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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

9
10 Tatiana Andrea Arevalo Alzate,)

11 Petitioner,)

12 v.)

13 Christopher Chestnut, Warden, California City)
14 ICE Detention Center;)
Orestes Cruz, Acting Director of San Francisco)
15 Field Office, U.S. Immigration and Customs)
Enforcement; Todd M. Lyons, Acting Director of)
16 Immigration and Customs Enforcement;)
17 Kristi Noem, Secretary of the U.S.)
Department of Homeland Security,)
18 in their official capacities,)

19 Respondents.)
20)

Case No. _____

**PETITION FOR WRIT OF
HABEAS CORPUS**

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

21 **INTRODUCTION**

22 1. Petitioner Tatiana Andrea Arevalo Alzate is a native and citizen of Colombia. She
23 was detained by Immigration and Customs Enforcement on the morning of December 10, 2025,
24 while reporting to an ICE check-in appointment at 630 Sansome Street, San Francisco,
25 California. The petitioner has a pending Form I-589 asylum application with the Immigration
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1 Court. Petitioner's release is not reasonably foreseeable. Accordingly, to vindicate Petitioner's
2 constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

3 2. Absent an order from this Court, Petitioner will continue to be held in ICE
4 custody throughout her immigration process, away from evidence to support her case, and her
5 retained counsel.

6 3. Petitioner asks this Court to find that Petitioner's detention violates her due
7 process rights and order her to be released from custody.
8

9 **JURISDICTION**

10 4. This action arises under the Constitution of the United States and the Immigration
11 and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

12 5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
13 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States
14 Constitution (Suspension Clause).

15 6. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et*
16 *seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
17 § 1651, and the Immigration and Nationality Act, 8 U.S.C. §1252(e)(2).
18

19 **VENUE**

20 7. Venue is proper because Petitioner is in Respondents' custody in California City
21 Ice Processing Center in California City, CA. See Rasul v. Bush, 542 U.S. 466, 478 (2004)
22 (holding that "because the writ of habeas corpus does not act upon the prisoner who seeks relief,
23 but upon the person who holds him in what is alleged to be unlawful custody," proper federal
24 district is dependent on the location of the custodian).
25

26 **REQUIREMENTS OF 28 U.S.C. § 2241, 2243**

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

5 9. Courts have long recognized the significance of the habeas statute in protecting
6 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
7 important writ known to the constitutional law of England, affording as it does a *swift* and
8 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391,
9 400 (1963) (emphasis added).

10 10. Petitioner is “in custody” for the purpose of §2241 because she was arrested by
11 and is detained by Respondents.

12 PARTIES

13 11. Petitioner is a native and citizen of Colombia who fled her home country to seek
14 asylum in the United States. Petitioner is currently detained at California City Processing Center
15 in California City, California. She is in the custody, and under the direct control, of Respondents
16 and their agents.

17 12. Respondent Christopher Chestnut is the Warden of California City detention
18 center, and he has immediate physical custody of Petitioner pursuant to the facility’s contract
19 with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian
20 of Petitioner.

21 13. Respondent Todd M. Lyons is the Acting Director of Immigration and Customs
22 Enforcement. Respondent Lyons is a legal custodian of Petitioner and has authority to order her
23 release.

24 14. Respondent Orestes Cruz is the Acting Director of the San Francisco Field Office
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1 of U.S. Immigration and Customs Enforcement. Respondent Cruz is a legal custodian of
2 Petitioner and has authority to release her.

3 15. Respondent Kristi Noem is sued in her official capacity as the Secretary of the
4 U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible
5 for the implementation and enforcement of the Immigration and Nationality Act, and oversees
6 U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's
7 detention. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully
8 administering the immigration laws of the United States.
9

10 16. This action is commenced against all Respondents in their official capacities.

11 **LEGAL FRAMEWORK**

12 17. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a
13 right to apply for asylum to individuals seeking safe haven in the United States. The purpose of
14 the Refugee Act is to enforce the "historic policy of the United States to respond to the urgent
15 needs of persons subject to persecution in their homelands." Refugee Act of 1980, §101(a), Pub.
16 L. No. 96-212, 94 Stat. 102 (1980).
17

18 18. The "motivation for the enactment of the Refugee Act" was the United Nations
19 Protocol Relating to the Status of Refugees, "to which the United States had been bound since
20 1968." INS v. Cardoza-Fonseca, 480 U.S. 421, 424, 432-33 (1987). The Refugee Act reflects a
21 legislative purpose "to give 'statutory meaning to our national commitment to human rights and
22 humanitarian concerns.'" Duran v. INS, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).
23

24 19. The Refugee Act established the right to apply for asylum in the United States and
25 defined the standards for granting asylum. It is codified in various sections of the INA.

26 20. The INA gives the Attorney General or the Secretary of Homeland Security
27 discretion to grant asylum to noncitizens who satisfy the definition of "refugee." Under that
28

1 definition, individuals generally are eligible for asylum if they have experienced past persecution
 2 or have a well-founded fear of future persecution on account of race, religion, nationality,
 3 membership in a particular social group, or political opinion, and if they are unable or unwilling
 4 to return to and avail themselves of the protection of their homeland because of that persecution
 5 of fear. 8 U.S.C. § 1101(a)(42)(A).

6 21. Although a grant of asylum may be discretionary, the right to apply for asylum is
 7 not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is
 8 physically present in the United States or who arrives in the United States[.]” 8 U.S.C. §
 9 1158(a)(1).
 10

11 22. Because of the life-or-death stakes, the statutory right to apply for asylum is
 12 robust. The right necessarily includes the right to counsel, at no expense to the government, see 8
 13 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the right to counsel, see 8 U.S.C. §
 14 1158(d)(4), and the right to access information in support of an application, see § 1158(b)(1)(B)
 15 (placing the burden on the applicant to present evidence to establish eligibility.).
 16

17 23. Noncitizens seeking asylum are guaranteed Due Process under the Fifth
 18 Amendment to the U.S. Constitution. Reno v. Flores, 507 U.S. 292, 306 (1993).

19 24. Noncitizens who are applicants for asylum are entitled to a full hearing in
 20 immigration court before they can be removed from the United States. 8 U.S.C. § 1229a.
 21 Consistent with due process, noncitizens may seek administrative appellate review before the
 22 Board of Immigration Appeals of removal orders entered against them and judicial review in
 23 federal court upon a petition for review. 8 U.S.C. § 1252(a) et seq.
 24

25 25. Immigration detention should not be used as a punishment and should only be
 26 used when, under an individualized determination, a noncitizen is a flight risk because they are
 27 unlikely to appear for immigration court or a danger to the community. Zadvydas v. Davis, 533
 28

1 U.S. 678, 690 (2001).

2 **STATEMENT OF FACTS**

3 26. Petitioner is a 37-year-old citizen of Colombia. Before being arrested, Respondent
4 lived in Sunnyvale, California.

5 27. Petitioner arrived in the United States on or around July 2, 2023, seeking
6 admission as a B2 visitor. Upon arrival, Petitioner was questioned by a Customs and Border
7 Patrol officer, who, after the interview, determined that Petitioner had allegedly violated the
8 terms of her visa during a prior entry into the United States. Petitioner's visa was cancelled at the
9 time Petitioner expressed her fear of returning to Colombia due to death threats and physical
10 harm she received at the hands of her sentimental ex-partner.

11 28. After an asylum officer found that the Petitioner demonstrated a credible fear of
12 persecution or torture, The Department issued a Notice to Appear to Petitioner on July 12, 2023.
13 Petitioner was released from custody on or around July 28, 2023 after the Department
14 determined to release her on a \$10,000 bond and parole. Petitioner has resided in Sunnyvale,
15 California, since her release in 2023, and has been gainfully employed in the San Francisco Bay
16 Area since then.

17 29. Petitioner prepared a timely application for asylum, withholding of removal and
18 protection under the Convention Against Torture. That application was submitted on September
19 6, 2023 before the Immigration Court in San Francisco, California. The Immigration court in San
20 Francisco set a master calendar hearing date of July 27, 2028 at 9:00 a.m. for Petitioner.

21 30. Petitioner has attended all of her previously-scheduled immigration hearings and
22 reasonably complied with the reporting requirements with ICE. A few weeks before her
23 detention, ICE officers had placed an ankle bracelet on Petitioner as a monitoring and tracking
24 device. She was detained by ICE officers while at a check-in appointment with ICE officers on
25

1 December 10, 2025. At the interview the ICE officer stated that due to a change in policy,
2 individuals under supervision with ankle bracelets were going to be detained and remain in
3 custody to finish their case, but if Petitioner wished, she could request to be removed before
4 completion of her asylum case. She is not a flight risk and wishes to have her asylum case heard
5 by the Immigration Judge while not in detention.

6 31. Petitioner is not a danger to her community. She has no criminal history anywhere
7 in the world.
8

9 **CLAIMS FOR RELIEF**

10 **COUNT ONE**

11 **Violation of Fifth Amendment Right to Due Process**
12 **Procedural Due Process**

13 32. The allegations in the above paragraphs are realleged and incorporated herein.

14 33. The Due Process Clause of the Fifth Amendment to the U.S. Constitution
15 prohibits the federal government from depriving any person of “life, liberty, or property, without
16 due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the
17 United States, including [non-citizens], whether their presence here is lawful, unlawful,
18 temporary, or permanent.” Zadvydas, 533 U.S. at 693.
19

20 34. Due process requires that government action be rational and non-arbitrary. See
21 U.S. v. Trimble, 487 F.3d 752, 757 (9th Cir. 2007).
22

23 35. While asylum is a discretionary benefit, the right to apply is not. 8 U.S.C.
24 § 1158(a)(1). Any noncitizen who is “physically present in the United States or who arrives in
25 the United States (whether or not at a designated port of arrival . . .), irrespective of such
26 [noncitizen’s] status, may apply for asylum.” Id.
27
28

1 36. Because the denial of the right to apply for asylum can result in serious harm or
2 death, the statutory right to apply is robust and meaningful. It includes the right to legal
3 representation and notice of that right, see id. §§ 1229a(b)(4)(A), 1362, 1158(d)(4); the right to
4 present evidence in support of asylum eligibility, see id. § 1158(b)(1)(B); the right to appeal an
5 adverse decision to the Board of Immigration Appeals and to the federal circuit courts, see id. §§
6 1229a(c)(5), 1252(b); and the right to request reopening or reconsideration of a decision
7 determining removability, see id. § 1229a(c)(6)-(7).
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11 37. As a detainee, hundreds of miles from her retained counsel, Petitioner is deprived
12 of her retained counsel, and thus, her due process right to said counsel. Petitioner is also, and
13 relatedly, deprived of the opportunity to present evidence in support of her asylum eligibility
14 because of her detention away from any supporting evidence she may have for her asylum claim,
15 which was timely filed with the San Francisco Immigration Court.
16

17 38. For these reasons, Petitioner's detention violates the Due Process Clause of the
18 Fifth Amendment.
19

20 **COUNT TWO**
21 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), the Immigration and**
22 **Nationality Act – 8 U.S.C. § 1226, and Federal Regulations**
Not in Accordance with Law and in Excess of Statutory Authority
Unlawful Detention

23 39. The allegations in the above paragraphs are realleged and incorporated herein.

24 40. Under the APA, a court shall “hold unlawful and set aside agency action” that is
25 an abuse of discretion. 5 U.S.C. § 706(2)(A).
26

27 41. An action is an abuse of discretion if the agency “entirely failed to consider an
28 important aspect of the problem, offered an explanation for its decision that runs counter to the
PETITION FOR WRIT OF HABEAS CORPUS.

1 evidence before the agency, or is so implausible that it could not be ascribed to a difference in
2 view or the product of agency expertise.” Nat’l Ass’n of Home Builders v. Defs. of Wildlife, 551
3 U.S. 644, 658 (2007) (quoting Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto.
4 Ins. Co., 463 U.S. 29, 43 (1983)).

5 42. To survive an APA challenge, the agency must articulate “a satisfactory
6 explanation” for its action, “including a rational connection between the facts found and the
7 choice made.” Dep’t of Com. v. New York, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

8 43. Respondents released Petitioner on a \$10,000 bond after her entry to the United
9 States in July 2023. By revoking this status, and transferring Petitioner away from the district
10 without consideration of Petitioner’s individualized facts and circumstances, Respondents have
11 violated the INA, implementing regulations, and the APA.

12 44. On information and belief, Respondents have made no finding that Petitioner is a
13 danger to the community.

14 45. On information and belief, Respondents have made no finding that Petitioner is a
15 flight risk because, in fact, Petitioner was arrested while appearing at a scheduled check-in with
16 Immigration officers.

17 46. By detaining and transferring the Petitioner categorically, Respondents have
18 further abused their discretion because, since the agency made its initial determination to release
19 Petitioner into the United States on a bond, on information and belief, there have been no
20 changes to Petitioner’s facts or circumstances that support detention.

21 47. Respondents have already considered Petitioner’s facts and circumstances and
22 determined that Petitioner was not a flight risk or danger to the community. On information and
23 belief, there have been no changes to the facts that justify her detention.

1 48. For these reasons, Petitioner's detention violates 5 U.S.C. § 706(2)(A) and 8
2 U.S.C. § 1226.

3 **PRAYER FOR RELIEF**

4 Wherefore, Petitioner respectfully requests this Court to grant the following:

- 5 (1) Assume Jurisdiction over this matter;
- 6 (2) Issue an Order to Show Cause ordering Respondents to Show Cause why this petition
7 should not be granted within three days;
- 8 (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth
9 Amendment, 5 U.S.C. § 706(2)(A), and/or the Immigration and Nationality Act – 8 U.S.C.
10 § 1226;
- 11 (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately
12 from custody;
- 13 (5) In the alternative, issue a Writ Of Habeas Corpus, and promptly thereafter, order a
14 hearing within 14 days, where Respondents must establish the necessity of further
15 detention by clear and convincing evidence, and where the adjudicator evaluates
16 Petitioner's ability to pay when setting a bond, and considers alternative conditions of
17 release that reasonably assure the safety of the community and Petitioner's appearances;
- 18 (6) Award petitioner attorney's fees and costs under the Equal Access to Justice Act, and on
19 any other basis justified under law; and
- 20 (7) Grant any further relief this Court deems just and proper.
- 21
- 22

23 Respectfully submitted,

24 /s/ Marco A. Garzon

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4 *Counsel for Petitioner*

5 Dated: December 15, 2025

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Tatiana Andrea Arevalo Alzate, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 15th day of December, 2025.

s/Marco A. Garzon
Attorney for Petitioner