UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

DAIMAR APONTE REYES,

Petitioner

v.

Jason STREEVAL, Warden, Stewart Detention Center
Respondent

Civil Action No. _____

HEARING REQUESTED
Agency number: [redacted]

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

1. Petitioner Damiar Aponte Reyes ("Petitioner" or "Ms. Aponte Reyes") is a citizen of the Venezuela who is currently detained at Stewart Detention Center ("Stewart"). She has been in the custody of U.S. Immigration & Customs Enforcement ("ICE") with a final removal order for more than four months. In total, Ms. Aponte Reyes has been detained at the Stewart Detention Center in Lumpkin, GA, for more than nine months.

2. Ms. Aponte Reyes has now been detained for more than four months post-order, awaiting deportation to Venezuela, and there is no significant likelihood that she will be removed in the reasonably foreseeable future. Ms. Aponte Reyes's detention, post-removal-order, has become unconstitutionally prolonged under the framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001). She therefore challenges her prolonged and indefinite detention as a violation of the Immigration and Nationality Act ("INA") and the Due Process Clause.

3. Since Ms. Aponte Reyes has been in ICE custody, she suffered a severe medical

crisis and was transported to the hospital in Columbus, GA. Her young child was also hospitalized since Petitioner has been detained. Pro bono counsel for Petitioner submitted a Parole Request and later a request for release under an Order of Supervision. ICE has not provided a response in either case.

4. Ms. Aponte Reyes respectfully requests that this Court grant her a Writ of Habeas Corpus, ordering Respondent to release him from custody.

JURISDICTION AND VENUE

5. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (declaratory relief), and art. I. sec. 9, cl. 2 of the U.S. Constitution (Suspension Clause), as Ms. Aponte Reyes is presently in custody under or by color of the authority of the United States, and she challenges her custody as in violation of the Constitution, laws, or treaties of the United States.

6. The federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See, e.g.*, *Zadvydas*, 533 U.S. 678; *Demore v. Kim*, 538 U.S. 510 (2003). In *Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018), the United States Supreme Court reiterated the federal courts' jurisdiction to review such claims.

7. Venue is proper in the Middle District of Georgia, Columbus Division, pursuant to 28 U.S.C. §§ 1391 and 2241(d) because Ms. Aponte Reyes is detained at the Stewart Detention Center in Lumpkin, Georgia.

PARTIES

8. Petitioner Ms. Aponte Reyes is a native and citizen of Venezuela who has been detained at the Stewart Detention Center since November 2025. She was ordered removed by an

Immigration Judge on March 31, 2026, and she did not appeal, rendering the order administratively final thirty days later. Ms. Aponte Reyes suffered a medical emergency since she has been at Stewart and received treatment at an emergency department in Columbus, Georgia.

9. Respondent is sued in his official capacity as the Warden of Stewart Detention Center. Pursuant to a contract with ICE, Warden Streeval is responsible for the operation of the Stewart Detention Center, where Ms. Aponte Reyes is detained. Thus, Warden Streeval has control over Ms. Aponte Reyes as her immediate custodian.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

10. "[W]here Congress does not say there is a jurisdictional bar, there is none." *Santiago-Lugo v. Warden*, 785 F.3d 467, 473 (11th Cir. 2015). "Congress knows how to limit courts' subject matter jurisdiction to decide § 2241 petitions when it wishes to do so. The fact that it did not limit courts' subject matter jurisdiction to decide unexhausted § 2241 claims compels the conclusion that any failure of [the respondent] to exhaust administrative remedies is not a jurisdictional defect." *Id.* at 474.

11. In the absence of a statutorily mandated exhaustion requirement, whether to apply a common law exhaustion requirement is a decision subject to sound judicial discretion, considering congressional intent and any applicable statutory scheme. *See McCarthy v. Madigan*, 503 U.S. 140, 144 (1992); *see also Richardson v. Reno*, 162 F.3d 1338, 1374 (11th Cir. 1998); *Yahweh v. U.S. Parole Comm'n*, 158 F. Supp. 2d 1332, 1341 (S.D. Fla. 2001).

12. Here, Ms. Aponte Reyes's prolonged detention raises constitutional issues. "[A] petitioner need not exhaust [their] administrative remedies 'where the administrative remedy will not provide relief commensurate with the claim.'" *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir. 2001) (quoting *Haitian Refugee Ctr., Inc. v. Nelson*, 872 F.2d 1555, 1561 (11th Cir. 1989)).

Thus, "[b]ecause the BIA does not have the power to decide constitutional claims—like the validity of a federal statute— . . . certain due process claims need not be administratively exhausted." *Warsame v. U.S. Att'y Gen.*, 796 F. App'x. 993, 1006 (11th Cir. 2020). *See also Haitian Refugee Ctr., Inc*, 872 F.2d at 1561, *aff'd sub nom. McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479 (1991) (exhaustion had "no bearing" where petitioner made a constitutional challenge to procedures adopted by the INS); *Matter of G-K-*, 26 I&N Dec. 88, 96-97 (BIA 2013) ("Neither the [BIA] nor the Immigration Judges have the authority to rule on the constitutionality of the statutes we administer, so we lack jurisdiction to address [challenges to their constitutionality].").

13. Despite not having to engage in an administrative remedy, she did so before filing a habeas corpus petition. Ms. Aponte Reyes, through undersigned pro bono counsel, submitted a parole request to ICE ERO at Stewart via email on January 26, 2026. At that time, Ms. Aponte Reyes was pre-order. ICE ERO confirmed receipt on January 28, 2026. Since then, counsel for Ms. Aponte Reyes was in contact with ICE ERO, including providing more information. ICE ERO never provided a decision. Since Ms. Aponte Reyes received a final order of removal, pro bono undersigned counsel submitted a request for release under an Order of Supervision on August 13, 2026. An ICE ERO officer confirmed receipt. Counsel followed up on August 27, 2026. As of September 7, 2026, ICE has not provided an answer.

14. Thus, this Court has jurisdiction over Ms. Aponte Reyes's § 2241 action because exhaustion of administrative remedies is not required, and her petition raises constitutional issues that cannot be addressed administratively.

STATEMENT OF FACTS

15. Ms. Aponte Reyes is a native and citizen of Venezuela. She came to the U.S. at a

Port of Entry and was paroled into the U.S. on or about July 9, 2023. She was paroled into the U.S., and she has not left the United States in more than three years.

16. Since coming to the U.S., Ms. Aponte Reyes began to establish substantial ties, including a child who was born in September 2024. Additionally, Ms. Aponte Reyes has a Social Security number, applied for TPS and paid the required fee, and attended a Biometrics appointment with USCIS.

17. Ms. Aponte Reyes was arrested in Effingham County, Georgia, on or about November 12, 2025, and was charged with (1) forgery, (2) falsifying proof of insurance, and (3) driving without a license. While Ms. Aponte Reyes was in jail, ICE placed a hold on her and transferred her to the Stewart Detention Center. The charges were subsequently dismissed in November 2025 after Ms. Aponte Reyes was already in ICE custody.

18. Since Ms. Aponte Reyes has been in ICE custody, she suffered a severe medical issue and was transported to the Emergency Department at Piedmont Columbus Regional Midtown Hospital for treatment. Following her return to Stewart, she was placed in medical observation before she was returned to the regular unit.

19. ICE initiated removal proceedings, and her case was docketed on December 5, 2025. She was pro se throughout her removal proceedings. She filed an I-589 application for asylum, withholding of removal, and protection under the Convention Against Torture. An Immigration Judge granted DHS' motion to pretermit, and she was ordered removed on March 31, 2026. Ms. Aponte Reyes reserved the right to appeal but did not do so, rendering the order administratively final thirty days later.

20. Before she was ordered removed, Ms. Aponte Reyes, through undersigned pro bono counsel, submitted a parole request on January 26, 2026. On January 28, 2026, ICE ERO

confirmed receipt. That same day, an ICE Deportation Officer (DO) emailed undersigned counsel a form, and counsel responded with documents and information on January 30, 2026. On March 6, 2026, undersigned counsel supplemented the pending parole request, specifically providing evidence that Ms. Aponte Reyes' minor USC son was hospitalized. The DO responded on the same day, stating her sent supplemental evidence to the new DO assigned to the case. ICE never provided a response. Undersigned counsel was in contact with multiple DOs about Ms. Aponte Reyes's situation several times.

21. On August 7, 2026, ICE performed a Post Order Custody Review interview with Ms. Aponte Reyes. To counsel's knowledge, ICE has not made a decision.

22. On August 12, 2026, undersigned counsel emailed a request for release under an Order of Supervision. An ICE officer confirmed receipt the same day. On August 27, 2026, undersigned counsel emailed the officer and asked if there was an update. As of September 7, 2026, ICE has not answered. At the time of submitting this request, Ms. Aponte Reyes was post order for more than three months. Undersigned counsel included proof that since Ms. Aponte Reyes received a final order of removal to Venezuela, two earthquakes devasted the country on June 24, 2026.

LEGAL FRAMEWORK

23. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690.

24. The Due Process Clause requires that the deprivation of Ms. Aponte Reyes's liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (holding that due process "forbids the government to infringe certain 'fundamental'

liberty interests . . . unless the infringement is narrowly tailored to serve a compelling state interest"). As the Supreme Court held in *Zadvydas*, indefinite detention raises a "serious constitutional problem" and runs afoul of the Due Process Clause. 533 U.S. at 690.

25. 8 U.S.C. § 1231 governs the detention and removal of noncitizens, like Ms. Aponte Reyes, who have been ordered removed. Section 1231(a)(2) authorizes a 90-day period of mandatory post-final-removal-order detention, during which ICE is supposed to effectuate removal. This 90-day period is known as the "removal period" and generally starts once a final order of removal has been entered or, as here, on the date of release from criminal custody. *See* § 1231(a)(1)(B).

26. Those who are not removed within the 90-day removal period should be released under conditions of supervision, such as periodic reporting and other reasonable restrictions. *See* § 1231(a)(3). The Government may continue to detain certain noncitizens beyond the 90-day removal period if they have been ordered removed on inadmissibility grounds after violating nonimmigrant status or conditions of entry, or on grounds stemming from criminal convictions, or security concerns, or if they have been determined to be a danger or flight risk. *See* § 1231(a)(6). If these groups of noncitizens are released, they are also subject to the supervision terms set forth in § 1231(a)(3). *Id.* Detainees are entitled to release even before six months of detention, as long as removal is not reasonably foreseeable. *See* 8 C.F.R. § 241.13(b)(1) (authorizing release after 90 days where removal not reasonably foreseeable). Moreover, as the period of post-final-order detention grows, what counts as "reasonably foreseeable" must conversely shrink. *Zadvydas*, 533 U.S. at 701.

27.

28. In *Zadvydas*, the Supreme Court held that § 1231(a)(6), when "read in light of the

Constitution's demands, limits [a noncitizen]'s post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States." 533 U.S. at 689. A "habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal." *Id.* at 699. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized." *Id.* At that point, the individual must be released because her continued detention would violate both the statute and the Due Process Clause of the Constitution. *Id.*

29. In determining a period reasonably necessary to effectuate removal, the *Zadvydas* Court adopted a "presumptively reasonable period of detention" of six months, inclusive of the 90-day removal period. *Id.* at 701. "After this six-month period, once the [noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.* Thus, after six months, the Government bears the burden of disproving a detained person's "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Clark v. Martinez*, 543 U.S. 371, 386 (2005) (granting habeas relief to Cuban petitioners whose detention lasted beyond six months post-removal-order and whose removal to Cuba was not reasonably foreseeable); *see also Adu v. Bickham*, No. 7:18-cv-103-WLS-MSH, 2018 WL 6495068 (M.D. Ga. Dec. 10, 2018) (R&R recommending release under *Zadvydas*).

30. Release is the proper remedy for unconstitutionally prolonged post-removal-order detention. *See Zadvydas*, 533 U.S. at 699–700 (explaining that supervised release is the appropriate relief when "the detention in question exceeds a period reasonably necessary to secure removal" because at that point, detention is "no longer authorized by statute").

31. "[F]or detention to remain reasonable, as the period of post-removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink." *Zadvydas*, 533 U.S. at 701.

32. Removal "seems a remote possibility at best." *Zadvydas*, 533 U.S. at 690. Thus, Ms. Aponte Reyes's continued detention violates the implicit requirement in 8 U.S.C. § 1231(a)(6) that detention may not become unreasonably prolonged. In addition, her continued detention does not serve a legitimate government purpose and lacks sufficient procedural protections in violation of the Due Process Clause.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT,

8 U.S.C. § 1231(a)(6)

33. Ms. Aponte Reyes realleges and incorporates by reference each and every allegation contained above.

34. Ms. Aponte Reyes is detained pursuant to the discretionary, post-removal-order detention provision, § 1231(a)(6), because more than 90-days have elapsed since her removal order became administratively final and she has not done anything to impede her removal or toll the removal period. See 8 U.S.C. § 1231(a); 8 C.F.R. § 1241.1.

35. Section 1231(a)(6) contains an implicit temporal limitation of six months, after which detention is no longer presumptively reasonable. *Zadvydas*, 533 U.S. at 701. After that point, if the habeas petitioner "provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing," and due process "requires ordering [the p]etitioner

released." *Adu*, 2018 WL 6495068, at *2-3 (quoting *Zadvydas*, 533 U.S. at 701)

36. Ms. Aponte Reyes's cooperation with ICE's removal efforts weighs in favor of her release.

37. Thus, Ms. Aponte Reyes's detention violates § 1231, and she is entitled to immediate release from custody.

SECOND CLAIM FOR RELIEF

VIOLATION OF THE DUE PROCESS CLAUSE

OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

38. Ms. Aponte Reyes realleges and incorporates by reference each and every allegation contained above.

39. The Due Process Clause of the Fifth Amendment forbids the Government from depriving any person of liberty without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690.

40. Civil immigration detention following issuance of a final removal order violates due process if it is not reasonably related to its statutory purpose of effectuating removal. *See id.* at 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)); *id.* at 697. When removal is not reasonably foreseeable, detention is no longer reasonably related to that purpose. *Id.* at 699.

41. Prolonged civil detention also violates procedural due process unless it is accompanied by strong procedural protections to guard against the erroneous deprivation of liberty. *Id.* at 690-91; *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992); *Kansas v. Hendricks*, 521 U.S. 346, 364-69 (1997); *United States v. Salerno*, 481 U.S. 739, 750-752 (1987).

42. Ms. Aponte Reyes has been detained with a final order of removal for more than

four months. She is likely to be detained indefinitely absent intervention from this Court. Her detention is no longer reasonably related to the primary statutory purpose of ensuring her imminent removal.

43. Moreover, any pro forma internal post-order custody reviews ICE conducted in Ms. Aponte Reyes's case do not meet the minimum procedural safeguards required by due process. *See Diouf v. Napolitano*, 634 F.3d 1081, 1092 (9th Cir. 2011).

44. Thus, Ms. Aponte Reyes's detention violates both substantive and procedural due process.

45. As a result, Ms. Aponte Reyes is entitled to immediate release from custody.

PRAYER FOR RELIEF

WHEREFORE Petitioner requests that the Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order Respondent to show cause why a writ of habeas corpus should not be granted "within three (3) days unless for good cause additional time, not exceeding twenty (20) days, is allowed," that Petitioner be afforded one (1) week to file a response to Respondents' return, and set a hearing on this Petition within one (1) week after Petitioner's response is due, pursuant to 28 U.S.C. § 2243;

c. Order that as part of their filing showing cause why the Petition should not be granted, Respondents provide all documents relevant to efforts made to obtain travel documents for Ms. Aponte Reyes, which Ms. Aponte Reyes does not have access to;

d. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under Chapter 153 (habeas corpus) of Title 28;

e. In the event that this Court determines that a genuine dispute of material fact exists regarding the likelihood of removal to Venezuela in the reasonably foreseeable future, schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243. *Singh v. U.S. Attorney Gen.*, 945 F.3d 1310, 1315-16 (11th Cir. 2019);

f. Grant a writ of habeas corpus ordering Respondent to immediately release Ms. Aponte Reyes from their custody;

g. Enter preliminary and permanent injunctive relief enjoining Respondent from further unlawful detention of Ms. Aponte Reyes;

h. Declare that Ms. Aponte Reyes's detention without a bond hearing violates the Immigration and Nationality Act;

i. Declare that Ms. Aponte Reyes's detention violates the Due Process Clause of the Fifth Amendment;

j. Enjoin Respondent from transferring Ms. Aponte Reyes outside of this judicial district pending litigation of this matter;

k. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

l. Grant such further relief as this Court deems just and proper.

Dated: September 8, 2026

Respectfully submitted,

/s/ Matthew O. Boles
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Counsel for Petitioner

Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Matthew O. Boles Date: September 8, 2026