UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND, OREGON

Yesica Dinora ALVAREZ-DIAZ;
[redacted]

Petitioners,

v.

Todd BLANCHE, Acting Attorney General of the United States in his official capacity;

U.S. DEPARTMENT OF HOMELAND SECURITY;

Markwayne MULLIN, Secretary of the U.S. Department of Homeland Security in his official capacity;

David VENTURELLA, Acting Director of U.S. Immigration and Customs Enforcement in his official capacity;

Julio HERNANDEZ, Director of the Seattle Field Office of Immigration and Customs Enforcement (ICE)'s Enforcement and Removal Operations (ERO) in his official capacity;

Bruce SCOTT, Warden of Northwest ICE Processing Center in his official capacity,

Respondents.

Case No.: 26-1625
[redacted]

PETITION FOR WRIT OF HABEAS CORPUS

Gonzales Immigration Law Office,
1000 SW Broadway #2300,
Portland, OR 97205 (503) 274-1680

INTRODUCTION

1. Around March 9, 2014, Petitioner Yesica Dinora ALVAREZ-DIAZ and her 6-year-old daughter, [redacted], came to the United States seeking safety and protection from the domestic violence that they experienced in Honduras. They filed for asylum on March 4, 2015. However, their asylum application was denied, and they were ordered removed on December 1, 2015. Petitioners appealed to the Board of Immigration Appeals (BIA) on December 22, 2015. Their appeal was dismissed on May 4, 2017.

2. On May 28, 2022, Yesica married her United States citizen spouse, Henry Onel SUGGS. Mr. SUGGS filed I-130s, Petitions for Alien Relatives, for his spouse and daughter on August 15, 2023. Petitioners' I-130 interviews are scheduled for August 5, 2026, at the USCIS Field Office in Portland, Oregon.

3. Respondents now seek to detain Petitioners, transfer them away from the district where their family and community are located, and deport them. Respondents do so based not on their circumstances or facts, but on Respondents' interpretation of President Trump's whim. It is unlawful to detain and deport the Petitioners without providing them with the due process of law.

4. This is an action for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy the unlawful detention of Petitioners Yesica Dinora ALVAREZ-DIAZ and [redacted], who are currently in U.S. Immigration

Gonzales Immigration Law Office,
1000 SW Broadway #2300,
Portland, OR 97205 (503) 274-1680

and Customs Enforcement (ICE) constructive custody for habeas corpus purposes pursuant to a final order of deportation and post-removal order reporting requirements. *See Nakaranurack v. United States*, 68 F.3d 290 (9th Cir. 1995). Petitioners ask this Court to find that Respondents' attempts to detain, transfer, and deport them are arbitrary and capricious and in violation of the law, and to issue an order preventing their detention, transfer out of the district, and deportation.

JURISDICTION

5. Petitioners Yesica Dinora ALVAREZ-DIAZ and [redacted] are in constructive custody of Respondents and ICE, an agency within the Department of Homeland Security ("DHS"). They are currently subject to a final order of deportation issued on December 1, 2015.

6. Jurisdiction is proper under 28 U.S.C. §§ 1331 (federal question), 2241 (habeas corpus); U.S. Const. art. I, § 2; (Suspension Clause); and 5 U.S.C. § 702 (Administrative Procedure Act).

7. 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, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

///

8. Nothing in the Immigration and Nationality Act (INA) deprives this Court of Jurisdiction, including 8 U.S.C. §§1252(b)(9), 1252(f)(1), or 1226(e). Congress has expressly preserved judicial review of challenges to prolonged immigration detention. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-841 (2018) (holding that 8 U.S.C. §§ 1226(e), 1252(b)(9) do not bar judicial review of such challenges).

VENUE

9. Venue is proper because Petitioners reside within this judicial district, where they are subject to Respondents' final removal order, and therefore are in Respondents' constructive custody. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioners' claims occurred in this District. 28 U.S.C. § 1391(e).

10. For these same reasons, divisional venue is proper under Local Rule 3-2.

THE PETITIONER

11. Petitioners Yesica Dinora ALVAREZ-DIAZ and [redacted] are residents of the state of Oregon, and present in the state of Oregon as of the time of filing of this petition.

CUSTODY

12. Under 28 U.S.C. § 2241(c), only persons "in custody" may apply for a writ of habeas corpus. "Custody includes either physical custody or constructive

custody, where the person is under a restraint on liberty not shared by the public generally.[1] For example, this includes persons subject to a final order of deportation. *Nakaranurack v. United States*, 68 F.3d 290, 293 (9th Cir. 1995).

13. Petitioners Yesica Dinora ALVAREZ-DIAZ and [redacted] are "in custody" of the Respondents because they are currently subject to a final order of deportation.

THE RESPONDENTS

14. Respondent Todd BLANCHE is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

15. Respondent DHS is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens.

16. Respondent Markwayne MULLIN is the Secretary of the DHS. He is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioners' detention. Mr. MULLIN has ultimate custodial authority over Petitioners and is named in his official capacity.

17. Respondent David VENTURELLA, Acting ICE Director, is responsible

[1] *Jones v. Cunningham*, 371 U.S. 236, 240, 83 S. Ct. 373, 9 L. Ed. 2D 285 (1963) ("[B]esides physical imprisonment, there are other restraints on a man's liberty, restraints not shared by the public generally, which have been thought sufficient in the English-speaking world to support the issuance of habeas corpus.").

for ICE's policies, practices, and procedures, including those relating to the detention of immigrants. He is the legal custodian of Petitioners and is named in his official capacity.

18. Respondent Julio HERNANDEZ is the Director of the Seattle Field Office of ICE's Enforcement and Removal Operations (ICE/ERO) division. As such, Mr. HERNANDEZ is Petitioner's immediate custodian and is responsible for his detention. She is named in her official capacity.

19. Respondent Bruce SCOTT is employed by the private corporation GEO Group, Inc., as Warden of the NWIPC, where Petitioners will be detained. He will have immediate physical custody of Petitioners if they are detained by ICE. He is sued in his official capacity.

HABEAS CORPUS REQUIREMENTS UNDER 28 U.S.C. §§ 2241, 2243

20. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioners are not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

21. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England,

affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

22. The Ninth Circuit has held that a person subject to a final removal order, as Petitioners are here, is "in custody" for the purposes of the habeas statute. See *Veltmann-Barragan v. Holder*, 717 F.3d 1086, 1088 (9th Cir. 2013) (quoting *Nakaranurack v. United States*, 68 F.3d 290, 293 (9th Cir. 1995)); see also, e.g., *Rosales v. Bureau of Immigr. And Customs Enf't*, 426 F.3d 733, 735 (5th Cir. 2005).

LEGAL REQUIREMENTS FOR MOTION TO REOPEN

23. The Board of Immigration Appeals may upon the motion of the alien, reopen or reconsider any case in which the Board has rendered a decision. 8 C.F.R. § 1003.2(a). A party may file only one motion to reopen deportation or exclusion proceedings. 8 C.F.R. § 1003.2(c)(2).

24. Generally, a motion to reopen must be filed within 90 days of the date of entry of the final administrative order of removal, deportation, or exclusion. *Id.* However, by regulation, the Board can reopen a removal order sua sponte at any time. *See* 8 C.F.R. § 1003.2(a).

25. A motion to reopen proceedings shall state the new facts that will be proven at a hearing to be held if the motion is granted and shall be supported by affidavits and other evidentiary material. 8 C.F.R. § 1003.2(c)(2). Any motion to reopen for the purpose of acting on an application for relief must be accompanied by the appropriate application for relief and all supporting documents. *Id.* A motion to

reopen will not be granted unless the Board is satisfied that evidence sought to be offered is material and was not available and could not have been discovered or presented at the former hearing. *Id.* A motion to reopen for the purpose of providing the alien an opportunity to apply for any form of discretionary relief will not be granted if it appears that the alien's right to apply for such relief was fully explained to them and an opportunity to apply therefore was afforded at the hearing, unless the relief is sought on the basis of circumstances that have arisen subsequent to the hearing. *Id.*

26. Any departure from the United States, including the deportation or removal of a person who is the subject of exclusion, deportation, or removal proceedings, occurring after the filing of a motion to reopen or a motion to reconsider shall constitute a withdrawal of such motion. 8 C.F.R. § 1003.2(d).

LEGAL REQUIREMENTS FOR PETITION FOR ALIEN RELATIVE

27. Petitions may be filed for an alien's classification as an immediate relative of a United States citizen under section 201(b) of the Immigration and Nationality Act. 8 C.F.R. § 204.1(a). A United States citizen may file a petition on behalf of his spouse, 8 C.F.R. § 204.2(a)(1), and child, 8 C.F.R. § 204.2(d)(1), to adjust their status. A citizen petitioning for a qualifying relative must file a Form I-130, Petition for Alien Relative. 8 C.F.R. § 204.1(a)(1).

///

///

Gonzales Immigration Law Office,
1000 SW Broadway #2300,
Portland, OR 97205 (503) 274-1680

28. The petitioning spouse/parent must submit evidence that consists of documents which establish his United States citizenship and the claimed relationship of the petitioner to the beneficiary. 8 C.F.R. § 204.1(f)(1).

FACTUAL ALLEGATIONS

29. On January 20, 2025, the president of the United States issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions. The present administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation.

30. The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

31. In late May 2025, former DHS Secretary Kristi Noem and White House Deputy Chief of Staff Stephen Miller met with ICE leadership and set a arrest quota of 3,000 per day and reportedly threatening job consequences if officials failed to meet arrest quotas.[2]

[2]Julia Ainsley, et al., A sweeping new ICE operation shows how Trump's focus on immigration is reshaping federal law enforcement, NBC News (June 4, 2025), https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focus-immigrationreshape-federal-lawenforcement-rcna193494 (last visited Nov 26, 2025); Brittany Gibson & Stef W. Kight, Scoop: Stephen Miller, Noem tell ICE to supercharge immigration

32. On May 28, 2025 Deputy Chief of Staff Miller confirmed that "[u]nder President Trump's leadership, we are looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President Trump is going to keep pushing to get that number up higher each and every single day."[3]

33. Following the directive from Noem and Miller, ICE agents were instructed in an email to "turn the creativity knob up to 11" and aggressively "push the envelope" in arrests, including by pursuing "collaterals." One email is reported to have said: "If it involves handcuffs on wrists, it's probably worth pursuing.".[4]

34. Respondent DHS Secretary MULLIN replaced former Secretary Noem in the spring of 2026 and promised to further President Trump's promise of overseeing the largest deportation operation in American history.[5]

CIRCUMSTANCES OF PETITIONER'S CASE

35. Petitioners Yesica Dinora ALVAREZ-DIAZ and [redacted] arrived in the United States around March 9, 2014. Yesica was 24 years old and [redacted] was 6 years old when they entered the United States as refugees.

---

arrests, Axios (May 28, 2025), available at https://www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller (last visited Nov. 26. 2025).

[3]Hannity, Sean, "Stephen Miller says the admin wants to create the strongest immigration system in US History", FOX NEWS (May 28, 2025), https://www.foxnews.com/video/6373591405112 (last visited Nov. 26, 2025).

[4]Olivares, José , "US immigration officers ordered to arrest more people even without warrants," The Guardian (Jun 4, 2025) https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests

[5] Montoya-Galvez, Camilo, "ICE detentions set Trump-era high in July, as immigration crackdown widens," CBS News (Aug 3, 2026) https://www.cbsnews.com/news/ice-detentions-trump-high-july-2026-immigration-crackdown-widens/

They were fleeing the domestic violence that they had experienced at the hands of Yesica's former partner in Honduras. Petitioners sole entrance into the United States was in 2014, and they have since resided in the United States.

36. Petitioners filed for asylum on March 4, 2015. They sought peace, security, and a new life in the United States. However, their asylum application was denied, and they were ordered removed on December 1, 2015. Petitioners appealed to the Board of Immigration Appeals (BIA) on December 22, 2015. That appeal was dismissed on May 4, 2017.

37. Petitioners currently reside with Yesica's U.S. citizen spouse, Henry Onel SUGGS, in Tualatin, Oregon. The couple was wed on May 28, 2022. Yesica's marriage to Mr. SUGGS was her first marriage, and Mr. SUGGS has taken on the role of a father for [redacted]. [redacted] was 14 years old when her mother got married. Together, the family provides each other with the same joy, warmth, and emotional support as any other family in the United States.

38. On August 15, 2023, Mr. SUGGS filed I-130s, Petitions for Alien Relatives, for his spouse and child. Petitioners' I-130 interviews are scheduled for August 5, 2026, with the USCIS Field Office in Portland, Oregon. If their I-130s are approved, Petitioners will be filing a Motion to Reopen their removal proceedings based on their changed circumstances.

///

///

CLAIM FOR RELIEF

Violation of Fifth Amendment Right to Due Process

35. The Due Process Clause of the Fifth Amendment prohibits the government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

36. Due process requires that government action be rational and non-arbitrary. See *United States v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). Due process also requires notice and "the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

37. Here, Petitioners reasonably believe Respondents will detain and deport them in an arbitrary manner and not based on a rational and individualized determination of whether they are a safety or flight risk, in violation of due process. Further, Petitioners will soon be eligible and able to submit a Motion to Reopen due to changes in their circumstances. Detaining and removing Petitioners when no circumstances have changed to make them a flight risk or a danger to the community would preemptively terminate their Motion to Reopen and violate due process.

PRAYER FOR RELIEF

38. Wherefore Petitioners pray for the following relief from this Court:

a) Assume jurisdiction in this matter;

b) Issue an immediate order barring the Respondents from detaining and removing Petitioners from the state of Oregon without notice to the Court and approval by the Court;

c) Issue an order to show cause why this petition should not be granted within three (3) days if Petitioners are detained.

d) Declare that Petitioners' detention and removal violate applicable regulations, the INA, and the Fifth Amendments to the Constitution of the United States.

e) Issue a writ of habeas corpus ordering Respondents to release Petitioners from custody if Petitioners are detained.

f) Award Petitioners reasonable attorneys' fees and costs under the Equal Access to Justice Act and any other statute applicable to this matter.

g) Grant any further relief as the court may deem just and proper.

Dated this 4th day of August of 2026.

/s/ Jeffrey C. Gonzales

OSB # 822664
Attorney for Petitioner