting release and shows that continued detention requires individualized justification under the Constitution and laws of the United States.

V. LEGAL STANDARD

65. Immigration detention is governed primarily by two provisions of the Immigration and Nationality Act (“INA”): Section 235(b), 8 U.S.C. § 1225(b), and Section 236(a), 8 U.S.C. § 1226(a). Whereas Section 236(a) authorizes discretionary custody and permits release on bond or conditional parole pending removal proceedings, Section 235(b) applies to certain categories of applicants for admission and provides for detention during expedited removal or threshold screening processes.

66. Section 236(a) is the default detention framework for noncitizens placed in regular removal proceedings under INA § 240, 8 U.S.C. § 1229a, unless another specific detention statute applies. The statutory text expressly provides for release on bond or conditional release, subject to conditions reasonably necessary to ensure appearance at proceedings and protect the community.

67. The Supreme Court has confirmed the distinction between these statutory detention schemes. *Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) explains the differences between detention under 8 U.S.C. § 1225(b) and discretionary custody under 8 U.S.C. § 1226(a). The Board of Immigration Appeals has likewise recognized that custody determinations require consideration of danger to the community and risk of flight. *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). See Ex. E.

68. Federal courts have long recognized that immigration detention is subject to constitutional limits and that habeas relief is available where custody violates statutory or constitutional law. Civil immigration detention must comply with the Due Process Clause of the Fifth Amendment, and federal courts retain jurisdiction to remedy unlawful detention through habeas corpus under 28 U.S.C. § 2241. The Supreme Court has recognized that civil immigration detention is subject to constitutional limits and cannot be indefinite. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

69. Notwithstanding this statutory framework, DHS and immigration courts have increasingly relied on recent Board of Immigration Appeals (“BIA”) precedent, including *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), in evaluating bond determinations and custody jurisdiction. See Ex. D.

70. Those recent BIA decisions are relevant to this Petition because they have been used in some detained immigration cases to restrict or deny access to individualized bond review, even where a noncitizen is in regular removal proceedings and seeks custody redetermination. See Ex. D.

71. The record also includes sample Immigration Judge decisions denying bond and sample Immigration Judge bond orders denying release based on generalized “flight risk” findings following federal habeas intervention. These materials demonstrate the practical risk that custody determinations may rely on conclusory findings rather than individualized evidentiary analysis. See Ex. F; Ex. W.

72. Multiple federal district courts have addressed habeas petitions raising challenges to immigration detention classifications and the denial of meaningful individualized custody review. Those courts have reaffirmed that federal habeas jurisdiction remains available under 28 U.S.C. § 2241 where a detainee challenges the legality of custody itself, rather than the discretionary merits of removal proceedings. See Ex. G.

73. Federal courts have emphasized that habeas relief is appropriate where detention results from statutory misclassification, prolonged civil custody, or custody procedures that fail to provide meaningful individualized review, thereby resulting in continued unlawful detention.

74. These holdings reflect the fundamental principle that federal district courts retain jurisdiction to intervene where immigration detention rests on statutory error or results in ongoing constitutional harm. Individuals situated like Petitioner are entitled to custody consideration consistent with the governing detention statute and due process protections. See Ex. G.

75. Immigration detention is civil, not punitive, and therefore must comply with constitutional limitations. Detention must remain reasonably related to its regulatory purposes and must include adequate procedural safeguards to ensure that continued confinement is justified.

76. Because physical liberty is at stake, due process requires meaningful procedures that reduce the risk of erroneous deprivation. A custody process that relies on generalized assumptions, categorical treatment, or unsupported flight-risk findings does not satisfy the constitutional requirement of individualized review.

77. Habeas relief is appropriate where detention is unlawful at its inception, becomes constitutionally excessive, rests on statutory error, or lacks constitutionally adequate procedures, including meaningful individualized custody review before a neutral adjudicator.

78. Where a detained noncitizen presents substantial evidence of identity, family support, work authorization, tax compliance, community ties, and a concrete release plan, continued detention must be justified through individualized evidence rather than generalized assertions of risk. See Exs. C; K; M–V.

79. Where a detained noncitizen states that ICE medical staff informed her of a positive pregnancy test, due process requires that custody review meaningfully consider pregnancy-related medical vulnerability, the need for prenatal evaluation and continuity of care, and whether less restrictive alternatives can protect both the Government's interests and Petitioner's health and liberty interests. See Ex. T.

80. A custody process that fails to consider a reported pregnancy, medical vulnerability, prenatal care needs, family support, and available release conditions is not a meaningful individualized review.

VI. CLAIMS FOR RELIEF

Count I – Violation of INA § 236(a) [8 U.S.C. § 1226(a)]

81. Petitioner Mariana Socorro Varela-Romero incorporates by reference the foregoing allegations as if fully set forth herein.

82. As federal courts have repeatedly emphasized, agency adjudication cannot override the plain language of the Immigration and Nationality Act (“INA”).

83. To the extent Respondents are treating Petitioner as subject to mandatory detention, or otherwise denying Immigration Judge custody jurisdiction based on recent BIA precedent, Respondents’ refusal to provide Petitioner with an individualized custody redetermination hearing violates the INA and governing law. See Ex. D; Ex. G.

84. INA § 236(a), 8 U.S.C. § 1226(a), provides that “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States,” and that the Attorney General “may continue to detain the arrested alien” or “may release the alien on—(A) bond of at least \$1,500 ...; or (B) conditional parole.”

85. By its plain text, § 1226(a) applies to noncitizens arrested and detained pending removal proceedings unless mandatory detention under § 1226(c) applies or unless another specific statutory detention provision lawfully governs custody.

86. The record reflects that Petitioner is currently in removal proceedings under INA § 240, as reflected in the EOIR automated case information contained in the record. See Ex. B. Petitioner

was also placed in proceedings through a Notice to Appear issued by the Department of Homeland Security. See Ex. J.

87. Absent a valid statutory basis for mandatory detention, custody for individuals detained pending regular § 240 removal proceedings is governed by § 1226(a), which permits individualized custody redetermination and release on bond or conditional release.

88. By adopting and applying a policy, practice, or custody classification that deprives Petitioner of an individualized bond hearing consistent with § 1226(a), Respondents have acted contrary to statutory authority requiring individualized custody consideration.

89. Recent BIA decisions, including *Matter of Q. Li* and *Matter of Yajure Hurtado*, have been invoked in detained immigration cases to restrict or deny immigration judges' bond authority for broad categories of detainees notwithstanding the INA's text and the need for individualized custody review. See Ex. D.

90. Where Respondents attempt to apply § 1225(b) to an individual detained pending regular removal proceedings in order to avoid custody jurisdiction, such detention rests on statutory error subject to correction through habeas. See Ex. G.

91. Even assuming *arguendo* that Respondents contend § 1225(b) applies, prolonged civil detention without individualized review and meaningful procedural safeguards violates the Fifth Amendment.

92. Petitioner's record further demonstrates that she is not a newly discovered immigration violator or an individual unknown to immigration authorities. She has been in immigration proceedings, has sought humanitarian protection through Form I-589, has pursued TPS-related protection, and has been issued employment authorization. See Ex. I; Ex. H; Ex. K.

93. Petitioner's record also contains substantial evidence of family support, community ties, employment history, tax compliance, and a proposed sponsor willing to support her compliance with all immigration obligations. See Exs. M–V.

94. Petitioner also states that ICE medical staff informed her of a positive pregnancy test while in custody. This reported pregnancy reinforces the need for prompt individualized custody review, preservation and production of medical records, and consideration of less restrictive alternatives that would allow Petitioner to access prenatal care while complying with immigration obligations. See Ex. T.

95. These facts reinforce that Petitioner's continued detention requires individualized statutory and constitutional justification, rather than categorical treatment or generalized assumptions of flight risk.

96. Petitioner therefore seeks habeas relief ordering that she receive an individualized custody redetermination hearing consistent with INA § 236(a), 8 U.S.C. § 1226(a), without delay, or other appropriate relief consistent with the INA and the Constitution. See Ex. G.

Count II – Violation of the Fifth Amendment (Due Process)

97. Petitioner incorporates by reference the foregoing allegations as if fully set forth herein.

98. Petitioner's continued civil immigration detention without a meaningful individualized custody redetermination hearing violates the Due Process Clause of the Fifth Amendment.

99. The record reflects substantial equities supporting release and demonstrating that Petitioner is neither a danger to the community nor a flight risk, including her identity documents, pending immigration proceedings, humanitarian protection filings, employment authorization, family support, sponsor support, tax records, and community ties. See Exs. C; H; I; K; M–V.

100. Petitioner has presented evidence that she entered the United States as a minor, has family in the United States, has sought humanitarian protection, has been authorized to work, has paid taxes, and has a proposed sponsor willing to provide housing, supervision, transportation, and support for compliance with all court requirements. See Exs. H–V.

101. Petitioner further states that she was informed by ICE medical staff that a pregnancy test administered or reported in custody came back positive. Petitioner does not possess the written test result, and Respondents control the relevant medical records. See Ex. T.

102. Petitioner’s reported pregnancy creates an additional liberty, medical, and humanitarian interest requiring meaningful individualized consideration. A custody process that fails to consider pregnancy-related medical vulnerability, prenatal care needs, medical continuity, appropriate nutrition, and family support is constitutionally inadequate.

103. Yet Petitioner remains detained without constitutionally adequate procedures providing meaningful individualized review of whether continued detention is actually necessary.

104. Petitioner further alleges an emerging pattern in immigration custody proceedings following federal habeas intervention: immigration judges may acknowledge custody jurisdiction while nevertheless relying on generalized “flight risk” determinations unsupported by individualized evidence.

105. Multiple recent immigration judge custody redetermination orders illustrate how detention may continue based on conclusory flight-risk findings without individualized evidentiary analysis. See Ex. W.

106. The record also includes sample Immigration Judge decisions denying bond, which further illustrate the risk that custody determinations may be based on generalized assumptions rather than a meaningful individualized assessment of danger and flight risk. See Ex. F.

107. Such practices substantially increase the risk of erroneous deprivation of liberty and violate the procedural safeguards required by the Fifth Amendment.

108. A custody process at which DHS offers no individualized evidence beyond conclusory assertions does not constitute meaningful review and fails to satisfy due process requirements.

109. Continued detention under such circumstances becomes arbitrary, excessive, and unconstitutional because civil immigration detention must remain reasonably related to its regulatory purposes and may not operate as punishment.

110. Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), the balance of interests weighs strongly in Petitioner's favor because:

1) the private interest in physical liberty is fundamental;

2) the risk of erroneous deprivation is substantial where detention continues without meaningful individualized review, particularly where Petitioner states she was informed of a positive pregnancy test and requires prompt prenatal evaluation and continuity of care; and

3) the Government's interest in continued detention is minimal where less restrictive alternatives exist, including bond, supervision, reporting requirements, sponsor-supported release, and other conditions sufficient to ensure appearance and protect the community.

111. Petitioner's proposed release plan directly addresses any legitimate Government concern regarding appearance or supervision. Her sponsor has offered housing, transportation, financial support, and assistance with compliance with all immigration obligations. See Ex. S.

112. Petitioner's support letters further demonstrate that she has meaningful family and community ties, employment-related support, and people willing to assist her in complying with court requirements. See Exs. M-R.

113. Petitioner's reported pregnancy further supports release or immediate individualized custody review because release to a sponsor would allow access to family support, prenatal evaluation, appropriate nutrition, and continuity of medical care while Petitioner remains subject to reasonable conditions of supervision. See Ex. S; Ex. T.

114. Accordingly, due process requires a prompt individualized custody hearing at which the Government bears the burden of justifying continued detention.

115. Because physical liberty is at stake, the Government must demonstrate by clear and convincing evidence that continued detention is necessary. See *Addington v. Texas*, 441 U.S. 418, 425–33 (1979) (clear and convincing standard required where physical liberty is at stake).

116. Petitioner therefore seeks a prompt constitutionally adequate bond hearing, or other appropriate relief, including release if such hearing is not provided within the time ordered by this Court.

117. The following claims are pleaded in the alternative. Petitioner does not rely exclusively on any single statutory or constitutional theory for relief. To the extent the Court determines that any particular claim is not applicable or not supported by the record, Petitioner respectfully requests that such claim be set aside without prejudice and that the Court proceed to consider the remaining grounds for relief.

Count III – Unlawful Agency Action (APA), 5 U.S.C. §§ 701–706

118. Petitioner incorporates by reference the foregoing allegations as if fully set forth herein.

119. To the extent Respondents' custody practices rely on administrative interpretations that restrict immigration judges' statutory bond authority, Petitioner asserts that such action constitutes unlawful agency action resulting in an ongoing deprivation of physical liberty.

120. For decades, immigration judges exercised bond jurisdiction under INA § 236(a), 8 U.S.C. § 1226(a), consistent with statutory text, constitutional principles, and individualized consideration of danger to the community and risk of flight. See Ex. E.

121. Recent BIA decisions issued in 2025, including *Matter of Q. Li* and *Matter of Yajure Hurtado*, have been invoked to restrict that longstanding practice in detained immigration cases. See Ex. D.

122. The Administrative Procedure Act requires reasoned decision-making and prohibits agency action that is arbitrary, capricious, contrary to law, or in excess of statutory authority. 5 U.S.C. § 706(2)(A), (C).

123. Abrupt departures from longstanding statutory interpretation without adequate explanation are unlawful under the APA. Agencies must provide reasoned explanations when departing from prior interpretations of law. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).

124. Respondents' reliance on *Matter of Q. Li* and *Matter of Yajure Hurtado* to deny or restrict custody jurisdiction under INA § 236(a), where Petitioner is in regular removal proceedings and seeks individualized custody review, constitutes agency action not in accordance with law and in excess of statutory authority. See Ex. D.

125. Petitioner does not seek review of a discretionary bond amount or discretionary weighing of evidence. Rather, Petitioner challenges the legal framework and agency action that deprives her of meaningful individualized custody review and results in continued physical detention.

126. Because this unlawful agency action results in ongoing physical detention, habeas relief is appropriate under 28 U.S.C. § 2241.

127. Petitioner therefore seeks relief ordering that she be afforded lawful individualized custody review consistent with the INA and the Constitution, or alternatively, release if Respondents fail to provide such constitutionally adequate review within the time ordered by this Court.

Count IV – Violation of the Fourth Amendment (Unlawful Seizure)

128. Petitioner incorporates by reference the foregoing allegations as if fully set forth herein.

129. To the extent supported by the evidentiary record and to the extent relevant to the legality of Petitioner's current detention, Petitioner challenges the lawfulness of the arrest and seizure that resulted in her present ICE custody.

130. Petitioner's current detention followed a law-enforcement encounter and subsequent transfer into ICE custody. Petitioner does not concede that the arrest, seizure, transfer, or continued custody were supported by constitutionally sufficient authority.

131. A seizure without lawful authority, valid warrant, or constitutionally sufficient cause violates the Fourth Amendment.

132. Where continued immigration detention is the product of, or is materially connected to, an unlawful seizure, habeas relief and appropriate injunctive relief may be warranted.

133. Petitioner further alleges that any continued detention based on an arrest or seizure unsupported by individualized lawful grounds would be unreasonable and constitutionally defective.

134. Petitioner does not ask this Court to adjudicate the merits of any state traffic or criminal matter. Rather, Petitioner challenges the legality of the federal immigration custody that followed and the constitutional sufficiency of the process used to justify her continued detention.

135. Petitioner therefore seeks relief declaring that the seizure and resulting detention were unlawful, to the extent supported by the evidentiary record, and ordering release or other appropriate relief consistent with the Constitution and laws of the United States.

VII. EXHAUSTION

136. Petitioner Mariana Socorro Varela-Romero has no adequate or effective administrative remedy to address the constitutional and statutory violations described herein in a timely manner. Accordingly, exhaustion should be excused and habeas relief is appropriate. See Ex. B; Ex. D; Ex. F; Ex. G; Ex. W.

137. Requiring further exhaustion would be futile because this Petition challenges the legality of Petitioner's ongoing physical detention under the Constitution and laws of the United States, not merely the discretionary outcome of a custody decision.

138. Immigration courts lack authority to remedy the full statutory and constitutional violations alleged herein, including unlawful detention based on statutory misclassification, deprivation of meaningful individualized custody review, continued detention without constitutionally adequate procedures, and the need for preservation and production of medical records controlled by Respondents. See Ex. D; Ex. G.

139. The record reflects that Petitioner remains in pending removal proceedings. See Ex. B. The existence of ongoing removal proceedings does not provide an adequate remedy for the present unlawful physical detention challenged in this habeas action.

140. Because this Petition challenges the statutory authority for detention itself, rather than merely the discretionary outcome of a custody determination, exhaustion of administrative remedies is not required where such remedies are inadequate to address the legality of detention.

141. Further administrative proceedings would not provide timely relief from the ongoing deprivation of physical liberty or the urgent need for meaningful individualized custody review in light of Petitioner's statement that ICE medical staff informed her of a positive pregnancy test. See Ex. T.

142. Habeas review is therefore appropriate under 28 U.S.C. § 2241.

VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Declare that Petitioner's continued detention is unlawful under the Immigration and Nationality Act and the Constitution of the United States;

B. Order Respondents to provide Petitioner with a prompt and constitutionally adequate individualized bond hearing before an Immigration Judge at which the Government bears the burden of proving by clear and convincing evidence that continued detention is necessary, consistent with INA § 236(a), 8 U.S.C. § 1226(a), within seven (7) days of the Court's Order;

C. Order that any custody hearing provided to Petitioner include meaningful individualized consideration of Petitioner's evidence of identity, pending immigration proceedings, humanitarian protection filings, work authorization, family support, sponsor-supported release plan, tax compliance, community ties, reported pregnancy, medical vulnerability, need for prenatal evaluation, need for continuity of care, and alternatives to detention;

D. Order Respondents to preserve and produce, as directed by the Court, any pregnancy-related medical records in their possession, custody, or control, including medical intake records, pregnancy test results, prenatal screening records, sick call requests, treatment records, nutrition or accommodation records, and transfer-related medical records;

E. If Respondents fail to provide such constitutionally adequate hearing within the time ordered by the Court, order Petitioner's immediate release from ICE custody under reasonable conditions of supervision;

F. Enjoin Respondents from continuing to detain Petitioner based solely on categorical custody classifications, generalized flight-risk assertions, or conclusory findings unsupported by individualized evidence;

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

If the Court determines that any claim asserted in this Petition is not applicable or not supported by the evidentiary record, Petitioner respectfully requests that the Court set aside that claim without prejudice and proceed to adjudicate the remaining claims for relief.

IX. VERIFICATION

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

Date: 06/08/2026

Signature: _____

Mariana Socorro Varela-Romero

A black rectangular box with a white 'X' inside, used to redact the signature.

Petitioner, Pro Se

X. CERTIFICATE OF SERVICE

I certify that on this date, I served a copy of the foregoing Petition for Writ of Habeas Corpus by U.S. Mail on the United States Attorney for the Southern District of California, the Attorney General of the United States, the Secretary of Homeland Security, the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement, the ICE Enforcement and Removal Operations San Diego Field Office Director, the Office of the Principal Legal Advisor in San Diego / Otay Mesa, and the Facility Administrator / Warden of Otay Mesa Detention Center, where Petitioner is detained.

Date: 06/08/2026

Signature: _____

Mariana Socorro Varela-Romero



Petitioner, Pro Se

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