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12 **UNITED STATES DISTRICT COURT**
13 **EASTERN DISTRICT OF CALIFORNIA**
14 **FRESNO DIVISION**
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CARMEN GUACHIAC CHOX

Petitioner,

v.

Timothy S. ROBBINS, Field Office Director of the
Los Angeles Field Office of U.S. Immigration and
Customs enforcement; Todd M. LYONS, Acting
Director of U.S. Immigration and Customs
Enforcement; U.S. DEPARTMENT OF
HOMELAND SECURITY, Kristi NOEM,
Secretary of the U.S. Department of Homeland
Security, Christopher CHESTNUT, Warden,
California City Corrections Center, and Pamela
BONDI, Attorney General of the United States

Respondents,

Case No. 25-1168

**PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. §2241
(AMENDED)**

IMMIGRATION HABEAS CASE

INTRODUCTION

1. Petitioner Carmen Guachiac Chox ("Petitioner") is an asylum seeker who fled Guatemala. After Petitioner arrived in the United States on June 25, 2022, federal agents briefly detained her, determined that she was not a flight risk or danger to the community, and released her on her own recognizance. A Notice to Appear was subsequently provided to her, ordering her to appear at removal proceedings with the San Francisco Immigration Court. Since her entry to the United States, Petitioner has done everything the government asked her to do, including complying with all terms of her monitoring program, which includes sending pictures of herself to ICE on a regular basis, and maintain ICE informed of her whereabouts. In addition, Petitioner has no criminal history anywhere in the world. Shortly after being served with the Notice to Appear on October 2, 2025, Petitioner already had retained the services of an immigration attorney to work on her removal case, and had her Master Calendar hearing with the immigration court scheduled for January 6, 2026, with the San Francisco Immigration Court.

2. On November 16, 2025, Petitioner was at her home with her fiancé and their United States born child having breakfast when she received a phone call from an ICE agent, who proceeded received a text from ICE in her phone, instructing her to step outside her home because he was having connection problems with his phone. Believing the ICE officer, Petitioner stepped outside her home, just to be detained by ICE officers. She was not provided an explanation for her detention. On the same day, Petitioner was transferred to the California City Detention Center, in California City, California.

3. Prior to that date, Respondent had sent numerous selfie-pictures to ISAP, and she always provided updates about her new address, and she appeared at all of her in person visits to the ICE field office. In regards to any possible missteps in relation to the monitoring program, in 2024 Petitioner missed taking a selfie-picture on one occasion because she had forgotten to charge her cellphone. However, on the following day, Petitioner received a call from an ICE officer, and after explaining to him the reason for her missing a picture, she proceeded with taking a picture after being instructed. Still, she always kept ICE informed about her whereabouts.

4. Before re-detaining her, Respondents did not provide Petitioner with any written notice

1 Explaining the basis for the revocation of her release. Nor did they provide a hearing before a neutral
2 decisionmaker where ICE was required to justify the basis for re-detention or explain why Petitioner is a
3 flight risk or danger to the community.

4 5. A number of courts have held that due process demands such a hearing before the government's
5 Decision to terminate a person's liberty. (See *E.A. T.-B. v. Wamsley*, --- F.Supp. 3d --- No. C25-1192-
6 KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025).)

7 6. By failing to provide such a hearing, Respondents have violated Petitioner's constitutional right
8 to due process. Accordingly, this Court should grant the instant petition for a writ of habeas corpus and
9 order her immediate release. (See *Id.* at 6 * (ordering immediate release because "a post-deprivation
10 hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent
11 an erroneous deprivation of liberty.")

12 JURISDICTION AND VENUE

13 7. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question),
14 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (Declaratory Judgment Act), 28 U.S.C. § 2241
15 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), the Fourth and
16 Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

17 8. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
18 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.

19 REQUIREMENTS OF 28 U.S.C. § 2243

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

24 10. Habeas corpus is perhaps the most important writ known to the constitutional law... affording
25 as it does a swift and imperative remedy in all cases of illegal restraint or confinement." (*Fay v. Noia*,
26 372 U.S. 391, 400 (1963).) "The application for the writ usurps the attention and displaces the calendar
27 of the judge or justice who entertains it and receives prompt action from him within the four corners of
28

1 the application.” (*Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also Van*
2 *Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (Habeas corpus is “a speedy remedy,
3 entitled by statute to special, preferential consideration to insure expeditious hearing and
4 determination.”).

5 11. Petitioner is “in custody” for the purpose of 28 U.S.C. § 2241 because she is in Respondents’
6 custody at California City Corrections Center.

7 **PARTIES**

8 12. Petitioner is a 27-year-old asylum seeker from Guatemala. She has a pending case with the
9 Adelanto Immigration Court¹, and has no criminal history. She is presently in civil immigration
10 detention at the California City Correctional Center, in California City, California.

11 13. Respondent Timothy S. Robbins is the Acting Field Office Director of the Los Angeles
12 ICE Field Office. In this capacity, he is responsible for the administration of immigration laws
13 and the execution of immigration enforcement and detention policy within ICE’s Los Angeles
14 Area of Responsibility, including the detention of Petitioner. Respondent Robbins maintains an
15 office and regularly conducts business in this district. Respondent Robbins is sued in his official
16 capacity.

17 14. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official
18 Performing the Duties of the Director of ICE, he is responsible for the administration and
19 enforcement of the immigration laws of the United States; routinely transacts business in this
20 District; and is legally responsible for pursuing any effort to detain and remove the Petitioner.
21 Respondent Lyons is sued in his official capacity.

22 15. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate
23 authority over DHS. In that capacity and through her agents, Respondent Noem has broad authority
24 over and responsibility for the operation and enforcement of the immigration laws; routinely
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26 ¹ Following her detention and transfer to the California City Detention Center, her case was transferred to the Adelanto
27 Immigration Court. No hearings have been scheduled in regards to her removal proceedings . Prior to that, she had a case
28 along with her spouse with the San Francisco Immigration Court, where she had her first Master Calendar hearing scheduled
for January 6, 2026.

1 transacts business in this District; and is legally responsible for pursuing any effort to detain and
2 remove the Petitioner. Respondent Noem is sued in her official capacity.

3 16. Respondent Department of Homeland Security (DHS) is the federal agency responsible for
4 implementing and enforcing the INA, including the detention and removal of noncitizens.

5 17. Respondent Christopher Chestnut is employed by the private corporation, CoreCivic, Inc., as the
6 Warden of the California City Corrections Center, where Petitioner is detained. He has immediate
7 physical custody of Petitioner. He is sued in his official capacity.

8 18. Respondent Pamela Bondi is the Attorney General of the United States and the most
9 senior official at the Department of Justice. In that capacity and through her agents, she is
10 responsible for overseeing the implementation and enforcement of the federal immigration laws.
11 The Attorney General delegates this responsibility to the Executive Office for Immigration
12 Review, which administers the immigration courts and the BIA. Respondent Bondi is sued in her official
13 capacity.

14 **EXHAUSTION**

15 19. There is no requirement to exhaust because no other forum exists in which
16 Petitioner can raise the claims herein. There is no statutory exhaustion requirement prior to
17 challenging the constitutionality of an arrest or detention, or challenging a policy under the
18 Administrative Procedure Act. Prudential exhaustion is not required here because it would be
19 futile, and Petitioner will “suffer irreparable harm if unable to secure immediate judicial
20 consideration of [their] claim.” (*McCarthy v. Madigan*, 503 U.S. 140, 147 (1992).) Any further
21 exhaustion requirements would be unreasonable.

22 **FACTUAL BACKGROUND**

23 20. Petitioner is a 27-year-old citizen and national of Guatemala.

24 21. Petitioner fled Guatemala to seek asylum and related protections from persecution and torture in
25 the United States.

26 22. On or about June 25, 2022, Petitioner arrived in the United States to seek asylum. That same
27 day, Respondents arrested and detained Petitioner.

1 23. In or around August 9, 2022, Respondent DHS paroled Petitioner from its custody into the
2 United States under 8 U.S.C. § 1182(d)(5), after a determination that she was low flight risk and was not
3 a danger to the community. Petitioner was also provided with a Notice of Custody Determination,
4 which stated Petitioner was being released pursuant to section 236 of the Immigration and Nationality
5 Act. As a condition of Petitioner's release, she was instructed to make an initial in person appearance at
6 the ICE Field office in San Francisco on September 22, 2022. At her initial in-person visit at the ICE
7 Field Office in San Francisco, Petitioner was instructed to return for a second in-person visit on June 15,
8 2023.

9 24. Petitioner appeared again at the ICE Field Office on June 15, 2023, as instructed. It was at that
10 visit that she was served with an Order of Supervision form, instructing her to return again for an in-
11 person visit on June 17, 2024.

12 25. Petitioner once again appeared at her in person visit to the ICE San Francisco field office on
13 June 17, 2024. The only instruction she was given was to return again to the ICE San Francisco Field
14 Office on June 17, 2025. However, this time, the ICE officer informed Petitioner she was being enrolled
15 in the Intensive Supervision Appearance Program (ISAP), a program operated by a private contractor
16 that ICE uses to monitor released noncitizens. The same ICE officer also provided Petitioner with a cell
17 phone which contained a monitoring app. Petitioner was instructed to take selfie-pictures every
18 Thursday.

19 26. Per the ICE officer instructions, following her in-person visit to ICE on June 17, 2024,
20 Petitioner started taking selfie pictures every Thursday. Until the date of her arrest on November 16,
21 2025, she only missed taking a selfie-picture on one occasion sometime in 2024 because she had
22 forgotten to charge her cellphone. However, on the following day, Petitioner received a call from an
23 ICE officer, and after explaining to him the reason for her missing a picture, she proceeded with taking a
24 picture after being instructed.

25 27. When she returned one year later on June 17, 2025, she was once again instructed to return to
26 the ICE San Francisco field office on December 21, 2025. No mention was made by the ICE officer in
27 regards to her missing taking a selfie-picture in one occasion in 2024.

1 28. Sometime after that visit, Petitioner was instructed to appear at a Credible Fear interview at the
2 San Francisco Asylum Office in San Francisco, California. The interview was scheduled for October 1,
3 2025.

4 29. On October 1, 2025, Petitioner appeared at her scheduled Credible Fear interview at the San
5 Francisco Asylum office, in San Francisco, California. On that same day the asylum officer made a
6 finding that Petitioner had established credible fear of returning to Guatemala due to the physical and
7 emotional abuse from her ex-partner. On October 2, 2025, Petitioner was served with a Notice to
8 Appear, indicating Petitioner had a Master Calendar Hearing scheduled at the San Francisco
9 Immigration Court on January 6, 2026. The Notice to Appear also indicated that the Notice to Appear
10 was being issued after an asylum officer had determined that Petitioner had demonstrated a credible fear
11 of persecution or torture. The same notice also stated that the Section 235(b)(1) order was vacated
12 pursuant to 8 C.F.R. §208.30.

13 30. On October 2, 2025, Respondents commenced removal proceedings under 8 U.S.C. § 1229a.

14 31. Following commencement of removal proceedings, Petitioner started working on her case. She
15 retained the services of an immigration attorney and they were working on preparing an asylum
16 application in anticipation of the January 6, 2026 Master Calendar hearing.

17 32. To the best of her knowledge, Petitioner complied with all ISAP requirements during the
18 seventeen months following her June 17, 2024 visit to ICE. These requirements included phone and
19 video check-ins through the ISAP mobile phone application (ISAP app). Petitioner submitted a photo
20 via the app every time she was instructed via text to do so. She only missed sending one-selfie picture
21 one time sometime in 2024 due to the fact her telephone battery had died. However Petitioner took the
22 picture the next day after explaining the situation to her ICE officer and being instructed to do it so. She
23 checked the ISAP app every day to ensure that she complied with all requirements. Petitioner also
24 notified ISAP whenever she changed addresses. All her new addresses were within Alameda County,
25 near San Francisco. In addition, Petitioner appeared at the ICE Field Office in San Francisco on every
26 date indicated in her Form I-220A.

33. In addition, since her entry into the United States on June 15, 2022, Petitioner met her current partner, Diego Ixtos Hernandez. They started dating in January 2023 and they moved in together on November 2023. They have a daughter, [REDACTED] who was born in Berkeley, California, [REDACTED] Petitioner and Diego Ixtos Hernandez had plans to get married sometime on February or March 2026.

34. On November 16, 2025, Petitioner was at her home with her fiancé and their minor United States citizen child having breakfast when she received a phone call from an ICE agent, who proceeded received a text from ICE in her phone, instructing her to step outside her home because he was having connection problems with his phone. Believing the ICE officer, Petitioner stepped outside her home, just to be detained by ICE officers. She was not provided an explanation for her detention. On the same day, Petitioner was transferred to the California City Detention Center, in California City, California.

35. Prior to Petitioner's re-detention, she did not receive written notice of the reason for her re-detention.

36. Prior to Petitioner's re-detention, ICE did not provide notice of the revocation of her parole, as required by 8 C.F.R. § 212.5(e)(2).

37. Prior to Petitioner's re-detention, she never received a hearing before a neutral decisionmaker to determine if her re-detention is justified.

LEGAL BACKGROUND

38. Under current caselaw that governs the immigration court system, the mandatory detention scheme under 8 U.S.C. § 1225(b)(1) applies to individuals who are placed in expedited removal proceedings, pass a CFI, and are subsequently placed in removal proceedings. (See *Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019).) Such individuals are subject to detention without any bond hearing until the conclusion of their proceedings unless DHS releases them on parole. (See *Id.* at 510, 518–19.)

39. However, once released, due process requires that a person like Petitioner receive a hearing before a neutral decisionmaker to determine whether any re-detention is justified, and whether the person is a flight risk or danger to the community.

1 40. “Freedom from imprisonment—from government custody, detention, or other forms of physical
2 restraint—lies at the heart of the liberty protected by the Due Process Clause.” (*Zadvydas v. Davis*, 533
3 U.S. 678, 690 (2001).) As a number of District Courts recently recognized, this is the “the most
4 elemental of liberty interests.” *E.A. T.-B. v. Wamsley*, ___ F.Supp.3d ___, No. C25-1192-KKE, 2025 WL
5 2402130, at *3 (W.D. Was. Aug. 19, 2025).)

6 41. Consistent with this principle, individuals released on parole or other forms of conditional
7 release have a liberty interest in their “continued liberty.” (*Morrissey v. Brewer*, 408 U.S. 471, 482
8 (1972).)

9 42. Such liberty is protected by the Fifth Amendment because, “although indeterminate, [it]
10 includes many of the core values of unqualified liberty,” such as the ability to be gainfully employed and
11 live with family, “and its termination inflicts a ‘grievous loss’ on the [released individual] and often on
12 others.” (*Id.*)

13 43. To guarantee against arbitrary re-detention and to guarantee the right to liberty, due process
14 requires “adequate procedural protections” that ensure the government’s asserted justification for a
15 noncitizen’s physical confinement “outweighs the individual’s constitutionally protected interest in
16 avoiding physical restraint.” (*Zadvydas*, 533 U.S. at 690 (citation modified).)

17 44. Due process thus guarantees notice and an individualized hearing before a neutral
18 decisionmaker to assess danger or flight risk before the revocation of an individual’s release. (*Goldberg*
19 *v. Kelly*, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law is the opportunity
20 to be heard . . . at a meaningful time in a meaningful manner.” (citation modified)); *see also, e.g.,*
21 *Morrissey*, 408 U.S. at 485 (requiring “preliminary hearing to determine whether there is probable cause
22 or reasonable ground to believe that the arrested parolee has committed . . . a violation of parole
23 conditions” and that such determination be made “by someone not directly involved in the case”
24 (citation modified)).

25 45. Several courts, have recognized that these principles apply with respect to the re-detention of the
26 many noncitizens that DHS has recently begun taking back into custody, often after such persons have
27 been released for months and years.

1 46. For example, in *E.A. T.-B.*, the Federal Court for the Western District of Washington applied the
2 *Mathews v. Eldridge*, 424 U.S. 319 (1976), framework to hold that even in a case where the government
3 argued mandatory detention applied, a person's re-detention required a hearing.

4 47. In applying the three *Mathews* factors, the Court held that the petitioner had "undoubtedly
5 [been] deprive[d] . . . of an established interest in his liberty," (*E.A. T.-B.*, 2025 WL 2402130, at *3),
6 which, as noted, "is the most elemental of liberty interests," *id.* (citation modified). The Court further
7 explained that even if detention was mandatory, the risk of erroneous deprivation of liberty without a
8 hearing was high because a hearing serves to ensure that the purposes of detention—the prevention of
9 danger and flight risk—are properly served. (*Id.* at *4–5.) Finally, the Court explained that "the
10 Government's interest in re-detaining non-citizens previously released without a hearing is low:
11 although it would have required the expenditure of finite resources (money and time) to provide
12 Petitioner notice and hearing on [ISAP] violations before arresting and re-detaining him, those costs are
13 far outweighed by the risk of erroneous deprivation of the liberty interest at issue." (*Id.* at *5.) As a
14 result, this Court ordered the petitioner's immediate release. (*Id.* at *6.)

15 48. The decision in *E.A. T.-B.* is consistent with many other district court decisions addressing
16 similar situations. (See, e.g. *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y.
17 June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Pinchi v. Noem*, ---
18 F. Supp. 3d ---, No. 5:25-CV-05632-PCP, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar);
19 *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025)
20 (similar); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21,
21 2025) (similar).

22 49. The same framework and principles apply here and compel Petitioner's immediate release.
23

24 CLAIM FOR RELIEF

25 Violation of Fifth Amendment Right to Due Process

26 Procedural Due Process

27 50. Petitioner restates and realleges all paragraphs as if fully set forth here.
28

1 51. Due process does not permit the government to strip Petitioner of her liberty without written
2 notice and a hearing before a neutral decisionmaker to determine whether re-detention is warranted
3 based on danger or flight risk. (See *Morrissey*, 408 U.S. at 487–88.) Such written notice and a hearing
4 must occur *prior* to any re-detention.

5 52. Respondents revoked Petitioner’s release and deprived her of liberty without affording her any
6 written notice or meaningful opportunity to be heard by a neutral decisionmaker prior to her re-
7 detention.

8 53. Accordingly, Petitioner’s re-detention violates the Due Process Clause of the Fifth Amendment.
9

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Petitioner respectfully requests that this Court:

- 12 (1) Assume jurisdiction over this matter;
13 (2) Issue an Order to Show Cause ordering Respondents to show cause within three days as to why
14 this Petition should not be granted as required by 28 U.S.C. § 2243;
15 (3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody
16 immediately and permanently enjoining her re-detention absent written notice and a hearing
17 prior to re-detention where Respondents must prove by clear and convincing evidence that he is
18 a flight risk or danger to the community and that no alternatives to detention would mitigate
19 those risks;
20 (4) Declare that Petitioner’s detention without an individualized determination before a neutral
21 decisionmaker violates the Due Process Clause of the Fifth Amendment;
22 (5) Award Petitioner’s attorney’s fees and costs under the Equal Access to Justice Act, and on any
23 other basis justified under law; and
24 (6) Grant any further relief this Court deems just and proper.

25 Respectfully submitted,
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1 DATE: 11/25/2025

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