

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Form 3. Petition for Review of Order of a Federal Agency, Board,  
Commission, or Officer**

Name of Federal Agency, Board, Commission, or Officer:

DEPARTMENT OF HOMELAND SECURITY

Date of judgment or order you are challenging: 05/18/2026

Fee paid for petition?  Yes  No

**List all Petitioners** (*List each party filing the petition. Do not use "et al." or other abbreviations.*)

Kavya Morganna Soares Pinheiro

For immigration cases:

Alien Number(s): 240-379-018

Is petitioner(s) detained?  Yes  No

Has petitioner(s) moved the BIA to reopen?  Yes  No

Has petitioner(s) applied to the district director for an adjustment of status?  Yes  No

Have you filed a previous petition for review from this agency?  Yes  No

If Yes, what is the prior 9th Circuit case number? N/A

Your mailing address:

C/A HS LAW CORP

PO BOX 90487

City: San Diego State: CA Zip Code: 92169

Prisoner Inmate or A Number (if applicable): N/A

Signature  Date 06/10/2026

*Complete and file with the attached representation statement and the order being challenged.  
See, e.g., Circuit Rule 15-4.*

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## Representation Statement for Petition for Review

**Petitioner(s)** (List *each* party filing the petition, do not use “et al.” or other abbreviations.)

Name(s) of party/parties:

Kavya Morganna Soares Pinheiro

Name(s) of counsel (if any):

Otavio Haverroth Silva

Address: PO BOX 90487

Telephone number(s): (510) 241-9336

Email(s): otavio@legalhs.com

Is counsel registered for Electronic Filing in the 9th Circuit?  Yes  No

**Respondent(s)** (List only the names of parties and counsel (if known) who will oppose you in the petition. List separately represented parties separately.)

Name(s) of party/parties:

Todd Blanche, Acting Attorney General of the United States

Name(s) of counsel (if any known):

Office of Immigration Litigation, Civil Division, U.S. Department of Justice

Address: P.O. Box 878, Ben Franklin Station, Washington, D.C. 20044

Telephone number(s): (202) 616-4900

Email(s): UNKNOWN

*To list additional parties and/or counsel, attach additional pages as necessary.*

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### **Addendum to Form 3. Petition for Review**

1. Petitioner Kavya Morganna Soares Pinheiro seeks review of the Department of Homeland Security's reinstatement of a prior removal order, formalized on May 18, 2026, pursuant to INA §241(a)(5) and 8 C.F.R. §241.8. This petition is timely filed within the 30-day period prescribed by INA §242(b)(1). Under *Riley v. Bondi*, 145 S. Ct. 2190 (June 26, 2025), the Supreme Court held that the 30-day deadline to file a petition for review is a non-jurisdictional claim-processing rule. *Riley* further clarifies that individuals challenging reinstatement orders who have articulated a fear of removal must file a petition for review within 30 days of the DHS-issued reinstatement order. This petition is therefore timely, having been filed within 30 days of the May 18, 2026 reinstatement.
2. Petitioner's primary challenge is whether DHS properly determined the three statutory predicates required for reinstatement under 8 C.F.R. §241.8: (1) whether the petitioner is an alien; (2) whether the petitioner was subject to a prior removal order; (3) whether the petitioner illegally reentered the United States after execution of that prior order. See *Garcia de Rincon v. DHS*, 539 F.3d 1133, 1137 (9th Cir. 2008).
3. Petitioner further notes that, pursuant to 8 C.F.R. §241.8(b), DHS was required to provide Petitioner with written notice of the reinstatement determination and to inform her of her right to make a written contesting statement. Petitioner was never provided formal written notice of the reinstatement, nor was she advised of her right to contest it. Accordingly, Petitioner is not attaching a copy of DHS's determination to this petition, as the determination was never made accessible to her. Petitioner reserves the right to raise additional arguments upon review of the full administrative record.
4. Petitioner additionally raises a constitutional due process challenge. Although INA §242(a)(2)(A) limits the scope of judicial review of expedited removal orders, the Ninth Circuit retains jurisdiction over constitutional claims that do not require reopening the merits of the underlying order. See 8 U.S.C. § 1252(a)(2)(D); *Garcia de Rincon v. DHS*, 539 F.3d 1133, 1137 (9th Cir. 2008). The reinstatement order being challenged here rests upon a prior expedited removal order issued on February 7, 2023, in proceedings during which Petitioner was unrepresented by counsel, was accused of human trafficking without basis, was threatened with imprisonment and physical harm in detention, had her passport and phone confiscated, and was held incommunicado for over fourteen hours. Under these coercive conditions, Petitioner's sworn statement — including her response that she had no fear of return to Brazil — was not knowing, voluntary, or the product of a fair process. Petitioner does not seek to reopen the merits of the 2023 expedited removal order. She argues that the reinstatement, which relies on that order as a predicate, cannot stand where the predicate itself was the product of a constitutionally defective process. This argument is not frivolous and satisfies the threshold for inclusion in a protective petition for review. The Court reviews due process claims *de novo*. See *Simeonov v. Ashcroft*, 371 F.3d 532, 535 (9th Cir. 2004). Questions of law are likewise reviewed *de*

novo, except to the extent deference is owed to the agency's interpretation of governing statutes and regulations. *Id.*

5. Petitioner is not detained. She is currently enrolled in the Alternatives to Detention (ATD/ISAP) program. No court has yet reviewed or upheld the validity of the reinstated removal order.
6. Petitioner previously filed a Form I-589, which was received by DHS on January 30, 2025, indicating her fear of persecution and torture. On May 18, 2026, Petitioner was formally notified of the reasonable fear interview process and signed the Alien Acknowledgment of Receipt. The reasonable fear interview has not yet been scheduled. Thus, reasonable fear proceedings are currently ongoing and DHS cannot execute the reinstated removal order until their completion. Petitioner may seek review of DHS' determination when and if appropriate and intends to pursue her withholding of removal and CAT application with EOIR, given her credible fear of return.
7. In *Riley v. Bondi*, 145 S. Ct. 2190 (June 26, 2025), the Supreme Court held that "review of removability and withholding of removal should occur in a single appellate proceeding." *Riley*, 145 S. Ct. at 2200. Consistent with *Riley*, Petitioner notifies this Court that she seeks judicial review of the DHS-issued reinstatement order, and that she simultaneously may seek review of any Immigration Judge decision affirming a negative reasonable fear determination if and when such a decision is issued. Petitioner respectfully requests that this Court stay its review of the DHS-issued reinstatement order pending resolution of the reasonable fear proceedings before USCIS and EOIR, so that all related claims may be addressed in a single appellate proceeding in accordance with *Riley*.

### **Addendum to Form 3. Petition for Review**

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**UNITED STATES COURT OF APPEALS  
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**Form 4. Motion and Affidavit for Permission to Proceed in Forma Pauperis**

*Instructions for this form: <http://www.ca9.uscourts.gov/forms/form04instructions.pdf>*

**9th Cir. Case Number(s)**

**Case Name**

**Affidavit in support of motion:** I swear under penalty of perjury that I am financially unable to pay the docket and filing fees for my appeal. I believe my appeal has merit. I swear under penalty of perjury under United States laws that my answers on this form are true and correct. 28 U.S.C. § 1746; 18 U.S.C. § 1621.

**Signature**  **Date**

The court may grant a motion to proceed in forma pauperis if you show that you cannot pay the filing fees **and** you have a non-frivolous legal issue on appeal. Please state your issues on appeal. (*attach additional pages if necessary*)

1. Whether the Department of Homeland Security properly determined the statutory predicates required for reinstatement of a prior removal order under 8 C.F.R. §241.8, specifically: Petitioner's identity, the existence of a prior removal order, and whether Petitioner unlawfully reentered the United States. *See* Garcia de Rincon v. DHS, 539 F.3d 1133, 1137 (9th Cir. 2008).
2. Whether the reinstatement order is constitutionally defective because it rests on a prior expedited removal order issued on February 7, 2023, in proceedings during which Petitioner was unrepresented by counsel and made sworn statements under coercive conditions including threats of imprisonment and physical harm, confiscation of identity documents, and prolonged incommunicado detention that prevented a knowing and voluntary assertion of her right to express fear of return to Brazil.

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1. For both you and your spouse, estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income Source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Self-Employment	\$ 2,200	\$ 1,600	\$ 2,200	\$ 1,600
Income from real property (such as rental income)	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Interest and Dividends	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Gifts	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Alimony	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Child Support	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Retirement (such as social security, pensions, annuities, insurance)	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Disability (such as social security, insurance payments)	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Unemployment Payments	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Public-Assistance (such as welfare)	\$ N/A	\$ N/A	\$ N/A	\$ N/A
Other (specify) N/A	\$ N/A	\$ N/A	\$ N/A	\$ N/A
<b>TOTAL MONTHLY INCOME:</b>	\$ 2,200	\$ 1,600	\$ 2,200	\$ 1,600

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2. List your employment history for the past two years, most recent employer first.  
 (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
Cleaner - Self Employed	Various locations, California, United States	From <input type="text" value="03/2024"/>	\$ <input type="text" value="2,200"/>
		To <input type="text" value="PRESENT"/>	
N/A	N/A	From <input type="text" value="N/A"/>	\$ <input type="text" value="N/A"/>
		To <input type="text" value="N/A"/>	
N/A	N/A	From <input type="text" value="N/A"/>	\$ <input type="text" value="N/A"/>
		To <input type="text" value="N/A"/>	
N/A	N/A	From <input type="text" value="N/A"/>	\$ <input type="text" value="N/A"/>
		To <input type="text" value="N/A"/>	

3. List your spouse's employment history for the past two years, most recent employer first.  
 (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
Appliance Repair Technician Self Employed	Various locations, California, United States	From <input type="text" value="01/2025"/>	\$ <input type="text" value="1,600"/>
		To <input type="text" value="PRESENT"/>	
UBER/Lyft - Self Employed	Various locations, California, United States	From <input type="text" value="01/2024"/>	\$ <input type="text" value="2,800"/>
		To <input type="text" value="12/2024"/>	
N/A	N/A	From <input type="text" value="N/A"/>	\$ <input type="text" value="N/A"/>
		To <input type="text" value="N/A"/>	
N/A	N/A	From <input type="text" value="N/A"/>	\$ <input type="text" value="N/A"/>
		To <input type="text" value="N/A"/>	

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4. How much cash do you and your spouse have? \$

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount You Have	Amount Your Spouse Has
Bank of America	Current Account	\$ 4.58	\$ 0.85
N/A	N/A	\$ N/A	\$ N/A
N/A	N/A	\$ N/A	\$ N/A
N/A	N/A	\$ N/A	\$ N/A

*If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.*

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishing.

Home	Value	Other Real Estate	Value
N/A	\$ <input type="text" value="N/A"/>	N/A	\$ <input type="text" value="N/A"/>

Motor Vehicle 1: Make & Year	Model	Registration #	Value
N/A	N/A	N/A	\$ <input type="text" value="N/A"/>
Motor Vehicle 2: Make & Year	Model	Registration #	Value
N/A	N/A	N/A	\$ <input type="text" value="N/A"/>

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Other Assets	Value
N/A	\$ N/A
N/A	\$ N/A
N/A	\$ N/A

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse	Amount owed to you	Amount owed to your spouse
N/A	\$ N/A	\$ N/A
N/A	\$ N/A	\$ N/A
N/A	\$ N/A	\$ N/A

7. State the persons who rely on you or your spouse for support. If a dependent is a minor, list only the initials and not the full name.

Name	Relationship	Age
L O P C	Child	15
N/A	N/A	N/A
N/A	N/A	N/A

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8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ N/A	\$ 1,100
- Are real estate taxes included? <input checked="" type="radio"/> Yes <input type="radio"/> No		
- Is property insurance included? <input checked="" type="radio"/> Yes <input type="radio"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 220	\$ N/A
Home maintenance (repairs and upkeep)	\$ N/A	\$ N/A
Food	\$ 420	\$ N/A
Clothing	\$ 150	\$ N/A
Laundry and dry-cleaning	\$ 260	\$ N/A
Medical and dental expenses	\$ 100	\$ N/A
Transportation (not including motor vehicle payments)	\$ N/A	\$ N/A
Recreation, entertainment, newspapers, magazines, etc.	\$ N/A	\$ N/A
Insurance (not deducted from wages or included in mortgage payments)		
- Homeowner's or renter's	\$ N/A	\$ N/A
- Life	\$ N/A	\$ N/A
- Health	\$ N/A	\$ N/A
- Motor Vehicle	\$ 200	\$ N/A
- Other N/A	\$ N/A	\$ N/A
Taxes (not deducted from wages or included in mortgage payments)		
Specify N/A	\$ N/A	\$ N/A

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	You	Spouse
Installment payments		
- Motor Vehicle	\$ N/A	\$ N/A
- Credit Card (name) N/A	\$ N/A	\$ N/A
- Department Store (name) N/A	\$ N/A	\$ N/A
Alimony, maintenance, and support paid to others	\$ N/A	\$ N/A
Regular expenses for the operation of business, profession, or farm (attach detailed statement)	\$ N/A	\$ N/A
Other (specify) Car Rental	\$ 680	\$ 500
<b>TOTAL MONTHLY EXPENSES</b>	\$ 2,030	\$ 1,600

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?  Yes  No

If Yes, describe on an attached sheet.

10. Have you spent—or will you be spending—any money for expenses or attorney fees in connection with this lawsuit?  Yes  No

If Yes, how much? \$ N/A

11. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

We are currently experiencing financial hardship. To reduce our living expenses, we had to move into my sister's home because we can no longer afford to rent a place on our own. My husband is currently working as an independent appliance technician, but he is actively seeking a position within a company to secure a more stable income. At the moment, our household is relying mostly on my income.

12. State the city and state of your legal residence.

City San Ramon State California

Your daytime phone number (ex., 415-355-8000) 415-964-7147

Your age 32 Your years of schooling 12

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