

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

Santos Valentina Romero Marroquin de
Rodriguez,

Petitioner,

v.

Patricia Hyde, in her official capacity as
Acting Field Office Director, Boston Field
Office, U.S. Immigration and Customs
Enforcement; Michael Krol, HIS New
England Special Agent in Charge; Todd
Lyons, in his official capacity as Acting
Director, U.S. Immigration and Customs
Enforcement; and Kristi Noem, U.S. Secretary
of Homeland Security,

Respondents.

Case No. _____

Petition for Writ of Habeas Corpus

INTRODUCTION

1. This case challenges the unlawful detention of Santos Valentina Romero Marroquin de Rodriguez (“Petitioner” or “Ms. Romero”), who was arrested by Immigration and Customs Enforcement (“ICE”) on October 30, 2025.

2. ICE found that Petitioner was neither a flight risk nor danger to the community when it previously decided not to detain Petitioner and instead placed her under an order of supervision (“OSUP”) seven years ago. Since then, Petitioner has fully abided by the OSUP’s terms, including attending regularly scheduled check-ins with ICE.

3. Nonetheless, after Petitioner presented herself willingly by email and then in person to ICE, Respondents suddenly revoked Petitioner’s OSUP and arrested her, despite having no

reason to believe that she is a danger or a flight risk or that she can be removed imminently from the United States.

4. To undersigned counsel's knowledge, Petitioner remains detained within the District of Massachusetts at the Boston ICE Field Office in Burlington, Massachusetts at this time.

5. Respondents' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act and implementing regulations and the Administrative Procedure Act.

PARTIES

6. Petitioner Santos Valentina Romero Marroquin de Rodriguez has lived in the United States since April 2018. Prior to Petitioner's detention on or about October 30, 2025, she was residing in Worcester, Massachusetts. Petitioner was detained at the Boston ICE Field Office in Burlington, Massachusetts, and to counsel's knowledge has not been moved outside of the district since her detention.

7. Respondent Patricia Hyde is sued in her official capacity as the ICE Acting Field Office Director for Boston.

8. Respondent Michael Krol is the New England Special Agent in Charge for Homeland Security Investigations for U.S. Immigration and Customs Enforcement.

9. Respondent Todd Lyons is sued in his official capacity as the ICE Acting Director.

10. Respondent Kristi Noem is the U.S. Secretary of Homeland Security.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition and under 28

U.S.C. § 1331 because this action arises under federal law, including the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.*, and Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*

12. Venue is proper in this district because Respondents-Defendants are officers of United States agencies, Petitioner is currently detained within this District, and there is no real property involved in this action.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

13. Petitioner is a single mother who arrived to the United States in 2018, fleeing a long history of domestic abuse and gang violence against her family in El Salvador. Upon her arrival, Petitioner was detained by immigration officers, who reinstated a removal order that had issued against Petitioner in 2006, when she had previously traveled to the United States.

14. On or about April 16, 2018, ICE released Petitioner from their custody under an Order of Supervision (“OSUP”), requiring Petitioner to comply with conditions of release including checking in with ICE when requested.

15. Petitioner has checked in regularly with ICE since her release from their custody on or about April 16, 2018. No circumstances have changed that make Petitioner a flight risk or danger to the community. Petitioner has not been arrested or charged with any crimes since her release from ICE custody in 2018.

16. Petitioner has settled in Worcester, Massachusetts, where she lives with her fifteen-year-old daughter. Petitioner works at a factory to support herself and her daughter. She is the sole caretaker to her daughter, who has several serious medical conditions, including a seizure disorder requiring medication management and monitoring.

17. In 2020, after retaining pro bono counsel, Petitioner requested a reasonable fear interview (“RFI”) to present her claims for protection from persecution and torture in El Salvador.¹ A reasonable fear interview has not yet been scheduled for Petitioner, and she cannot be deported until a RFI has been completed and she has had the opportunity to have a negative RFI decision reviewed by an Immigration Judge.

18. On July 24, 2025, Petitioner filed a Petition for Review with the First Circuit, Case No. 25-1710, to preserve her ability to appeal a negative outcome in her reasonable fear proceedings. Her Petition for Review is currently held in abeyance.

19. Since her release from ICE custody in 2018, Petitioner has also become eligible for U nonimmigrant status (the “U visa”) based on her assistance to law enforcement in the investigation and prosecution of a domestic violence crime committed against her on or about June 1, 2024. Petitioner filed her U visa petition with the U.S. Citizenship and Immigration Services on or about December 2, 2024. Petitioner’s U visa petition remains pending to date.

20. At a check-in in Burlington, Massachusetts on October 22, 2025, Petitioner filed an application for a stay of removal, which she was told would be taken under consideration. On that date, Petitioner was fitted with a GPS monitoring device.

¹ DHS must refer individuals who express a fear of return during § 1231(a)(5) proceedings for a “reasonable fear” interview before an asylum officer (AO). 8 C.F.R. § 208.31. If the AO determines that the person has a “reasonable fear of persecution or torture,” DHS places the person in withholding-only proceedings before an immigration judge in which they can apply for withholding of removal and/or protection under the United Nations Convention Against Torture (CAT). Any denied application can be appealed to the Board of Immigration Appeals (BIA). 8 C.F.R. §§ 208.31(e), 1208.31(e), 208.2(c)(2), 1208.2(c)(2). If the AO finds the person did not establish a reasonable fear, the person may seek review in a hearing before an IJ. 8 C.F.R. §§ 208.31(f), (g), 1208.31(f), (g). If the IJ disagrees with the AO’s conclusion, the person is referred to withholding-only proceedings. 8 C.F.R. §§ 208.31(g)(2), 1208(g)(2). If the IJ affirms the AO’s conclusion, the person is subject to imminent removal and cannot appeal to the BIA. 8 C.F.R. §§ 208.31(g)(1), 1208.31(g)(1).

21. Petitioner was contacted to return to Burlington on October 30, 2025. At that time, without any reason given and without any advance notice, her Order of Supervision was revoked and she was taken into ICE custody.

22. At this juncture, ICE cannot assert that Petitioner is a flight risk, as nothing material in this regard has changed since ICE's April 2018 determination that Petitioner was not a flight risk.

23. At this juncture, ICE cannot assert that Petitioner poses a danger to the public, as nothing material has changed in this regard since ICE's April 2018 determination that Petitioner was not a flight risk.

24. At this juncture, ICE cannot assert that Petitioner has violated the conditions of her April 2018 Order of Supervision.

25. At this juncture, ICE cannot assert that it will be able to promptly remove Petitioner from the United States because Petitioner's request to block her repatriation to El Salvador remains pending.

26. To undersigned counsel's knowledge, Petitioner remains detained by ICE within the District of Massachusetts at the time that this petition is being filed.

CLAIMS FOR RELIEF

Count One

Unlawful Detention in Violation of Section 241(A) of the Immigration and Nationality Act

27. Petitioner realleges all paragraphs above as if fully set forth here.

28. Petitioner's detention violates Section 241(a) of the Immigration and Nationality Act ("INA") (8 U.S.C. § 1231(a)).

29. Specifically, Petitioner is not being detained for immigration purposes when ICE knows that it cannot effect her prompt removal from the United States, that Petitioner is neither a flight risk nor a danger, and that Petitioner has not violated the conditions of her Order of Supervision; thus, ICE has no permissible basis for depriving Petitioner of her liberty, in violation of INA Section 241(a)(3) and INA Section 241(a)(6) as well as their respective implementing regulations.

Count Two
Violation of the Fifth Amendment of the U.S. Constitution
Substantive Due Process

30. Petitioner realleges all paragraphs above as if fully set forth here.

31. When ICE issued Petitioner an order of supervision in April 2018, it found that she is neither a danger to the community nor a flight risk.

32. When Respondents revoked the order of supervision after Petitioner had lived arrest-free in the community for over seven years while pursuing lawful status, no change in circumstances warranted the order's revocation.

33. Petitioner's detention therefore does not bear a reasonable relationship to the two regulatory purposes of immigration detention: preventing danger to the community or flight prior to removal.

34. Because Respondents had no legitimate, non-punitive objective in revoking Petitioner's order of supervision, Petitioner's detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

Count Three
Violation of the Fifth Amendment of the U.S. Constitution
Procedural Due Process

35. Petitioner realleges all paragraphs above as if fully set forth here.

36. *Mathews v. Eldridge*, 424 U.S. 319, 333, instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government’s interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail.

37. The first factor, the private interest at issue, favors Petitioner. “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 v. Davis*, 533 U.S. 678, 690.

38. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner. To safeguard against erroneous deprivations of liberty, the statute specifies the limited number of reasons that an order of supervision can be revoked. Regulations specify who may lawfully revoke the order and the procedures that must be followed when doing so, including giving notice and an opportunity to be heard. Respondents violated those laws here, leaving the risk of erroneous deprivation of liberty not just high, but certain. Requiring Respondents to give notice and an opportunity to respond prior to revoking an order of supervision is of great value because it reduces the probability of needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk.

39. The third factor, the government’s interest, also favors Petitioner. When the government ignores law that ensures notice and an opportunity to respond to a person at risk of revocation of an order of supervision, it is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous. This waste drags down the efficiency of the entire immigration system.

40. For these reasons, revoking Petitioner’s order of supervision without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution.

Count Four
Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A)
Arbitrary and Capricious

41. Petitioner realleges all paragraphs above as if fully set forth here.

42. Under the APA, a court shall “hold unlawful and set aside agency action . . . found to be arbitrary [or] capricious.” 5 U.S.C. § 706(2)(A).

43. Respondents’ revocation of Petitioner’s order of supervision was arbitrary and capricious because it violated statute, regulation, and the Constitution, as described above.

44. An agency decision that “runs counter to the evidence before the agency” is also arbitrary and capricious. *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983).

45. Respondents’ decision to revoke Petitioner’s order of supervision ran counter to the evidence before the agency that Petitioner would comply with a demand to appear for removal without detention. Petitioner has never violated a condition of her order of supervision and no new facts or changed circumstances suggest she would.

46. The revocation also “failed to consider important aspects of the problem” before Respondents, making it arbitrary and capricious for multiple other reasons. *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1910 (2020).

47. First, Respondents failed to consider the serious constitutional concerns raised by revoking Petitioner’s order of supervision without notice and opportunity to respond.

48. Second, Respondents failed to consider the increased administrative burden to the agency caused by revoking the order of supervision of Petitioner, who is neither a flight risk nor a danger to the community, including financial and administrative costs incurred by the agency due to unnecessary detention.

49. Third, Respondents failed to consider reasonable alternatives to revoking Petitioner's order of supervision that were before the agency, like simply continuing release under the order of supervision and scheduling a future time and date to appear for removal. This alternative would vindicate the government's interests in effectuating a removal order and save it the expense of detention not needed to guarantee Petitioner's appearance.

50. For these and other reasons, Respondents' revocation of Petitioner's order of supervision was arbitrary and capricious and should be held unlawful and set aside.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

- a. Exercise jurisdiction over this matter;
- b. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;
- c. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations, and the APA;
- d. Order Petitioner's immediate release;
- e. Award Petitioner costs and reasonable attorneys' fees; and
- f. Order such other relief as this Court may deem just and proper.

Dated: October 30, 2025

Respectfully submitted,

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