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12 **UNITED STATES DISTRICT COURT**
13 **EASTERN DISTRICT OF CALIFORNIA**
14 **FRESNO DIVISION**
15

16 MAIKELLYS LUSEIDY REYES SOLANO

17 *Petitioner,*

18 v.

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

Respondents,

Case No. 25-1261

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

IMMIGRATION HABEAS CASE

INTRODUCTION

1. Petitioner Maikellys Luseidy Reyes Solano (“Petitioner”) is an asylum seeker who fled Venezuela. After Petitioner arrived in the United States on October 11, 2024, federal agents briefly detained her. Although they made a negative credible fear and reasonable probability finding in regards to Petitioner’s claims, following a Positive Credible Fear Determination by an Immigration Judge, immigration officers determined that Petitioner was not a flight risk or danger to the community, and released her on her own recognizance with a Notice to Appear for removal proceedings with the Immigration Court. Since then, 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 monthly basis, presenting herself at the ISAP and/or ICE Field offices in person whenever instructed, and maintaining ICE informed of her whereabouts. In addition, Petitioner has no criminal history anywhere in the world. Until the time of her detention by Respondents, Petitioner was in the process of retaining the services of an immigration attorney for the purpose of filling an asylum application, and until the time of her detention, Petitioner had a Master Calendar hearing scheduled with the San Francisco Immigration Court.

2. On October 2, 2025, Petitioner appeared for what she believed would be a routine in-person check-in at the San Francisco ICE Field Office located at 630 Sansome Street, in San Francisco, California, in order to present herself to her monitoring officer, but she was promptly arrested by ICE officers, who alleged she had violated the terms of her Supervision Appearance Program. Prior to that date, Respondent had sent numerous selfie-pictures to ISAP, had appeared in person at all scheduled in-person check-in visits, and she always provided updates about her new address. During the monitoring process, in one occasion on July 21, 2025, Petitioner was two hours late with taking a picture due to the fact that at the scheduled time to take the picture, Petitioner had accompanied her mother to the Kaiser Permanente hospital for her mother’s scheduled breast cancer treatment and due to the fact she was discussing her mother’s treatment with her mother’s oncologist, Petitioner forgot about her scheduled selfie picture. Still, she always kept ICE informed about her whereabouts.

3. When Petitioner asked for the specific facts and proof supporting the allegation, the ICE officer

1 failed to provide any information, other than saying she had missed taking a selfie-picture on one
2 occasion. Remembering the incident of July 21, 2025, Petitioner tried to explain that she had missed
3 taking a picture for two hours due to her phone battery being dead. Still, the ICE officers proceeded
4 with arresting her. On the same day, Petitioner was transferred to the California City Detention Center,
5 in California City, California.

6 4. Before re-detaining her, Respondent did not provide Petitioner with any written notice
7 Explaining the basis for the revocation of her release. Nor did they provide a hearing before a neutral
8 decisionmaker where ICE was required to justify the basis for re-detention or explain why Petitioner is a
9 flight risk or danger to the community.

10 5. A number of courts have held that due process demands such a hearing before the government's
11 Decision to terminate a person's liberty. (See *E.A. T.-B. v. Wamsley*, --- F.Supp. 3d --- No. C25-1192-
12 KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025.); also see *Labrador-Prato v. Noem*, No. 1:25-
13 CV-01598-DC-SCR (HC), 2025 U.S. Dist. LEXIS 235061 *, 2025 LX 502252, 2025 WL 3458802)
14 (E.D. Cal. Dec. 2, 2025); also see *Vilela v. Robbins*, No. 1:25-CV-01393-KES-HBK (HC), 2025 U.S.
15 Dist. LEXIS 219172 *, 2025 LX 474205 (E.D. Cal. Nov. 6, 2025).)

16 6. By failing to provide such a hearing, Respondents have violated Petitioner's constitutional right
17 to due process. Accordingly, this Court should grant the instant petition for a writ of habeas corpus and
18 order her immediate release. (See *E.A.T.-B.*, 2025 WL 2402130, at 6 *) (ordering immediate release
19 because "a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after
20 the fact and cannot prevent an erroneous deprivation of liberty."); *Vilela*, 2025 LX 474205, at *19-20
21 ("Petitioner's immediate release is required to return her to the status quo ante").)

22 JURISDICTION AND VENUE

23 7. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question),
24 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (Declaratory Judgment Act), 28 U.S.C. § 2241
25 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), the Fourth and
26 Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

27 8. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28

1 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.

2 **REQUIREMENTS OF 28 U.S.C. § 2243**

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

7 10. Habeas corpus is perhaps the most important writ known to the constitutional law... affording
8 as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” (*Fay v. Noia*,
9 372 U.S. 391, 400 (1963).) “The application for the writ usurps the attention and displaces the calendar
10 of the judge or justice who entertains it and receives prompt action from him within the four corners of
11 the application.” (*Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also Van*
12 *Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (Habeas corpus is “a speedy remedy,
13 entitled by statute to special, preferential consideration to insure expeditious hearing and
14 determination.”).

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

17 **PARTIES**

18 12. Petitioner is a 20-year-old asylum seeker from Venezuela. She has a pending case with the
19 Adelanto Immigration Court¹, and has no criminal history. She is presently in civil immigration
20 detention at the California City Correctional Center, in California City, California.

21 13. Respondent Timothy S. Robbins is the Acting Field Office Director of the Los Angeles
22 ICE Field Office. In this capacity, he is responsible for the administration of immigration laws
23 and the execution of immigration enforcement and detention policy within ICE’s Los Angeles
24 Area of Responsibility, including the detention of Petitioner. Respondent Robbins maintains an
25

26 _____
27 ¹ Following her detention and transfer to the California City Detention Center, her case was transferred to the Adelanto
28 Immigration Court. She has master calendar hearing scheduled for December 17, 2025. Prior to that, she initially had a case
with the Pearsall Immigration Court, in Texas.

1 office and regularly conducts business in this district. Respondent Robbins is sued in his official
2 capacity.

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

8 15. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate
9 authority over DHS. In that capacity and through her agents, Respondent Noem has broad authority
10 over and responsibility for the operation and enforcement of the immigration laws; routinely
11 transacts business in this District; and is legally responsible for pursuing any effort to detain and
12 remove the Petitioner. Respondent Noem is sued in her official capacity.

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

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

22 EXHAUSTION

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

FACTUAL BACKGROUND

19. Petitioner is a 20-year-old citizen and national of Venezuela.

20. Petitioner fled Venezuela to seek asylum and related protections from persecution and torture in the United States. She fled Venezuela on her own, but her mother, Luz Daris Solano, and Petitioner infant siblings, were already residing in the United States after fleeing Venezuela for the same reason as Petitioner.

21. On or about October 11, 2024, Petitioner arrived in the United States to seek asylum. That same day, Respondents arrested and detained Petitioner.

22. In or around October 17, 2024, Petitioner underwent a credible fear interview with DHS Asylum Officers. On October 21, 2024, the asylum officers made a negative finding regarding the interview. On the same day, Petitioner requested a review of the decision by an Immigration Judge at the immigration court in Pearsall, Texas. On October 23, 2024, the Immigration Court found that Petitioner had established credible fear, thus reversing the decision by the asylum officer, finding that Petitioner had demonstrated a credible fear of being persecuted by individuals with connections to criminal groups in Venezuela connected to its government.

23. On November 11, 2024, Respondent DHS paroled Petitioner from its custody into the United States under 8 U.S.C. § 1182(d)(5). As a condition of Petitioner’s release, she was required to enroll in the Intensive Supervision Appearance Program (ISAP), a program operated by a private contractor that ICE uses to monitor released noncitizens. DHS officials provided Petitioner with a Notice to Appear in Immigration Court (DHS Form I-862), which stated that the Section 235(b)(1) order was being vacated pursuant to 8 C.F.R. §208.30. ICE officials also placed an ankle monitor on Petitioner upon her exit from the detention facility in Texas.

24. Following her release, Petitioner relocated to Daly City, California, where she moved in with her mother and infant siblings in early November 2024.

1 25. On December 6, 2024, Respondents commenced removal proceedings under 8 U.S.C. § 1229a.

2 26. Following commencement of removal proceedings, Petitioner actively worked on her case,
3 starting to organize evidence and draft an initial declaration in support of her asylum application.
4 Petitioner also proceeded with saving money in order to hire an immigration attorney to help her file an
5 asylum application and represent her with the Immigration Court. Sometime in July or August 2025,
6 Petitioner retained an immigration attorney and started working with her towards transferring her
7 removal case to the San Francisco Immigration Court and prepare an asylum application.

8 27. To the best of her knowledge, Petitioner complied with all of her monitoring requirements
9 during the almost twelve months following her release. These requirements included phone and video
10 check-ins through the ISAP mobile phone application (ISAP app). Petitioner submitted a photo via the
11 app every time she was instructed via text to do so, and she had received written notice in her phone that
12 she needed to appear in person at either the ICE field office or the ISAP office on different dates
13 following her entry on the United States.

14 28. In regards to her in person visits, Petitioner appeared for her initial in person visits at the ISAP
15 field office in San Jose, California, on November 22, 2024. At that meeting, Petitioner was directed by
16 ICE Officials to present herself at the ISAP field office in San Francisco on December 4, 2024.

17 29. On December 4, 2024, Petitioner appeared as instructed at the ISAP office in San Francisco. At
18 that visit, ICE officers removed her ankle monitor and once again instructed her to return to the ISAP
19 San Francisco office on February 10, 2025. She once again returned to the ISAP San Francisco office
20 on February 10, 2025 for another routine visit. This time, Petitioner was instructed to wait for
21 instructions through the app as to when to appear at the ICE Field office in San Francisco.

22 30. In or around July 21, 2025, Petitioner was two hours late with taking a picture due to the fact
23 that at the scheduled time to take the picture, Petitioner had accompanied her mother to the Kaiser
24 Permanente hospital for her mother's scheduled breast cancer treatment and as a result, Petitioner forgot
25 about her scheduled selfie picture due to the fact she had been discussing her mother's treatment with
26 her mother's oncologist. Still, Petitioner always kept ICE informed about her whereabouts.

31. The following morning, on July 22, 2025, Petitioner received a notification through the app instructing her to appear at the ICE Field office in San Francisco on July 31, 2025. On July 31, 2025, Petitioner appeared at the ICE Field office in San Francisco, when questioned about why she had been late by two hours with sending a selfie picture, Petitioner explained to the ICE office that at the scheduled time to take the selfie picture, she was with her mother at the Kaiser Hospital due to her mother's cancer treatment session. The ICE Office told her she was sympathetic to her situation and that Petitioner had nothing to worry about. Nevertheless, the ICE officer once again placed the ankle monitor on Petitioner. Petitioner was then instructed to appear at the ICE Field Office on October 2, 2025.

32. From July 22, 2025 until October 2, 2025, Petitioner continued sending to ICE all her selfie pictures in a timely manner. She also continued to help her mother with her day-to-day chores, as well as helping her mother care for Petitioner two minor siblings. The truth is that due to her cancer, Petitioner's mother had difficulties in performing normal tasks at home due to the side-effects of her medications.² As a result, Petitioner was responsible for caring for her siblings and her mother. Petitioner would do the cooking and cleaning at home, as well as taking her siblings to and from school. Petitioner was also responsible for driving her mother whenever needed, including her hospital visits. Still, Respondent did her best to help everyone, while at the same time working part time at a marketing company [REDACTED] Petitioner also made sure to take her mother every Sunday for services at Cosecha Ministry Church, in San Francisco. In there, she was able to make a number of friends, including her current fiancé, Angel David Perucho Hernandez. They were planning to get married on June 2026.

33. On October 2, 2025, Petitioner once again appeared at the ICE San Francisco field office for her scheduled check-in presentation, but she was promptly detained by ICE officers. Petitioner asked for the specific facts and proof supporting the allegation, but the only information the ICE officer provided was that she had missed taking a selfie-picture on one occasion. Remembering the incident of July 21,

² Petitioner's mother treatment consisted in taking [REDACTED] Both medications cause side effects such as fatigue and weakness.

2025, Petitioner tried to explain that she had missed taking a picture for two hours due to her phone battery being dead. Still, the ICE officers proceeded with arresting her. On the same day, Petitioner was transferred to the California City Detention Center, in California City, California.

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

35. 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).

36. 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

37. 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.)

38. 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.

39. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause." (*Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).) As a number of District Courts recently recognized, this is the "the most elemental of liberty interests." (*E.A. T.-B. v. Wamsley*, 2025 WL 2402130, at *3.) They also have recognized that these protections extend to all persons in the United States, including aliens, whether their presence is lawful, unlawful temporary, or permanent. *Labrador-Prato*, 2025 U.S. Dist. LEXIS 235061, at *11 (Citing *Wong Wing v. U.S.S.* 228, 238, 16 S. Ct. 977, 41 D. Ed. 140 (1896)).)

1 40. Consistent with this principle, individuals released on parole or other forms of conditional
2 release have a liberty interest in their “continued liberty.” (*Morrissey v. Brewer*, 408 U.S. 471, 482
3 (1972).)

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

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

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

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

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

26 46. In applying the three *Mathews* factors, the Court held that the petitioner had “undoubtedly
27 [been] deprive[d] . . . of an established interest in his liberty,” (*E.A. T.-B.*, 2025 WL 2402130, at *3),
28

1 which, as noted, “is the most elemental of liberty interests,” *id.* (citation modified). The Court further
 2 explained that even if detention was mandatory, the risk of erroneous deprivation of liberty without a
 3 hearing was high because a hearing serves to ensure that the purposes of detention—the prevention of
 4 danger and flight risk—are properly served. (*Id.* at *4–5.) Finally, the Court explained that “the
 5 Government’s interest in re-detaining non-citizens previously released without a hearing is low:
 6 although it would have required the expenditure of finite resources (money and time) to provide
 7 Petitioner notice and hearing on [ISAP] violations before arresting and re-detaining him, those costs are
 8 far outweighed by the risk of erroneous deprivation of the liberty interest at issue.” (*Id.* at *5.) As a
 9 result, this Court ordered the petitioner’s immediate release. (*Id.* at *6.)

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

17 48. The same framework and principles apply here and compel Petitioner’s immediate release.

18 CLAIM FOR RELIEF

19 Violation of Fifth Amendment Right to Due Process

20 Procedural Due Process

21 49. Petitioner restates and realleges all paragraphs as if fully set forth here.

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

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

52. Accordingly, Petitioner's re-detention violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

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

Respectfully submitted,

DATE: 12/11/2025

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