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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

Claudia Patricia Moreno Vergel,

Petitioner,

v.

CORECIVIC, INC., a Maryland corporation,
operating the California City Detention
Facility; Kristi NOEM, Secretary of the
Department of Homeland Security; Pamela
BONDI, U.S. Attorney General; in their
official capacity; Moises BECERRA, in his
official capacity as Field Office of
Immigration and Customs Enforcement,
Enforcement and Removal Operations.

Respondents.

Case Number: 1:25-cv-01931-EPG HC

**PETITIONER'S REPLY TO
RESPONDENT'S MOTION TO
DISMISS¹ PETITION FOR WRIT OF
HABEAS CORPUS; OPPOSITION TO
PRELIMINARY INJUNCTION;
OPPOSITION TO TEMPORARY
RESTRAINING ORDER**

INTRODUCTION

This detention is unlawful. The Government concedes that Petitioner was released under its discretionary authority, but no constitutionally adequate process preceded taking her back into custody. The Government also concedes that this case is indistinguishable from *See, e.g., Castillo v. Wofford*, 2025 WL 3466064, *8 (E.D.Cal. Dec. 2, 2025); *Polo v. Chestnut*, 2025 WL 2959346,

¹ Respondent's caption is a motion to dismiss a petition for "Writ of Habeas Corpus Under 28 U.S.C. § 2254 and Rule 4" for state prisoners. Petitioner's writ is based on 28 U.S.C. § 2241 applicable to individuals in federal custody such as immigration detainees.

² Respondent's motion is not properly noticed per Local Rule 230(b) and should not be set for hearing.

*6 (Oct. 17, 2025); *J.S.H.M. v. Wofford*, 2025 WL 2938808, *10 (E.D.Cal. Oct. 16, 2025); *Ortiz Donis v. Chestnut*, 2025 WL 2879514, *7 (E.D.Cal. Oct. 9, 2025).

The Government's motion to dismiss asks this Court to accept a detention that is neither authorized by regulation nor constrained by due process. Rule 12(b)(6) does not allow dismissal where, as here, the pleadings plausibly allege detention imposed without legal authority and without constitutional process. Because the Government's own account establishes that Petitioner's custody is unlawful, the motion should be denied.

LEGAL STANDARD

To survive a motion to dismiss under Rule 12(b)(6), a petition need only allege facts that, accepted as true, state a plausible claim for relief. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)(citation omitted). At this stage, the Court must construe all factual allegations in the light most favorable to the petitioner and may not resolve disputed facts or weigh competing factual narratives. *Id.*

I. PETITIONER STATES A PLAUSIBLE DUE PROCESS CLAIM BASED ON A LIBERTY INTEREST IN FREEDOM FROM DETENTION

The Petition states a viable procedural due process claim that the Government's motion does not address. The Government concedes that Petitioner was released pursuant to the Government's discretionary authority. During that extended period of freedom, Petitioner acquired a constitutionally protected liberty interest in remaining free from physical detention. *Labrador-Prato v. Noem, et al.*, 1:25-cv-01598-DC-SCR, 2025 WL 3458802 (E.D. Cal. Dec. 2, 2025), *Selis Tinoco v. Noem, et al.*, 1:25-cv-01762-DC-JDP, 2025 WL 3567862 (E.D. Cal. Dec. 14, 2025) *Rodriguez Diaz v. Kaiser*, 2025 WL 3011852, at *1–3 (N.D. Cal. June 14, 2025); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017); *Guillermo M.R. v. Kaiser*, No. 25-CV-05436, 2025 WL 1983677, at *1, *8 (N.D. Cal. July 17, 2025); *Pinchi v. Noem*, No. 25-

CV-05632, 2025 WL 2084921, at *3, *5 (N.D. Cal. July 25, 2025); *Jimenez v. FCI Berlin Warden*, No. 25-cv-326-LM-AJ at *10-11 (SDNY Sept. 8, 2025); *Romero v. Hyde*, --- F.Supp. 3d ----, 2025 WL 2403827, at *8 (D. Mass. Aug. 19, 2025); see also *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 at *5, *8 (D. Mass. July 7, 2025)(concluding that noncitizen originally detained under section 1225(b) but released on conditional parole under section 1226 and later rearrested on a section 1226 warrant was entitled to a bond hearing under section 1226 and it implementing regulations); *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)

Courts have repeatedly held that once DHS grants release—whether on parole, supervision, or recognizance—it may not summarily revoke that liberty without pre-deprivation procedural safeguards, including notice, an opportunity to be heard, and a determination by a neutral decision-maker that a material change in circumstances justifies re-detention. *Calderon v. Kaiser*, No. 25-cv-6695 AMO, 2025 WL 2430609, at *2 (N.D. Cal. Aug. 22, 2025).

The Government’s motion to dismiss offers no defense to this claim. It does not identify:

- Any pre-deprivation hearing;
- Any evidence that Petitioner violated the conditions of release.

The due process violation flows from the summary deprivation of liberty, not from the label the Government assigns to the release mechanism.

Because the Petition plausibly alleges that Petitioner was re-arrested without the process constitutionally required, dismissal under Rule 12(b)(6) is improper.

II. THE GOVERNMENT’S FACTUAL ASSERTIONS CANNOT SUPPORT DISMISSAL AT THE PLEADING STAGE.

The Government’s motion improperly relies on uncorroborated factual assertions that Petitioner violated conditions of release or was lawfully subject to re-detention. On a Rule 12(b)(6) motion, the Court may not credit such assertions where they are unsupported by the pleadings or contradicted by the regulatory framework

The Government’s motion raises additional questions regarding the legality of Petitioner’s detention, namely:

- Whether parole had already terminated by operation of law;
- Whether any regulatory basis existed for re-detention;
- Whether Petitioner was afforded constitutionally required process.

Those questions cannot be resolved on the lack of information provided by Respondent.

CONCLUSION

This Petition plausibly alleges a violation of Petitioner’s procedural due process rights, therefore, Court should deny the motion to dismiss in its entirety and order Petitioner’s immediate release.

Date: December 31, 2025

/s/ Mario Salgado
Mario Salgado, Esq.
SALGADO & PERALTA, P.A.

CERTIFICATE OF SERVICE

I, Mario Salgado, am over the age of 18 years and maintain a business address located at 605 Market Street Suite 1111 in San Francisco, California 94105. I mailed the **PETITIONER'S REPLY TO RESPONDENT'S MOTION TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS; OPPOSITION TO PRELIMINARY INJUNCTION; OPPOSITION TO TEMPORARY RESTRAINING ORDER**, to:

1. CORECIVIC, INC. Attn: Amanda Garcia, Registered Corporate Agent
Authorized Employee, located at 330 N. Brand Blvd, Glendale, CA 94103
2. Kristi NOEM, Secretary of the Department of Homeland Security, Office
of the General Counsel; U.S. Department of Homeland Security; 245 Murray Lane, SW;
Mail Stop 0485; Washington, D.C. 20258-0485.
3. Pamela BONDI, U.S. Attorney General, U.S. Department of Justice; 950
Pennsylvania Avenue, NW; Washington, D.C. 20530-0001
4. Civil Process Clerk & United States Attorney's Office for the Eastern
District of California; 2500 Tulare Street, Suite 4401, Fresno, CA 93721.
5. Moises BECERRA, Field Office of Immigration and Customs
Enforcement, Enforcement and Removal Operations, Department of Homeland Security,
Office of the General Counsel; U.S. Department of Homeland Security; 245 Murray
Lane, SW; Mail Stop 0485; Washington, D.C. 20258-0485.

I also electronically filed the above referenced document to the court's filing system.

I swear under penalty of perjury under the laws of the United States of America that the foregoing is true and correct:

Date: December 31, 2025

/s/ Mario Salgado
Mario Salgado, Esq.