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8 ANGELA MAGANA MENDOZA

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

11 ANGELA MATA MENDOZA, formerly
12 ANGELA MAGANA MENDOZA

13 A# 

14 *Petitioner,*

15 v.
16

17 CHRISTOPHER J. LAROSA, Warden
18 Otay Mesa Detention Facility;
19 JASON AGUILAR, Chief Legal Counsel,
20 San Diego, United States Immigration
21 and Customs Enforcement; SIDNEY AKI,
22 Field Office Director, United States
23 Immigration and Custom Enforcement;
24 TODD M. LYONS, Acting Director
25 United States Immigration and Customs
26 Enforcement; KRISTI NOEM, Secretary of
27 Department of Homeland Security;
28 PAMELA JO BONDI, United States
Attorney General; *in their official
capacities,*

Respondents.

Case No. '25CV751 TWRAHG

PETITION FOR WRIT
of HABEAS CORPUS

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

INTRODUCTION

1. Petitioner Angela Mata Mendoza, formally known as Angela Magana Mendoza, is a Mexican national. She has been on an active Order of Supervision and free from ICE custody since September 2010, while she pursues relief from deportation through the immigration courts. Her case is currently on appeal with the Board of Immigration Appeals, which provides an automatic stay of deportation such that “the government shall not remove the alien from the United States during the period in which such stay is in effect”.

2. Mrs. Mata was arrested by officers of Immigration and Customs Enforcement (ICE) on January 27, 2025. Neither Mrs. Mata nor her counsel were given any reason for her arrest other than it was due to the new “guidelines” under the President’s Executive Orders.

3. Although Counsel has called the ICE detention officers over 30+ times, and has submitted a written request for Reevaluation of Custody, on February 10, 2025, and again on March 22, 2025, she has received no response from anyone from ICE and has not spoken with the officer in charge of the case or ICE counsel.

4. Mrs. Mata has been now been in custody of U.S. Immigration and Customs Enforcement for 60 days.

5. Petitioner challenges her detention and custody as a violation of the Immigration and Nationality Act, 8 U.S.C.1100 *et seq*, and corresponding regulations, and of the Due Process Clause of the Fifth Amendment.

6. Petitioner respectfully requests this court grant her a Writ of Habeas Corpus and order Respondents to immediately release her from custody. Petitioner seeks habeas relief under 28 U.S.C. 2241, which is the proper vehicle for challenging civil immigration detention. “Challenges to immigration detention are properly brought directly through habeas” *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir.2004); *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001).

CUSTODY

7. Petitioner, Angela Mata Mendoza, is in the physical custody of Respondents under the direct control of Respondents and their agents. Mrs. Mata is imprisoned at Otay Mesa Detention Center, an immigration detention facility, in Otay Mesa, California.

JURISDICTION

8. This court has jurisdiction over this habeas petition under 28 U.S.C sections 1331 and 2241; the Due Process Clause of the Fifth Amendment, the United States Constitution, amendment V., and the Suspension Clause, of the Constitution.

VENUE

9. Venue in this District is proper under 28 U.S.C. 1391 and 28 U.S.C.2422 because at least one Respondent is in the District, Petitioner is detained in this District, Petitioner's immediate custodian is located in this District, and a substantial part of the

1 events giving rise to this action took place in this District. “The proper respondent to a
2 habeas petition is the person who has custody over the petitioner” *“Rumsfield v Padilla,*
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4 542 U.S, 426, 434 (2004); 28 U.S.C. 2242.

5
6 PARTIES

7 10. Petitioner, Angela Mata Magana is currently detained by Respondents at the
8 Otay Mesa Detention Center, an immigration detention facility. She has been in ICE
9 custody since she was arrested on January 27, 2025, when she was arrested by ICE agents
10 at her place of employment, El Super Market, in Escondido, CA. The agents did not have
11 a warrant nor did they tell her why she was being arrested.
12

13 11. Respondent, Christopher J. LaRosa, is the Warden of the Otay Mesa Detention
14 facility. He is a legal custodian of Mrs. Mata and is named in his official capacity.
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16 12. Respondent, Jason Aguilar, is Chief Legal Counsel of ICE in San Diego, CA,
17 and is responsible as legal counsel for Mrs. Mata’s case. He is a legal custodian of Mrs.
18 Mata and is named in his official capacity.
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20 13. Respondent, Sidney Aki is the Field Director responsible for the San Diego
21 Field Office of ICE with jurisdiction over Mrs. Mata’s immigration case. He is a legal
22 custodian of Mrs. Mata and is named in his official capacity.
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24 14. Respondent, Todd M. Lyons is the Acting Director of Immigration and
25 Customs Enforcement. He is a legal custodian of Mrs. Mata and is named in his official
26 capacity.
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15. Respondent, Kristi Noem is the Director of the United States Department of Homeland Security (DHS). She is a legal custodian of Mrs. Mata and is named in her official capacity.

16. Respondent, Pamela Jo Bondi is the Attorney General of the United States, Department of Justice. She is a legal custodian of Mrs. Mata and is named in her official capacity.

STATEMENT OF FACTS

I. PETITIONER WAS DETAINED DESPITE BEING UNDER AN ACTIVE ORDER OF SUPERVISION AND A STAY OF DEPORTATION FROM THE BOARD OF IMMIGRATION APPEALS

17. An Order of Supervision is an Alternate to detention/custody under 8 U.S.C. 241(2241), granted to aliens not eligible for release on bond under 8 U.S.C. 236(1226).

18. An automatic Stay of Deportation is granted when an alien files a direct appeal from a removal order from the immigration judge. During this period of time, an alien cannot be removed from the United States while her appeal is pending.

19. Petitioner, Angela Mata, has been under an Order of Supervision since September 2010.

20. Mrs. Mata was taken into ICE custody on January 27, 2025, by ICE officers, at her place of employment. There was no warrant shown to her or her employer. She was given no notice, advance or otherwise, that her Order of Supervision would be revoked; nor was she given any reason why she was taken into custody. Her counsel was told, several days later, by an ICE officer, that Angela was taken into custody because of the

1 new Executive Orders and that she could wait *in custody* for the decision of the Board of
2 Immigration Appeals. No reason for her arrest and detention has been given to Petitioner
3 or to her counsel since.
4

5 21. Despite repeated messages and emails to Detention Officers Tran and Marquiz,
6 Attorney Yianilos has never received a response to any of her requests. On 2/3/2025, Ms.
7 Yianilos submitted a written request for release from custody by email to the Otay
8 Detention Center ICE office but did not receive a reply. On February 10, 2025, she
9 submitted a more formal request for Reevaluation of Custody status with supporting
10 documents and has left almost daily messages, both with the receptionist and on the
11 voicemail of Officer Marquiz, but, to date, has not received a reply.
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14 22. Similarly Ms. Yianilos notified the OPLA Duty Attorney at Otay Mesa with
15 copies of the request for Reevaluation of Custody by email and has received no reply.
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17 23. On March 22, 2025, Ms. Yianilos submitted the Request for Reevaluation by
18 FedEx to Officer Marquiz. To date, she has received no response to any of her attempts to
19 contact someone at ICE regarding this case.
20

21 24. Petitioner believes ICE knows it has no legitimate reason to hold her and
22 that is why they will not return her Attorney's calls. The fact that no one from ICE has
23 communicated with Ms. Yianilos in 2 months shows that ICE feels it is unaccountable for
24 their actions.
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26 25. Mrs. Mata has been on an Order of Supervision for 15 years, the Order still
27 being active when she was arrested on January 27, 2025. She was initially arrested in
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1 September 2010 on an expedited removal order from 12/1998, that was reinstated
2 pursuant to INA 241(a)(5). The expedited removal she suffered in 12/1998 was directly
3 related to her attempt to escape her extremely abusive lawful permanent resident
4 husband, Samuel Magana, however, she is precluded from challenging the expedited
5 removal or seeking other relief from the Immigration Judge.
6

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8 26. Mrs. Mata applied for withholding of removal through the Immigration
9 Judge. The only reason her case was denied was because of Attorney General Sessions'
10 decision in *Matter of A-B-*, 27 I&N Dec 316 (A.G.2018) which ruled that domestic
11 violence victims no longer formed a particular social group for purposes of asylum. This
12 decision has since been reversed by *Grace v. Whitaker*, 344 F. Supp 3d 96 (12/19/2018).
13

14 27. Mrs. Mata appealed her case to the Board of Immigration Appeals, which
15 gives her an automatic stay of deportation, and the appeal remains pending. Thus, any
16 removal order cannot be executed and the order is not considered final while the case is
17 still with the BIA.
18

19 28. There is no legitimate reason for Mrs. Mata's arrest and detention. Mrs.
20 Mata has an excellent record of compliance with the Order of Supervision and has
21 attended all court proceedings. She has always cooperated with ICE and has
22 demonstrated her ability and motivation to comply with all ICE, CBP, and EOIR orders.
23 She has never knowingly failed to report or otherwise violated the terms of her Order of
24 Supervision. The fact Mrs. Mata was given Supervisory Release in 2010 and kept in the
25 program for 15 years shows she is not a flight risk or a danger to society
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29. Mrs. Mata is married to a US citizen, Ruben Mata, and she has 4 U.S. citizen children. The youngest, MiraBella, is 7 years old. She lives with her husband and minor children, and cares for her 5 grandchildren. They own their home. She has been employed at El Super Grocery Market in Escondido, for 10 years, and she works part time at Panera and Chipolte Restaurants.

LEGAL ARGUMENT

II. ARREST AND DETENTION OF ALIENS

30. This Action arises under the Constitution and INA Act 8 U.S.C. 1101 et seq.

31. Arrests and detention of aliens under immigration law is governed by two main statutes. 8 U.S.C. 236 and 8.S.C. 241, and their corresponding regulations.

32. U.S.C. 236 provides for aliens arrested before beginning removal hearings. 8 USC 236 (a) states that:

Arrest, detention and release on 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 US ...

The Attorney General may release an alien described in paragraph (1) only if the Attorney General decides... and the alien satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or property and is likely to appear for any scheduled proceedings.

33. 8 C.F.R. section 241.4 covers the continued detention of inadmissible, criminal, and other aliens beyond the removal period. Section 241(j)(1) outlines conditions for release and that the alien must abide by the conditions for release.

1 34. 8 C.F.R. section 241.4(i)(7) allows custody review and determination to
2 release an alien under an Order of Supervision under 241.13 if there is no significant
3 likelihood that the alien will be removed in the reasonably foreseeable future. Orders of
4 supervision are based on INA241(a)&(3)(a)(6). ICE can release with conditions such as
5 reporting requirements, proof of actual residence, home visits. *Ali v. Beers* 988 FSupp 2d
6 10 (D. Mass 2013).
7

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9 35. 8 C.F.R. section 241.4(d)(1) provides that “The District Director, Director of
10 the Detention and Removal Field Office, or Executive Associate Commissioner may
11 release the alien if the alien demonstrates...her release will not pose a danger to the
12 community or to the safety of other persons or to property or a significant risk of flight
13 pending such alien’s removal from the US.
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16 36. Mrs. Mata reentered the U.S. after an expedited removal so she is subject to
17 reinstatement under the 8 USC section 241(a)(5).
18

19 (5) Reinstatement of removal orders against aliens illegally reentering. If the
20 Attorney General finds that an alien has reentered the United States illegally after having
21 been removed or having departed voluntarily, under an order of removal, the prior order
22 of removal is reinstated from its original date and is not subject to being reopened or
23 reviewed, the alien is not eligible and may not apply for any relief under this chapter, and
24 the alien shall be removed under the prior order at any time after the reentry.
25

26 37. 8 U.S.C.241(l) provides for Revocation of release:
27

28 1. Violation of Condition of release

Any alien... who has been released under an order of supervision... who violates the conditions of release may be returned to custody. (*deny*) such alien who violates the conditions of an order of supervision is subject to the penalties in g243(b) of the Act. Upon revocation, the alien will be notified of the reasons for revocation of his or her release. The alien will be afforded an initial informal interview promptly after his or her return to service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.

2. Determination by the Service. The Executive Associate Commissioner, shall have authority in the exercise of discretion to revoke release and return to service custody an alien previously approved for release under the procedures of this section. A district direction may also revoke release of an alien when in the DD's opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner. Release may be revoked in the exercise of discretion when in the opinion of the revoking official:

i. The purposes of the release have been served

ii. The alien violates any condition of release

38. Individual in withholding only proceedings following reinstatement orders or section 1228(b) orders is subject to post-removal order detention under INA 1231(a) and is not statutorily entitled to bond hearings while seeking withholding of removal.

Johnson v. Guzman Chavez 594 US 523 (2021), *Johnson V. Arteaga- Martinez* 596 US 573 (2022).

39. However, Angela is not seeking a bond hearing; she has been free from custody under an Order of Supervision since 9/2010. She is challenging being taken back into custody without the procedures mandated by 8 C.F.R. 241(l) followed and with no reason given to her or her attorney. She has not violated any condition of her Order of Supervision and there are no *changed* circumstances that would justify reincarceration.

III. RESPONDENTS HAVE NOT MET THEIR BURDEN OF PROOF THAT ARREST AND DETENTION OF PETITIONER IS LAWFUL

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2 40. Petitioner re-alleges and incorporates by reference each and every allegation
3 contained above.

4 41. It is a violation of Due Process to re-incarcerate a person on supervised
5 release without following 8CFR 241.4 & INA 241(a)(6); Once discretion has been
6 exercised and release granted, the decision cannot be reversed without notice to the alien
7 and an opportunity to contest custody. This was not given to Mrs. Mata.
8

9 42. Once release is granted, absent a change in law or some violation by alien,
10 revocation of such release cannot be arbitrary or in violation of the law. An Executive
11 Order by the president is not a law and does not constitute a change in the law to justify
12 Mrs. Mata's current detention.
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14 43. There was no reason for ICE to take Mrs. Mata into custody on January 27,
15 2025, and the agency did not follow the law or proper procedures in cancelling Mrs.
16 Mata's Order of Supervision and returning her to detention. The law is clear that aliens
17 are to be detained if they have criminal convictions, are a danger to society or a flight
18 risk. Mrs. Mata is none of those.
19

20 44. Where a respondent without a criminal record is detained, the Constitution
21 requires the burden of proof be on the government to show she is a flight risk or danger to
22 society, *Garcia v Decker*, 448 F.Supp3, 298(SDNY2020), and that detention is justified.
23 *Darkov v Sessions*, 342 F,Supp3 284(WDNY 2019). None of this has happened here.
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1 45. Not only has the government offered no proof that Mrs. Mata has in any way
2 violated her Order of Supervision, they have alleged no changed circumstances to justify
3 cancelling the Order of Supervision and returning her to custody. A subsequent
4 redetermination of custody can only be requested in writing and upon a showing that
5 circumstances have changed materially before she is put back into custody. They have
6 not done this. Nor did they give her the required pre-detention hearing before they re-
7 arrested her. *Jorge M.F. vs Jennings*, 534 F Supp3, 1050(N.D.CA 2021) In fact, they
8 have done nothing to communicate anything regarding Mrs. Mata's case to her or her
9 attorney.
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13 46. To put Mrs. Mata back in custody simply because she is an alien, is not
14 permitted. Civil detention is not meant to be punitive. Mrs. Mata has the right to remain
15 in the United States through proceedings and returning her to custody to wait out those
16 proceedings is outrageous and a violation of due process.
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18 IV. RESPONDENT'S CONDUCT VIOLATES THE DUE PROCESS CLAUSE
19 OF AMENDMENT V OF THE U.S. CONSTITUTION

20 47. Petitioner realleges and incorporates by reference each and every allegation
21 contained above.
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23 48. "Freedom from imprisonment-from government custody, detention, or other
24 forms of physical restraint-lies at the heart of the liberty that the Due Process Clause of
25 the Fifth Amendment protects." *Zadvydas v. Davis*, 533 US 678, 690(2001)
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49. Immigration detention must always bear a reasonable relation to the purpose for which the individual was committed.” *Demore v Kim*, 538 U.S. 510, 527(2003);

- 1 4. Court enjoins Respondents from further detaining Mrs. Mata so long as her case
- 2 remains on appeal to BIA and on any further judicial review and she continues to
- 3 have a stay of removal.
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- 5 5. Court Awards reasonable Attorney fees and costs pursuant to the Equal Access to
- 6 Justice Act, 5 U.S.C. 504 and 28 U.S.C 2412, and
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- 8 6. Court grants any other relief that the Court deems just and proper.
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10 Dated: March 27, 2025

11 Respectfully submitted,

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15 /s/K. Kerry Yianilos
16 K. KERRY YIANILOS
17 Attorney for Petitioner
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