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4
5
6 UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

7 Valeria MENDOZA SANTIAGO

8
9 Petitioner,

10 v.

11 Laura HERMOSILLO, Acting Field Office
Director of Enforcement and Removal
Operations, Seattle Field Office,
12 Immigration and Customs Enforcement;
Brandon JONES, Superintendent, Hiland
Mountain Correctional Center, Alaska
13 Department of Corrections; Todd LYONS,
Acting Director of Immigration and
14 Customs Enforcement; Kristi NOEM,
Secretary, U.S. Department of Homeland
15 Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
16 U.S. Attorney General.

17 Respondents.

Case No.

**PETITION UNDER THE
ADMINISTRATIVE PROCEDURE
ACT 5 U.S.C. § 706(2)(A), (D)**

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

INTRODUCTION

1. This is an action for habeas, declaratory, and injunctive relief arising from the unlawful detention of Petitioner, Valeria Mendoza-Santiago, a pregnant Mexican national who entered the United States without inspection in June 2021 and is now held in civil immigration custody by Respondents despite ICE's own governing policy and procedures regarding individuals known to be pregnant, postpartum, or nursing;
2. ICE has adopted a directive governing the identification, monitoring, custody, and placement of individuals known to be pregnant, postpartum, or nursing. That directive provides that, unless release is prohibited by law or exceptional circumstances exist, such individuals generally should not be detained, arrested, or taken into custody for administrative immigration violations. It further requires supervisory review, notification, medical coordination, appropriate placement, and ongoing reevaluation in the limited circumstances where detention continues.
3. Respondents have detained, and/or continued to detain, Petitioner despite actual or constructive knowledge of her pregnancy and despite failing to comply with the agency's own mandatory procedural framework governing such detention decisions.
4. Petitioner seeks immediate release from unlawful civil detention, or, in the alternative, an order vacating the detention decision and requiring Respondents immediately to provide a lawful, individualized custody determination consistent with governing law, ICE policy, and the Constitution.

JURISDICTION AND VENUE

5. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody in violation of the Constitution and laws of the United States.

- 1 6. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises
2 under the Constitution and laws of the United States, including the Immigration
3 and Nationality Act, the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701–
4 706, and the Fifth Amendment.
- 5 7. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.
- 6 8. Venue lies in this District under 28 U.S.C. § 1391(e) and, as to the habeas claims,
7 because Petitioner is detained in this District and her immediate custodian is
8 located in this District.
- 9 9. This Court has authority to grant injunctive relief under 28 U.S.C. § 2202, Federal
10 Rule of Civil Procedure 65, and its inherent equitable powers.
- 11 10. Petitioner’s claims are ripe. Respondents’ detention decision is currently operative
12 and is inflicting ongoing injury.
- 13 11. Petitioner has no adequate alternative remedy to secure prompt release from
14 unlawful detention.

13 **PARTIES**

- 14 12. Valeria Mendoza-Santiago (Petitioner) is a national and citizen of Mexico
15 currently detained by ICE at Hiland Mountain Correctional Center in Eagle River,
16 Alaska. ICE has informed her that she will be removed from Alaska to Tacoma
17 tomorrow.
- 18 13. Petitioner is pregnant. Respondents were informed and acknowledged that she is
19 three to four months pregnant, and continued to detain her thereafter.
- 20 14. Respondent Laura Hermosillo is the ICE Enforcement and Removal Operations
21 Acting Field Office Director responsible for custody determinations affecting
22 Petitioner and is sued in her official capacity.
- 23 15. Respondent Brandon Jones is the Superintendent at Hiland Mountain
Correctional Center, the official with immediate custody over Petitioner, and is
sued in his/her official capacity.

1 16. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs
2 Enforcement and is sued in his official capacity.

3 17. Respondent Kristi Noem is the Secretary of Homeland Security and is sued in her
4 official capacity.

5 **FACTUAL ALLEGATIONS**

6 18. Petitioner entered the United States on or about June of 2021 has been physically
7 present in the United States since that date.

8 19. Petitioner is currently pregnant and has informed ICE and/or facility personnel
9 of her pregnancy.

10 20. On information and belief, despite that knowledge, Respondents detained or
11 continued to detain Petitioner without complying with the governing ICE directive
12 for individuals known to be pregnant, postpartum, or nursing.

13 21. On information and belief, Respondents failed to obtain or document the required
14 review and approval before detention or continuation of detention.

15 22. On information and belief, Respondents failed to conduct a meaningful, medically
16 informed custody review after learning that Petitioner was pregnant.

17 23. On information and belief, Respondents failed to determine, in a manner
18 consistent with ICE policy, whether release was prohibited by law or whether
19 exceptional circumstances existed to justify continued detention.

20 24. On information and belief, Respondents failed to ensure that Petitioner was
21 housed and treated in a manner consistent with the ICE directive's requirements
22 for individuals known to be pregnant, postpartum, or nursing.

23 25. As a result of continued detention, Petitioner has suffered and continues to suffer
deprivation of liberty, emotional distress, disruption of prenatal care, physical
risk, and fear for her own health and the health of her pregnancy.

26. Civil immigration detention of a known pregnant person, absent compliance with
ICE's own governing procedures and absent lawful justification for non-release, is
contrary to law and fundamentally unfair.

1 27. Petitioner has requested release and/or raised her pregnancy and medical
2 vulnerability with Respondents, but Respondents have failed to provide lawful
3 relief.

4 28. Unless this Court intervenes, Petitioner will remain subject to ongoing unlawful
5 detention and irreparable harm.

6 **FIRST CLAIM FOR RELIEF**
7 **VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT**
8 **5 U.S.C. § 706(2)(A), (D)**
9 **FAILURE TO FOLLOW AGENCY RULES AND PROCEDURES**

10 29. Petitioner realleges and incorporates by reference all preceding paragraphs as
11 though fully set forth herein.

12 30. ICE has adopted a formal policy governing the identification, custody, monitoring,
13 and placement of individuals known to be pregnant, postpartum, or nursing. ICE
14 Directive 11032.4 provides that, unless release is prohibited by law or exceptional
15 circumstances exist, such individuals generally should not be detained, arrested,
16 or taken into custody for administrative immigration violations. The Directive
17 further requires supervisory review and approval before detention, prompt
18 notification through the chain of command where prior approval did not occur,
19 coordination with ICE Health Service Corps, appropriate placement, and regular
20 custody and medical reevaluation in the limited circumstances where detention
21 continues.

22 31. Respondents detained, and/or continued to detain, Petitioner despite actual or
23 constructive knowledge that Petitioner was pregnant.

32. Respondents did so without complying with the mandatory procedural safeguards
set out in ICE Directive 11032.4, including but not limited to the required custody
review, required approval by the appropriate Field Office leadership, required
medically informed reevaluation, required consideration of whether release was
prohibited by law, and required determination whether exceptional circumstances
existed.

- 1 33. Respondents also failed to ensure that Petitioner was housed and treated in a
2 manner consistent with the Directive's requirements for individuals known to be
3 pregnant, postpartum, or nursing.
- 4 34. Agency action is unlawful under the APA when it is "arbitrary, capricious, an abuse
5 of discretion, or otherwise not in accordance with law," or is taken "without
6 observance of procedure required by law." 5 U.S.C. § 706(2)(A), (D).
- 7 35. Agencies must follow their own rules and procedures when individual rights are
8 affected. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954);
9 *Morton v. Ruiz*, 415 U.S. 199, 235 (1974).
- 10 36. The detention decision challenged here constitutes reviewable final agency action
11 because it reflects the consummation of Respondents' custody decision-making as
12 to Petitioner and has immediate legal and practical consequences, namely
13 Petitioner's continued physical detention notwithstanding ICE's governing
14 pregnancy directive. *See Bennett v. Spear*, 520 U.S. 154, 177–78 (1997).
- 15 37. Respondents' failure to follow Directive 11032.4 was arbitrary, capricious,
16 contrary to law, and without observance of required procedure because
17 Respondents disregarded the agency's own binding custody-review framework for
18 pregnant detainees while continuing to hold Petitioner in civil immigration
19 detention.
- 20 38. Had Respondents followed the Directive, Petitioner would have received the
21 individualized review, medical consideration, supervisory approval, and release-
22 oriented custody determination that the agency itself has prescribed for known
23 pregnant individuals.
39. Respondents' action is therefore unlawful and must be set aside under 5 U.S.C. §
706(2)(A), (D).

**SECOND CLAIM FOR RELIEF
PETITION FOR WRIT OF HABEAS CORPUS
28 U.S.C. § 2241**

40. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

41. Petitioner is in the physical custody of Respondents and is therefore “in custody” for purposes of 28 U.S.C. § 2241.

42. Petitioner’s continued detention is unlawful because it is being maintained in violation of the Constitution, laws, and treaties of the United States.

43. Civil immigration detention must rest on lawful statutory authority and lawful agency action. Here, Respondents’ continued custody of Petitioner is unlawful because Respondents failed to follow the agency’s own governing detention directive for known pregnant individuals, and because continued detention under these circumstances is not authorized in the manner ICE itself has prescribed.

44. In the alternative, even if detention was initially permissible, continued detention became unlawful once Respondents learned Petitioner was pregnant and failed to conduct the review, approval, medical consultation, and reassessment required by ICE policy.

45. Habeas relief is appropriate because Petitioner seeks immediate or prompt release from unlawful executive custody, or at minimum a prompt individualized custody review before a neutral adjudicator or other relief sufficient to remedy the unlawful detention.

46. Petitioner has no adequate alternative remedy to secure immediate release from unlawful detention.

47. Unless this Court grants habeas relief, Petitioner will continue to suffer irreparable injury, including deprivation of physical liberty, heightened health risks associated with pregnancy in detention, emotional distress, interference with prenatal care, and danger to the pregnancy itself.

**THIRD CLAIM FOR RELIEF
VIOLATION OF THE FIFTH AMENDMENT
PROCEDURAL AND SUBSTANTIVE DUE PROCESS**

48. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

49. The Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law.

50. Petitioner has a substantial liberty interest in freedom from unlawful civil detention and in bodily integrity while in government custody.

51. Respondents violated procedural due process by detaining and/or continuing to detain Petitioner after learning of her pregnancy without affording the process that ICE itself has deemed necessary for such detention decisions, including meaningful review, supervisory authorization, medically informed assessment, and regular reevaluation. Where the government creates and announces procedural safeguards for a class of especially vulnerable detainees, and then ignores those safeguards while continuing detention, the resulting deprivation of liberty is fundamentally unfair.

52. Respondents also violated substantive due process because continued detention of a known pregnant person in disregard of the agency's own release-oriented policy and medical safeguards is arbitrary executive action that bears no reasonable relation to the legitimate purposes of civil immigration detention.

53. Civil detention may not be imposed or prolonged in a manner that is punitive, conscience-shocking, or deliberately indifferent to a detainee's known medical condition and heightened vulnerability. Respondents' actions, as alleged herein, meet that standard.

54. As a direct and proximate result of Respondents' constitutional violations, Petitioner has suffered and continues to suffer loss of liberty, physical and emotional injury, and elevated risk to her pregnancy and health.

**FOURTH CLAIM FOR RELIEF
ALTERNATIVE HABEAS CHALLENGE TO DETENTION
MAINTAINED CONTRARY TO GOVERNING LAW AND AGENCY
PROCEDURE
28 U.S.C. § 2241**

55. Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.
56. In the Ninth Circuit, even if this Court were to hesitate as to whether the detention decision challenged here constitutes “final agency action” within the meaning of the APA, habeas independently lies to challenge executive detention maintained contrary to governing law, agency procedure, and constitutional limits.
57. Petitioner does not seek review of a merely abstract policy disagreement. Petitioner seeks release from present physical detention that is being maintained in violation of the law governing Respondents’ exercise of custody authority.
58. Respondents’ authority to detain civil immigration noncitizens is limited by statute, Constitution, and by the agency procedures that Respondents themselves have adopted to govern the detention of known pregnant individuals.
59. Once Respondents learned that Petitioner was pregnant, they could not lawfully continue to detain her while disregarding the governing review, approval, medical-coordination, and reevaluation procedures that ICE has prescribed for that exact circumstance.
60. Habeas relief under 28 U.S.C. § 2241 is independently available where executive detention is maintained contrary to governing law, even if APA review is disputed or deemed incomplete as a remedial vehicle.
61. Accordingly, even if the Court were to conclude that APA review is unavailable or uncertain as to finality, Petitioner is still entitled to habeas relief because her continued detention is unlawful in substance and procedure and must be terminated or promptly cured through an order requiring release or a lawful custody determination.

1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Petitioner respectfully requests that this Court:

- 3 A. Issue a writ of habeas corpus ordering Petitioner's immediate release from ICE
4 custody;
5 B. Declare that Respondents' detention of Petitioner violated the APA, 5 U.S.C. §
6 706(2)(A), (D);
7 C. Declare that Respondents' detention of Petitioner violated the Fifth Amendment;
8 D. Declare that, independent of APA finality, habeas relief lies because Respondents
9 are maintaining detention contrary to governing law and agency procedure;
10 E. Vacate the detention decision and enjoin Respondents from continuing to detain
11 Petitioner absent compliance with ICE Directive 11032.4 and all applicable
12 constitutional and statutory requirements;
13 F. In the alternative, order Respondents immediately to provide Petitioner with a
14 lawful individualized custody determination consistent with ICE Directive
15 11032.4 and the Fifth Amendment;
16 G. Award reasonable attorneys' fees and costs where authorized by law;
17 H. Grant such other and further relief as the Court deems just and proper.

18 **RESPECTFULLY SUBMITTED** on this 20th day of March, 2026, by:

19 /s/ Nicolás A. Olano

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CERTIFICATE OF SERVICE

I certify that on March 20, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification to counsel of record.

/s/ Nicolás A. Olano

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INDEX OF EXHIBITS

- Exhibit A Respondent's Pre-NTA Motion to Set a Custody Redetermination Hearing
- Exhibit B Affidavit by Rosa Merino Luis, with certified English translation
- Exhibit C Employment Authorization Document (EAD) for Rosa Merino Luis
- Exhibit D ICE Directive 11032.4 – Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals (July 1, 2021)
- Exhibit E Department of Homeland Security Response to Senator Patty Murray et al. Regarding Pregnant, Postpartum, and Nursing Individuals in ICE Custody (2025–2026)
- Exhibit F *Banegas Santos v. Bondi*, et al., No. 26-cv-63 (W.D. Wis. 2026) – Opinion and Order Granting Habeas Relief

EXHIBIT A

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**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
PORTLAND IMMIGRATION COURT**

In the Matter of:

MENDOZA-SANTIAGO, Valeria

Respondent,

IN BOND PROCEEDINGS

IMMIGRATION JUDGE: UNKNOWN
NEXT HEARING: UNKNOWN

**RESPONDENT'S PRE-NTA MOTION TO SET A CUSTODY
REDETERMINATION HEARING**

1 **RESPONDENT'S PRE-NTA MOTION TO SET A CUSTODY**
2 **REDETERMINATION HEARING**

3 **COMES NOW**, Valeria Santiago Mendoza, Respondent in the above-captioned
4 matter, by and through undersigned counsel, and respectfully requests this Honorable
5 Court to set a custody redetermination hearing pursuant to INA § 236. Supporting this
6 motion, Respondent states the following:

7 **I. JURISDICTION AND VENUE**

8 **A. Venue:**

9 This Court has venue under 8 C.F.R. § 1003.19. As established in *Matter of Cerda*
10 *Reyes*, 26 I&N Dec. 528 (BIA 2015), bond jurisdiction lies with the court that has
11 administrative control over the facility where the respondent is detained at the time the
12 bond motion is filed.

13 **B. Jurisdiction:**

14 This Court has jurisdiction to conduct a custody redetermination hearing because
15 Respondent is detained under INA § 236(a), 8 U.S.C. § 1226(a), and is therefore eligible
16 to seek release on bond. Under the regulations, an Immigration Judge may redetermine
17 custody conditions for a noncitizen in DHS detention unless the case falls within a specific
18 regulatory exception removing bond authority. 8 C.F.R. §§ 1003.19(a), (h). Where
19 detention is governed by § 236(a), discretionary release on bond is expressly authorized
20 by statute. *See* 8 U.S.C. § 1226(a)(2).

21 DHS will likely invoke *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025),
22 but that decision does not govern this case. In *Yajure-Hurtado*, the Board held that
23 “under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. §
1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond
to aliens, like the respondent, who are present in the United States without admission.”
The Board made clear that it was deciding whether an Immigration Judge had bond
authority over “an alien who entered the United States without admission and who has

1 been present in the United States for at least 2 years.” The Board also rejected the
2 argument that the service of an arrest warrant and custody paperwork, standing alone,
3 transformed detention into § 236(a) custody.

4 But *Yajure-Hurtado* does not answer the jurisdictional question presented here
5 because Respondent’s detention is properly analyzed under the reasoning adopted in
6 *Maldonado Bautista*. In *Maldonado Bautista*, the Central District of California certified
7 a “Bond Eligible Class” defined as: “All noncitizens in the United States without lawful
8 status who (1) have entered or will enter the United States without inspection; (2) were
9 not or will not be apprehended upon arrival; and (3) are not or will not be subject to
10 detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department
11 of Homeland Security makes an initial custody determination.”

12 That class definition squarely covers the category of interior detainees who entered
13 without inspection but were not apprehended upon arrival and are not otherwise detained
14 under the mandatory detention schemes of §§ 1225(b)(1), 1226(c), or 1231. The district
15 court’s summary judgment order further framed the dispute as whether such noncitizens
16 are detained under § 1226(a), not § 1225(b)(2), because if § 1225 governs they “would
17 not be entitled to bond hearings under § 1226(a).”

18 Respondent’s continuous physical presence in the United States for more than two
19 years underscores why *Yajure-Hurtado* is inapposite. He is not a recently encountered
20 applicant for admission stopped at or near the border, but a person long present in the
21 interior of the United States. The regulations themselves recognize the legal significance
22 of two years’ continuous physical presence by distinguishing such individuals from those
23 processed through expedited removal. See 8 C.F.R. § 235.3(b)(2)(iii). And under
Maldonado Bautista, individuals already in the United States who entered without
inspection, were not apprehended upon arrival, and are not subject to § 1225(b)(1), §
1226(c), or § 1231 are detained under § 1226(a) and may seek bond. EOIR has publicly
acknowledged the effect of the December 18, 2025 *Maldonado Bautista* ruling, stating on
its case-information page that certain immigration detainees “may be unlawfully detained

1 and may seek release on bond or conditional parole under 8 U.S.C. § 1226(a),” and that
2 such individuals “may also be entitled to a bond hearing upon your request to the
3 Immigration Court.”

4 That is the case here. The relevant question is not merely whether Respondent was
5 ever admitted. The real question is the legal basis for his present detention. Here,
6 Respondent has been physically present in the United States for more than two years, was
7 apprehended from within the country rather than upon arrival, and is not detained under
8 expedited removal, mandatory criminal detention, or post-final-order custody. On those
9 facts, DHS detention falls under INA § 236(a), not INA § 235(b). And once detention falls
10 under § 236(a), the Immigration Judge has jurisdiction to conduct a custody
11 redetermination hearing and set bond. Even *Yajure-Hurtado* acknowledged that,
12 “[s]ubject to certain exceptions contained in section 236(c) of the INA, 8 U.S.C. § 1226(c),
aliens detained under section 236(a) may be eligible for discretionary release on bond
pursuant to section 236(a)(2) of the INA.”

13 To the extent there is any doubt about whether Respondent’s custody is governed
14 by § 235(b) or § 236(a), that ambiguity should be resolved in favor of a bond hearing, not
15 in favor of categorical detention without Immigration Judge review. Bond jurisdiction
16 turns on the statutory source of custody, and the record here places Respondent squarely
17 within the interior-arrest framework recognized in *Maldonado Bautista*, not the arrival-
18 based detention framework applied in *Yajure-Hurtado*. At minimum, where Respondent
19 has lived in the United States for more than two years, was not apprehended upon arrival,
20 and does not fall within §§ 1225(b)(1), 1226(c), or 1231, this Court should not extend
21 *Yajure-Hurtado* beyond its own facts to foreclose a bond hearing.

22 Accordingly, the Court should hold that Respondent is detained under INA §
23 236(a), find that it has jurisdiction to conduct a custody redetermination hearing, and
proceed to set a reasonable bond.

1 **II. LEGAL STANDARD**

2 In bond proceedings, the Department of Homeland Security bears the burden of
3 establishing by clear and convincing evidence that a respondent is either a danger to the
4 community or a flight risk warranting continued detention. *Matter of Guerra*, 24 I&N
5 Dec. 37, 40 (BIA 2006). Immigration Judges are required to consider a range of
6 discretionary factors, including the nature and seriousness of the respondent's criminal
7 history, rehabilitation efforts, family and community ties, employment history, and the
8 respondent's record of appearance in court. See *Matter of Siniauskas*, 27 I&N Dec. 207,
9 208–09 (BIA 2018). Importantly, the analysis must be prospective—whether the
10 respondent poses a *present* danger or is *likely* to abscond—not merely punitive or based
11 on past conduct. See also *Matter of Andrade*, 19 I&N Dec. 488, 489 (BIA 1987)
12 (emphasizing that bond is not to be used as punishment, but to ensure appearance and
13 public safety). The totality of the circumstances must be weighed, and no one factor is
14 dispositive. Accordingly, even where criminal history exists, substantial equities such as
15 rehabilitation and strong community ties may justify release on bond.

16 **III. RESPONDENT IS NOT A DANGER TO THE COMMUNITY**

17 The respondent has no criminal history or any encounters with law authorities that
18 would indicate in any way that she is a danger to the community.

19 **IV. RESPONDENT IS NOT A FLIGHT RISK**

20 The respondent has set roots in Anchorage, Alaska, where she resides with her
21 mother-in-law. She has had previous encounter with immigration at the border but has
22 never been ordered removed from the United States. She is in the United States because
23 she fears for her life in Mexico.

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1 **V. APPLICABILITY OF INA § 236(C) – NO MANDATORY DETENTION**

2 Under INA § 236(c), the Department of Homeland Security is authorized to subject
3 certain individuals to mandatory detention if they fall within specified criminal or
4 security-related grounds of removability. This includes individuals convicted of a crime
5 involving moral turpitude (CIMT) covered under INA § 212(a)(2) or § 237 INA § or §
6 237(a)(2)(A)(i) (a single CIMT committed within five years of admission for which a
7 sentence of one year or more may be imposed). The respondent has no convictions that
8 would make her detention mandatory under INA § 236(c); 8 U.S.C. §1226(c)

9 **VI. RELIEF AVAILABLE**

10 The respondent is preparing an application for asylum, withholding of removal,
11 and protection under the convention against torture.

12 **VII. PRAYER FOR RELIEF**

13 **WHEREFORE**, Respondent respectfully requests that this Court:

- 14 1. Find that Respondent is not subject to mandatory detention;
15 2. Determine that Respondent does not pose a danger to the community or a flight
16 risk; and
17 3. Grant release on a reasonable bond.

18 Respectfully submitted on this 20 day of March 2026

19 By: /s/Nicolas A. Olano
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CERTIFICATE OF SERVICE:

This document was electronically filed through ECAS and both parties are participating in ECAS. Therefore, no separate service was completed as per *Immigration Court Practice Manual*, Chapter 3.2 (2022). Filed on March 20, 2026

By: /s/Nicolas A. Olano

EXHIBIT B

AFFIDAVIT BY ROSA MERINO LUIS

1. My name is Rosa Merino Luis. I was born on [REDACTED] in Oaxaca, Mexico. I am a citizen of Mexico. I currently reside at [REDACTED] Alaska.
2. I am the mother-in-law of Valeria Mendoza Santiago, whom I have known for approximately 10 years, due to her relationship with my son, Jhony Gonzales Merino. During this time, I have maintained constant communication with her and have direct knowledge of her personal situation. Currently, Valeria lives with me in Anchorage, Alaska.
3. Valeria arrived in the United States on June 14, 2021. I know this information because I spoke with her and with my son after her arrival.
4. I am also aware that Valeria is pregnant, with approximately three months of pregnancy. She herself informed me of her pregnancy. When my son was arrested, she was having difficulty eating and told me that she had no appetite due to her pregnancy. Since then, I have been in constant communication with her about her health. Yesterday, Valeria went to an appointment with an OB-GYN doctor and sent me photos and videos of her baby's ultrasound images.
5. Valeria has told me that she is very afraid to return to Mexico. She has told me that this fear has to do with [REDACTED] and with [REDACTED] that make her feel insecure. I do not know all the details, but I know that she is scared for her safety if she returns. When we talk about it, you can tell that she is very worried and nervous. This worries me a lot about her well-being, especially since she is pregnant.

I declare under penalty of perjury that the foregoing is true and correct. Signed this March 20, 2026, in Anchorage, Alaska.

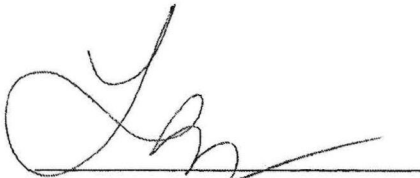
[Signature]

Rosa MERINO LUIS

Certification of Translation Pursuant to 8 C.F.R. § 103.2(b)(3)

I, Lauren Hedge, hereby certify that I am proficient in the English and Spanish languages, that I am competent to translate the attached document in the Spanish language, and furthermore, that the translation of the attached document is true, accurate to the best of my abilities, and is translated in such a manner as to fully express the thoughts, expressions, and sentiments of the person who prepared the document in Spanish. However, the translation does not reflect any grammatical and/or spelling errors present in the original document.

Dated this 20th day of March, 2026 in Anchorage, Alaska.

A handwritten signature in black ink, appearing to be 'LH', written over a horizontal line.

Lauren Hedge
2525 Blueberry Road, Suite 207
Anchorage, AK 99503
907-770-0909

DECLARACIÓN JURADA DE ROSA MERINO LUIS

1. Mi nombre es Rosa Merino Luis. Nací el [REDACTED] en Oaxaca, México. Soy ciudadana de México. Actualmente resido en [REDACTED] Alaska.
2. Yo soy la suegra de Valeria Mendoza Santiago, a quien conozco desde hace aproximadamente 10 años, debido a su relación con mi hijo, Jhony Gonzales Merino. Durante este tiempo, he mantenido comunicación constante con ella y tengo conocimiento directo de su situación personal. Actualmente, Valeria vive conmigo en Anchorage, Alaska.
3. Valeria llegó a los Estados Unidos el 14 de junio de 2021. Esta información la conozco porque hablé con ella y con mi hijo después de su llegada.
4. Asimismo, tengo conocimiento de que Valeria se encuentra embarazada, con aproximadamente tres meses de gestación. Ella misma me informó de su embarazo. Cuando mi hijo fue arrestado, ella estaba teniendo dificultades para comer y me comentó que no tenía apetito debido a su embarazo. Desde entonces, he estado en comunicación constante con ella sobre su estado de salud. Ayer, Valeria asistió a una cita con un médico OB-GYN y me envió fotos y videos de las imágenes del ultrasonido de su bebé.
5. Valeria me ha dicho que tiene mucho miedo de regresar a México. Me ha contado que ese miedo tiene que ver con [REDACTED] y con [REDACTED] que la hacen sentirse insegura. Yo no sé todos los detalles, pero sé que ella tiene miedo por su seguridad si regresa. Cuando hablamos de eso, se le nota que está muy preocupada y nerviosa. Esto me preocupa mucho por su bienestar, especialmente porque está embarazada.

Declaro bajo pena de perjurio que lo anterior es verdadero y correcto. Firmado este 20 de marzo de 2026 en Anchorage, Alaska.

Rosa
Rosa MERINO LUIS

EXHIBIT C

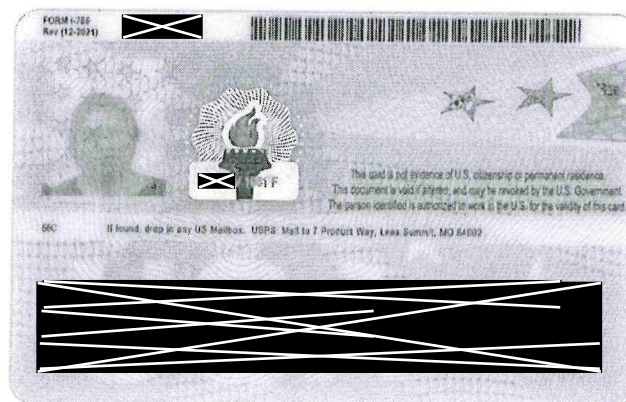


EXHIBIT D

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

ICE Directive 11032.4: Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals

Issue Date: July 1, 2021
Effective Date: July 1, 2021
Superseded: *ICE Directive 11032.3 Identification and Monitoring of Pregnant Detainees* (December 17, 2017)
ICE Policy 10070.1: Discretion for Nursing Mothers (November 7, 2007)

Federal Enterprise Architecture Number: 403-256-001

1. **Purpose/Background.** This Directive sets forth policy and procedures to ensure individuals known to be pregnant, postpartum, or nursing in U.S. Immigration and Customs Enforcement (ICE) custody are effectively identified, monitored, tracked, and housed in an appropriate facility to manage their care. This Directive builds upon existing ICE policy and procedures and complements ICE's national detention standards, family residential standards, and ICE Health Service Corps (IHSC) policies.
2. **Policy.** Generally, ICE should not detain, arrest, or take into custody for an administrative violation of the immigration laws individuals known to be pregnant, postpartum, or nursing unless release is prohibited by law or exceptional circumstances exist.¹ ICE officers and agents should carefully weigh the decision to issue a detainer, arrest, or take into custody for an administrative violation of the immigration laws an individual who is known to be pregnant, postpartum, or nursing. This Directive does not address whether removal proceedings should be initiated (i.e., the issuance of a charging document) against such individuals. Such decisions should be made in accordance with U.S. Department of Homeland Security and ICE enforcement priorities and applicable guidance. The decision whether to detain should be made separately from the decision whether to initiate removal proceedings or take any other immigration enforcement actions. In the very limited circumstances in which detention is necessary and appropriate, ICE must monitor individuals known to be pregnant, postpartum, or nursing detained in ICE custody for general health and well-being, including regular custody and medical reevaluation, to ensure appropriate pre- and/or post-natal and other medical and mental health care. ICE must ensure that individuals known to be pregnant, postpartum, or nursing are housed in facilities suitable for their medical and mental health needs.
- 2.1 **Identification.** All ICE law enforcement personnel must notify their Enforcement and Removal Operations (ERO) Field Office Directors (FODs) or Homeland Security Investigations (HSI) Special Agents in Charge (SACs) before they issue a detainer or arrest an individual known to be pregnant, postpartum, or nursing, unless exceptional

¹ This general prohibition does not limit temporary placements into family staging centers.

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circumstances exist. Only the FOD, or designee not below the Assistant Field Office Director (AFOD) level, may approve the detention of individuals known to be pregnant, postpartum, or nursing.

Any and all available, credible information should be consulted to determine if an individual is pregnant, postpartum, or nursing. If available, ICE law enforcement personnel should review jail discharge summaries and other information from any prior custodial entity, as well as affirmatively inquiring with regard to pregnancy-related status during interviews.

There may also be times when ICE identifies pregnant, postpartum, or nursing individuals who are already detained in ICE custody. When that occurs, ICE personnel, through the appropriate chain of command, must immediately notify the FOD, or designee, and the appropriate medical staff (e.g., Field Medical Coordinator (FMC) or Health Services Administrator (HSA)) to determine if continued detention is appropriate.

- 2.2. IHSC Monitoring.** IHSC must maintain information regarding all individuals known to be pregnant, postpartum, and nursing detained in ICE custody, based on information received from the ERO field offices, IHSC HSAs, IHSC FMCs, or other designated personnel. IHSC must provide ongoing monitoring, tracking, and communication with the ERO field offices concerning the medical condition of individuals known to be pregnant, postpartum, or nursing. Data on individuals known to be pregnant, postpartum, or nursing must be reported monthly to the Executive Associate Director (EAD) for ERO, who will report it to the Office of the Director (through the Office of the Deputy Director).
- 2.3. Use of Restraints.** ICE personnel and contractors must adhere to the following restrictions regarding the use of restraints for individuals who are pregnant or in post-delivery recuperation. This general prohibition on restraints applies to all pregnant individuals in the custody of ICE, whether during transport, in a detention facility, or at an outside medical facility.
- 1) Restraints should not be considered as an option for pregnant individuals, except under the following extraordinary circumstances:
 - a. A medical officer has directed the use of restraints for medical reasons;
 - b. Credible, reasonable grounds exist to believe the individual presents an immediate and serious threat of hurting themselves, staff, or others; or
 - c. Reasonable grounds exist to believe the individual presents an immediate and credible risk of escape that cannot be reasonably minimized through any other method.
 - 2) Restraints are never permitted on individuals who are in active labor or delivery;

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- 3) In the rare event that one of the above situations applies, medical staff must determine the safest method and duration for the use of restraints and the least restrictive restraints necessary must be used. Even in the extraordinary circumstance when restraints are deemed necessary, no individual known to be pregnant may be restrained in a face-down position with four-point restraints, on their back, or in a restraint belt that constricts the area of the pregnancy. All attempts will be made to ensure that the individual is placed on their left side if immobilized.
 - 4) The use of restraints requires documented approval and guidance from a medical authority. Record-keeping and reporting requirements regarding the medical approval to use restraints must be documented in the individual's A-file and noted in the system of record.
3. **Definitions.** The following definitions apply for the purposes of this Directive only.
- 3.1. **Headquarters Responsible Officials (HROs).** EADs of ERO, HSI, and Management and Administration (M&A); the Associate Director of the Office of Professional Responsibility (OPR); and the Assistant Directors, Officers, or equivalent positions who report directly to the Director, Deputy Director, or Chief of Staff.
 - 3.2. **Field Responsible Official (FRO).** The highest-ranking official in any ICE field location. This includes SACs, FODs, and any other officials who have been designated in writing by the Director.
 - 3.3. **ICE Personnel.** All ICE employees and contractors, designated immigration officers, and warrant service officers.
 - 3.4. **Exceptional Circumstances** exist only in the following circumstances: (1) the individual poses national security concerns; or (2) the individual poses an imminent risk of death, violence, or physical harm to any individual.
 - 3.5. **Nursing** is, regardless of the passage of time since childbirth, the act of an individual breastfeeding a child.
 - 3.6. The **Postpartum** period includes a one-year period immediately after an individual gives birth to their child.
4. **Responsibilities.**
- 4.1. **HROs** are responsible for:
 - 1) Ensuring overall compliance with this Directive within their respective Directorate or Program Office; and

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- 2) Developing and issuing any necessary implementation guidance specific to their Directorate or Program Office, in coordination with the ICE Office of Policy and Planning.

4.2. FROs are responsible for:

- 1) Ensuring ICE personnel notify FROs before an individual known to be pregnant, postpartum, or nursing is issued a detainer or arrested, unless exceptional circumstance exist;
- 2) Ensuring ICE personnel notify the FROs as soon as practicable, but generally within two hours, if a detainer or arrest is made of an individual known to be pregnant, postpartum, or nursing without prior FRO approval;
- 3) Ensuring that ICE personnel review all applicable information and proactively inquire of individuals apprehended by ICE or who are in ICE custody, whether they are pregnant, postpartum, or nursing;
- 4) Ensuring ICE personnel notify FROs as soon as practicable, but generally within 24 hours, for individuals already detained in ICE custody who are identified as pregnant, postpartum, or nursing;
- 5) Approving detention for individuals known to be pregnant, postpartum, or nursing;
- 6) Ensuring a process is in place for FROs to request concurrence with a decision to detain from the ERO Executive Associate Director for individuals known to be pregnant, postpartum, or nursing. This process must include a method to ensure IHSC confirms any detention location can provide appropriate care for individuals known to be pregnant, postpartum, or nursing;
- 7) Ensuring local IHSC, or appropriate medical staff in non-IHSC staffed facilities, have a process in place to notify the FRO as soon as practicable, but generally within 24 hours, after an individual in custody is determined to be pregnant, postpartum, or nursing;
- 8) Notifying the FMC or HSA as soon as practicable, but generally within 24 hours of learning an individual detained in ICE custody is pregnant, postpartum, or nursing;
- 9) Ensuring a process is in place for the expeditious release, where legally authorized, of individuals known to be pregnant, postpartum, or nursing already detained in ICE custody;
- 10) Verifying that unless release is prohibited by law or exceptional circumstances exist, individuals known to be pregnant, postpartum, or nursing are not detained;

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- 11) Approving the detention, unless release is prohibited by law or exceptional circumstances exist, of individuals known to be pregnant, postpartum, or nursing and re-evaluating the decision at least weekly;
- 12) Ensuring all facilities in which ICE detains noncitizens are aware of ICE's expectations regarding individuals known to be pregnant, postpartum, or nursing under this Directive;
- 13) Ensuring individuals known to be pregnant, postpartum, or nursing receive appropriate medical and mental health care, including effectuating transfers to appropriate facilities; and
- 14) Monitoring, in coordination with IHSC and facility medical staff, the condition of individuals known to be pregnant, postpartum, or nursing.

4.3. IHSC Personnel are responsible for:

- 1) Notifying the FOD and IHSC Headquarters (HQ), as soon as practicable, but no later than 24 hours, after identification of individuals known to be pregnant, postpartum, or nursing in custody;
- 2) Maintaining medical and mental health information regarding all individuals known to be pregnant, postpartum, or nursing in ICE custody;
- 3) Monitoring, in coordination with the FOD, the condition of individuals known to be pregnant, postpartum, or nursing, including but not limited to the term of the pregnancy, general health, to include the mental health, of the pregnant, postpartum, or nursing individual, and medical condition of the fetus, and communicating with the FRO about any specific risk factors or concerns;
- 4) Overseeing and reviewing facility capabilities to determine if they are appropriate for the detention of individuals known to be pregnant, postpartum, or nursing and recommending to the FOD when pregnant, postpartum, or nursing individuals' transfers to another facility is necessary for appropriate medical or mental health care;
- 5) Advising the FOD without delay if IHSC is unable to identify an appropriate detention location to provide appropriate prenatal, medical, and mental health care for individuals known to be pregnant, postpartum, or nursing;
- 6) Regularly re-evaluating individuals known to be pregnant, postpartum, or nursing to inform the FOD whether continued detention is appropriate as part of the ongoing general health and well-being review to ensure pregnant, postpartum, or nursing individuals receive appropriate pre- and post-natal care; and
- 7) Tracking, monitoring, and reporting all individuals known to be pregnant,

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postpartum, or nursing detained in ICE custody and communicating with the FOD, or designee, concerning the medical condition of individuals known to be pregnant, postpartum, or nursing and reporting that information, at least monthly, to the ERO EAD, who will report it to the Office of the Director (through the Office of the Deputy Director).

4.4. Executive Associate Director for ERO is responsible for:

- 1) Reviewing and reporting information regarding individuals known to be pregnant, postpartum, or nursing in ICE custody to the Office of the Director (through the Office of the Deputy Director).

4.5. ICE Personnel, where appropriate, are responsible for:

- 1) Ensuring that, unless release is prohibited by law or exceptional circumstances exist, individuals known to be pregnant, postpartum, or nursing are not detained;
- 2) Requesting approval from the SAC or FOD through their chain of command before issuing a detainer or arresting individuals known to be pregnant, postpartum, or nursing;
- 3) Requesting approval from the FOD through their chain of command before detaining individuals known to be pregnant, postpartum, or nursing in ICE custody;
- 4) Notifying the SAC or FOD through their chain of command as soon as practicable, but generally within 2 hours, when pregnant, postpartum, or nursing individuals are arrested without prior approval;
- 5) Providing appropriate case, location, and status information to assist IHSC with tracking and monitoring individuals known to be pregnant, postpartum, or nursing detained in ICE custody;
- 6) Complying with all applicable ICE policies related to the use of restraints for pregnant individuals; and
- 7) Ensuring that any individuals known to be pregnant, postpartum, or nursing enrolled in an Alternatives to Detention (ATD) program are not required to wear a radio frequency or global positioning system monitor.

5. Procedures/Requirements.

- 5.1. Apprehension, Detention, and Release.** FODs will ensure, unless release is prohibited by law or exceptional circumstances exist, individuals known to be pregnant, postpartum, or nursing are generally not detained or, if already detained, are generally released from

detention.² Only the FOD may approve the detention of known pregnant, postpartum, or nursing individuals.

Any decision to issue a detainer or arrest an individual known to be pregnant, postpartum, or nursing must be approved by the appropriate FOD. Where HSI personnel intend to issue a detainer or make a civil arrest of an individual known to be pregnant, postpartum, or nursing, the decision must be approved by the SAC who must first consult with the applicable FOD.

In deciding whether release is prohibited by law for individuals known to be pregnant, postpartum, or nursing, the FOD must consult with local OPLA, as well as IHSC to advise on whether detention is medically advisable, in order to make an informed custody determination. If the FOD, or designee not below the AFOD level, determines ATD enrollment is an appropriate condition of release, individuals known to be pregnant, postpartum, or nursing will not be placed on a form of ATD that requires a radio frequency or global positioning system monitor be worn.

5.2. Notification Procedures.

- 1) **IHSC facilities.** In detention facilities staffed by IHSC, the HSA must notify the FOD of any individual housed at the facility who is determined to be pregnant, postpartum, or nursing as soon as practicable, generally within 24 hours.
- 2) **Non-IHSC facilities.** In facilities not staffed by IHSC, the FOD, in coordination with the FMC, or other designated medical personnel, will ensure notification is conducted by facility custody personnel and/or medical staff of any individual housed at the facility who is determined to be pregnant, postpartum, or nursing, but no later than 24 hours after such determination.
- 3) **IHSC HQ.** Upon receipt of notification of pregnant, postpartum, or nursing individuals from detention facility personnel, ICE personnel, or any other source, the IHSC HSAs, FMCs, or other designated IHSC personnel in the area of responsibility, will immediately notify the FOD and IHSC HQ, in writing, of the individual's pregnancy, postpartum status, or that they are nursing.

5.3. Medical and Mental Health Needs of Individuals Known to Be Pregnant, Postpartum, or Nursing. Upon receipt of information that individuals detained in ICE detention are pregnant, postpartum, or nursing, IHSC will assess the detention facility's ability to meet the medical or mental health needs of individuals known to be pregnant,

² The Immigration and Nationality Act limits the discretion of ICE to release from custody certain categories of noncitizens under certain circumstances. See INA §§ 235(b) (noncitizens in the expedited removal process); 236(c) (certain criminal and terrorist noncitizens during pending removal proceedings); 241(a)(2) (certain criminal and terrorist noncitizens during the 90-day removal period). ICE personnel should consult with the Office of the Principal Legal Advisor (OPLA), to the extent possible before assuming custody of an individual known to be pregnant, postpartum, or nursing to determine the applicability of these provisions to such individuals and any available legal release mechanisms.

postpartum, or nursing. IHSC will immediately report its conclusion as soon as practicable, generally but within 24 hours to the FOD and, if appropriate, suggest an alternate facility for transfer and treatment. If IHSC determines that no available facility can provide appropriate medical or mental health care in a particular case, IHSC will notify the FOD.

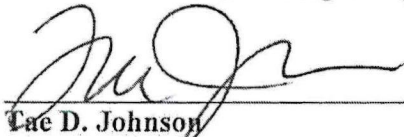
At all times, IHSC will monitor and track the medical condition of individuals known to be pregnant, postpartum, or nursing while in ICE detention. Designated IHSC personnel (e.g., HSAs, FMCs) will provide updates to IHSC HQ and the FOD, or designee, at least weekly. HSAs, FMCs, and other designated IHSC personnel must report major changes in pregnant, postpartum, or nursing individuals' health, medical, or mental health condition to the FOD, or designee, and IHSC HQ within 24 hours of observance.

- 5.4. Re-evaluating Custody Status.** At least weekly, FODs, or their designee not below the AFOD level, will evaluate whether continued detention is appropriate and required for individuals known to be pregnant, postpartum, or nursing, in consultation with IHSC HQ and OPLA. Pregnant individuals who remain in custody during their third trimester of pregnancy will be reviewed based on controlling IHSC policies and procedures.³
- 5.5. Centralized Tracking of Pregnant, Postpartum, or Nursing Individuals.** In coordination with ERO field offices and ERO HQ offices, IHSC HQ will collect and maintain relevant data and information received from FROs, HSAs, FMCs, and other designated personnel regarding individuals known to be pregnant, postpartum, or nursing. IHSC HQ will develop a system for maintaining this information in a manner that permits continuous monitoring and tracking of individuals known to be pregnant, postpartum, or nursing in ICE detention. Data on individuals known to be pregnant, postpartum, or nursing will be reported monthly to the ERO EAD, who will report it to the Office of the Director (through the Office of the Deputy Director).
- 6. Recordkeeping.** All relevant documents produced and/or received in accordance with this Directive must be maintained in accordance with an applicable National Archives and Records Administration (NARA) General Records Schedule (GRS) or a NARA-approved agency-specific records control schedule. If the records are not subject to a records schedule, they must be maintained indefinitely by the agency. In the event the records are subject to a litigation hold, they may not be disposed of under a records schedule until further notification.
- 7. Authorities/References.**
- 7.1.** Immigration and Nationality Act §§ 212(d)(5), 235(b), 236, and 241.
- 7.2.** 8 C.F.R. §§ 1.1(q), 212.1 - 212.5, 235.3, 236.1 - 236.2(b), 241.1 - 241.3.
- 7.3.** 2000 National Detention Standards for Non-Dedicated Facilities.

³ See, e.g., IHSC Directive: 04-02 ERO, Women's Health Services.

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- 7.4. 2008 Performance-Based National Detention Standards.
- 7.5. 2011 Performance-Based National Detention Standards, revised Dec. 2016.
- 7.6. 2019 National Detention Standards for Non-Dedicated Facilities.
- 7.7. 2020 Family Residential Standards.
- 7.8. IHSC Directive: 04-02 ERO, Women's Health Services.
- 7.9. ICE Policy No. 11020.1: *Use of GPS Monitoring Devices on Persons who are Pregnant or Diagnosed with a Severe Medical Condition* (Sept. 14, 2009), or as updated.
- 8. **Attachments.** None.
- 9. **No Private Right.** This Directive provides only internal ICE policy guidance, which may be modified, rescinded, or superseded at any time without notice. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter. Likewise, no limitations are placed by this guidance on the otherwise lawful enforcement or litigative prerogatives of ICE.



Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement

EXHIBIT E

**Department of Homeland Security Response to
Senator Patty Murray and Others' September 18, 2025 Letter**

1. As of the date of receipt of this letter, how many women currently in ICE custody are known to be pregnant, postpartum, and nursing? Please provide totals for each category. For the purposes of defining "postpartum," please use the number of women in the one-year period following the end of pregnancy. How many of those women currently are in their third trimester of pregnancy?

Response: Please refer to the below chart for the number of postpartum and nursing women for U.S. Immigration and Customs Enforcement (ICE) Health Service Corps facilities. ICE Enforcement and Removal Operations (ERO) does not track postpartum or nursing information for all detention facilities. As such, the data below pertains to ICE Health Service Corps facilities only and does not reflect data for non-ICE Health Service Corps facilities or contracted facilities (also designated as Intergovernmental Service Agreement facilities):

ICE Health Service Corps-only Postpartum/Nursing Detainees for the period of January 1, 2025, through February 16, 2026		
Postpartum	Nursing (Subset of Postpartum)	Women Currently in 3 rd Trimester of Pregnancy
35	15	9

ICE does track the total number of pregnant detainees for all facilities (ICE Health Service Corps facilities and non-ICE Health Service Corps facilities): As of February 16, 2026, there were 86 detainees identified as pregnant.

2. Section 5.4 of the 2021 Pregnancy Directive requires that pregnant, postpartum, and nursing women receive weekly evaluations to determine whether continued detention is appropriate.

What is the process for conducting these evaluations and what criteria are used? From January 1, 2025, to the date of receipt of this letter, how many pregnant, postpartum, and nursing women have been released pursuant to one of these screenings? Who is conducting these evaluations and are they reported to ICE headquarters? If yes, what office?

Response: Between January 1, 2025, and February 16, 2026, 498 pregnant, postpartum and nursing aliens were recorded as booked out of ICE custody.¹

Under ICE Directive 11032.4, *Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals*, generally, ICE should not detain, arrest, or take into custody for an

¹ Note: Book-outs may be classified as a final release from ICE custody or an interim book-out which occurs during the detention stay (such as for off-site doctor's appointments).

administrative violation of immigration laws aliens known to be pregnant, postpartum, or nursing unless release is prohibited by law or exceptional circumstances exist. ICE officers and agents carefully weigh the decision to issue a detainer, arrest, or take into custody for an administrative violation of the immigration laws an alien who is known to be pregnant, postpartum, or nursing.

ICE Directive 11032.4 does not address whether removal proceedings should be initiated (i.e., the issuance of a charging document) against such aliens. Such decisions should be made in accordance with Department of Homeland Security (DHS) and ICE enforcement priorities and applicable guidance. The decision whether to detain should be made separately from the decision whether to initiate removal proceedings or take any other immigration enforcement actions.

In the limited circumstances in which detention is necessary and appropriate, ICE monitors aliens known to be pregnant, postpartum, or nursing detained in ICE custody for general health and well-being, including regular custody and medical reevaluation, to ensure appropriate pre- and/or post-natal and other medical and mental health care. ICE ensures that detained aliens known to be pregnant, postpartum, or nursing are housed in facilities suitable for their medical and mental health needs.

Additionally, the administrator responsible for the facility where a detainee is housed notifies the local ERO Field Office Director as soon as practicable but not later than 24 hours, of any alien who has been determined to be pregnant, postpartum, or nursing, so that a custody review redetermination can be completed, as appropriate.

From January 1, 2025, to the date of receipt of this letter, how many pregnant, postpartum, and nursing women have remained in ICE custody? Of those pregnant women who received determinations to remain in custody, how many were in their third trimester?

IHSC Response: As of February 16, 2026, there were **121** detainees identified as **pregnant, postpartum, and nursing. Nine of the pregnant aliens were in their third trimester.**

Between January 1, 2025, and February 16, 2026, 498 pregnant, postpartum and nursing aliens were recorded as booked out of ICE custody.²

- 3. Have any women given birth in ICE facilities from January 1, 2025, to the date of receipt of this letter, including both live and stillborn births? If so, how many live and stillborn births and in which facilities? In that same time frame, how many miscarriages have occurred?**

² Note: Book-outs may be classified as both, a final release from ICE custody or an interim book-out which occurs during the detention stay (such as for offsite medical appointments or court appearances).

Response: Between January 1, 2025, and September 23, 2025,³ there were zero live births and zero stillborn births ; therefore, there is no associated data to report. There were sixteen miscarriages in that same time period.

4. **All children born on U.S. soil, including at ICE detention facilities, are U.S. citizens. For any child born in ICE custody, what is the process for allowing their mothers to secure U.S. birth certificates and other vital documents? Have any women been deported before having an opportunity to seek and obtain a birth certificate for their child?**

Response: ERO is not aware that detained aliens are unable to obtain vital records for a child. Instructions to request a vital record for a child may be completed from any location or by an immediate family member through an application process, on paper or online.

5. **How many pregnant, postpartum, and nursing women have been deported since January 1, 2025? Please provide the monthly total.**

Response: Please refer to the following table. ERO notes that an alien can have multiple removals in the given time frame.

ICE Removals ⁴ From January 1, 2025 to February 16, 2025 of Pregnant, Postpartum, and Nursing Aliens	
Month	Total
Total	363
January	2
February	4
March	8
April	23
May	32
June	30
July	30
August	35
September	38
October	14
November	39
December	46
January	48
February	14

³ The date DHS received this letter.

⁴ Note: An alien may have multiple removals in the given time frame.

6. Section 2 of the 2021 Pregnancy Directive requires that pregnant, postpartum, and nursing women be detained in facilities that are suitable for their physical and mental health needs.

- a. What ICE facilities currently detain pregnant, postpartum, and nursing women? Please provide a list by facility name and location.**

Response: All detention facilities are governed by one of several sets of detention standards. All these standards require that pregnant detainees have access to prenatal and specialized care, and comprehensive counseling on topics including, but not limited to, nutrition, exercise, complications of pregnancy, prenatal vitamins, labor and delivery, postpartum care, and lactation.

- b. What are the criteria for determining if a facility is suitable for pregnant, postpartum, and nursing women? Of the pregnant, postpartum, and nursing women in ICE custody, how many were detained in facilities that have been deemed suitable according to these criteria from January 1, 2025, to the date of receipt of this letter? What ICE office determined those facilities were suitable and when was that determination made?**

Response: All ICE Health Service Corps facilities that accept female patients are suitable to care for pregnant, postpartum, and nursing women. The ICE Health Service Corps Clinical Services Division determines the suitability of such facilities when the facility is initially assigned to accept female patients. For non-ICE Health Service Corps facilities, ICE National Detention Standards require that detention facilities assess and identify special needs for detainees, including pregnant, postpartum and nursing detainees, for the suitability of housing and other accommodations. ICE's detention facilities are governed by one of several sets of detention standards which all include standards on pregnancy, postpartum and nursing care.

Facilities are held accountable to comply with the standards, and corrective action is required when deficiencies are identified. To ensure compliance with each contract's terms and conditions and the applicable detention standards, ERO, ICE, and DHS employ a robust and multilevel oversight and compliance program. These multiple channels of oversight allow ICE to provide a high standard of care for the detained population.

- c. How many women since January 1, 2025, have been transferred into a suitable facility once it is discovered that they are pregnant, postpartum, and nursing? How many of these transfers occurred because the woman was pregnant?**

Response: All facilities are suitable for pregnant, postpartum, and nursing women. Transfers may be made to a more appropriate facility if needed, but that statistic is not tracked outside of manual tracking by field offices. As such, this information is unable to be statistically reported.

7. **Since January 1, 2025, how many approved referrals for offsite obstetrics and gynecology services have been completed? How many inpatient hospitalizations related to active labor and birth for ICE detainees have occurred since January 1, 2025?**

Response: Referrals that are approved and result in healthcare procedures are documented via medical claims data. Please note that medical claims information is dynamic due to the natural processing time delay regarding all medical claim types. Please refer to the information and table provided below. This information is current as of September 23, 2025.⁵

Paid Claims for OBGYN Visits Related to Pregnancies, Labor, and Birth from January 1, 2025, through September 23, 2025.			
Specialty Visit⁶	Distinct Count of Claim Total	Total Amount Paid (To Provider)	Total Billed (By Provider)
Gynecology	12	\$2,274.41	\$8,576.67
Obstetrics (OB) - Gynecology	11	\$1,694.51	\$4,397.72
Grand Total	23	\$3,968.92	\$12,974.39

Please note that there is no data associated with Active Labor or Birth.

8. **Please describe pregnant women's access to prenatal and postnatal health care in all ICE facilities that detain pregnant women, including routine medical examinations, treatment for pregnancy complications, and access to medical specialists such as OB/GYNs.**

Response: Pregnant detainees benefit from numerous services at no cost to themselves. During their initial medical screening, detained women receive information on services related to women's healthcare as required in ICE's detention standards. If the initial medical screening indicates the possibility of pregnancy, a referral is made to an OBGYN. Detained woman receives a health assessment as soon as practicable but often within 72 hours after referral.

All initial medical screenings are conducted by a trained and qualified health provider. The evaluation obtains information on several factors, including pregnancy testing for eligible women aged 10-56, and documented results; if the detained woman is nursing; use of contraception; reproductive history (number of pregnancies, number of live births, pregnancy complications, etc.); menstrual cycle; personal and family history of breast or gynecological problems; and any history of physical or sexual victimization and when the incident occurred. A pelvic and breast exam, Papanicolaou test, baseline mammography, and

⁵ The date DHS received this letter.

⁶ Gynecology vs. OB-Gynecology: Gynecology focuses on the health of the female reproductive system, whereas OB-Gynecology focuses on medical and surgical care of a female during pregnancy and birth.

sexually transmitted disease testing are offered and provided by the medical provider, if clinically indicated.

The medical provider identifies any special needs (e.g., diet, housing, or other accommodations) and informs all necessary custody staff and facility authorities. If a pregnant woman is identified as high-risk, the woman is referred to a physician specializing in high-risk pregnancies.

9. Please describe the provisions for ensuring safe labor and delivery, including an opportunity for mother and child to bond immediately after birth.

Response: IHSC refers detainees for evaluation to outside medical facilities and hospitals as clinically indicated, including if experiencing signs of labor.

10. Current law (Section 528 of P.L. 118-47) and Section 2.3 of the 2021 Pregnancy Directive severely curtails the use of restraints on pregnant women at any time and prohibits them entirely during active labor and delivery. If restraints are used, documented medical approval is required. Since January 1, 2025, have any pregnant women been placed in restraints? If yes, how many and at which locations have restraints been used on pregnant women?

Response: In accordance with ICE Directive 11032.4, *Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals*, ICE personnel and contractors are generally prohibited from using restraints on detained aliens who are pregnant or in post-delivery recuperation. This general prohibition on restraints applies to all pregnant aliens in ICE custody whether during transport, in a detention facility, or at an outside facility.

In the rare event that an extraordinary circumstance occurs, medical staff must determine the safest method and duration for the use of restraints, and the least restrictive restraints necessary must be used. Restraints are never permitted on aliens who are in active labor or delivery. ICE does not statistically track the use of restraints on pregnant women.

11. Please describe any provisions for ensuring that pregnant, postpartum, and nursing women have access to a diet that meets the U.S. government recommended dietary guidelines for pregnant, postpartum, and nursing women, which includes including fruits, dairy products, vegetables, to support a healthy pregnancy and ensure their safety after birth.

Response: Upon confirmation by a healthcare practitioner that a detainee is pregnant, the detainee shall be provided close medical supervision. Pregnant detainees shall have access to prenatal and specialized care, and comprehensive counseling on topics including, but not limited to, nutrition, exercise, complications of pregnancy, prenatal vitamins, labor and delivery, postpartum care, lactation. A health care practitioner will identify any special needs (e.g., diet, housing, and other accommodation such as the provision of additional pillows) and inform all necessary security staff and facility authorities.

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MARIA CONCEPCION BANEGAS SANTOS,

Petitioner,

OPINION AND ORDER

v.

26-cv-63-wmc

PAMELA JO BONDI, Attorney General of the United States,
KRISTI NOEM, Secretary of the
Department of Homeland Security,
DEPARTMENT OF HOMELAND SECURITY,
TODD LYONS, Acting Director of
Immigration and Customs Enforcement,
IMMIGRATION AND CUSTOMS ENFORCEMENT,
DAREN K. MARGOLIN, Acting Director,
Executive Office for Immigration Review,
DAVID EASTERWOOD, Director, St. Paul
Field Office, U.S. Immigration and Customs Enforcement,
MATT IZZARD, Sheriff of Douglas County,

Respondents.

Petitioner Maria Concepcion Banegas Santos (“Banegas”) filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 while in the custody of United States Immigration and Customs Enforcement (“ICE”) at the Douglas County Jail in Superior, Wisconsin. On February 10, 2026, the court granted the petition and ordered respondents to afford petitioner a bond hearing before an immigration judge under 8 U.S.C. § 1226(a) within seven days. (Dkt. #10.) The court further directed respondents to address petitioner’s argument that she is entitled to release because she has been detained in violation of ICE Policy Directive 11032.4, which prohibits detention of nursing mothers absent exceptional circumstances. (*Id.*) Because respondents have conceded no valid reason for her detention exists, the court find that petitioner is entitled to additional relief, therefore, respondents are ordered to release her and reunite her with her nursing child.

BACKGROUND¹

This case is one of hundreds filed by noncitizens across the United States swept up by ICE as part of increased efforts by the current administration to enforce immigration laws and detain those individuals without bond pending expedited removal proceedings. Petitioner is a native and citizen of Honduras who entered the United States in 2023. In June 2025, petitioner gave birth to a daughter in St. Paul, Minnesota. On December 23, 2025, ICE agents took petitioner into custody without a warrant of arrest. She has been detained since that time.²

Petitioner contends that she had been consistently breastfeeding her daughter until the time of her detention and that her confinement interferes with her ability to do so. She states further that respondents have not provided her with any equipment to express milk, store milk, or otherwise provide it to her child. Thus, she contends that respondents have detained her in violation of ICE policy. Specifically, petitioner argues that her continued detention violates ICE Directive 11032.4.³ That policy, which governs the “Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals,” states as follows: “ICE should not detain, arrest, or take into custody for an administrative

¹ Unless otherwise indicated, the facts set forth in this section are taken from the verified petition for a writ of habeas corpus. (Dkt. #1.) Because respondents have not disputed any of the material facts or evidence offered by petitioner, but rely solely on legal arguments, the court accepts these facts as true for purposes of this opinion.

² Neither party has provided a status report regarding the bond hearing respondents were directed to provide to petitioner. Publicly available records reflect that, to date, she remains in custody. *See* ICE Online Detainee Locator System, at locator.ice.gov (last visited Feb. 19, 2026).

³ Petitioner also references Policy No. 11039.1, which governs “Detention of Refugees Admitted Under INA § 207 Who Have Failed to Adjust to Lawful Permanent Resident Status,” but has not alleged facts showing that she fits within this policy.

violation of immigration laws individuals known to be pregnant, postpartum, or *nursing* unless release is prohibited by law or exceptional circumstances exist.” (Dkt. #1, ¶ 48 (emphasis added).)

OPINION

A district court may grant a writ of habeas corpus if the petitioner shows that she is in custody in violation of the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3). Habeas proceedings under § 2241 are an appropriate mechanism for immigrants in removal proceedings to challenge their ongoing detention. *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001). Here, petitioner argues that her continued detention is contrary to ICE Directive 11032.4 and that respondents have violated *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954), by not complying with their own policy.

Specifically, federal agencies are required by the *Accardi* doctrine to follow their own rules and regulations. 347 U.S. at 267-68 (holding that the Board of Immigration Appeals was required to follow its own regulations governing deportation proceedings); *see also Zelaya Diaz v. Rosen*, 986 F.3d 687, 692 (7th Cir. 2021) (under *Accardi* and its progeny, “federal agencies are required to follow their own regulations and some other formally adopted procedures, including those that govern exercises of an agency’s discretion”); *Martinez Camargo v. INS*, 282 F.3d 487, 491 (7th Cir. 2002) (“[C]ourts have consistently demanded governmental compliance with administrative regulations designed to safeguard individual interests.”). Moreover, *Accardi* is not “limited to rules attaining the status of formal regulations.” *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991); *see also Damus v. Nielsen*, 313 F. Supp. 3d 317, 336-37 (D.D.C. 2018) (“the premise underlying the *Accardi*

doctrine is that agencies can be held accountable to their own codifications of procedures and policies -- and particularly those that affect individual rights"). Courts may also reverse an agency's action for violating its own internal rules and procedures, particularly those affecting individual rights. *See Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (affirming reversal of an agency decision to deny public assistance made in violation of an internal agency manual); *United States v. Lee*, 274 F.3d 485, 492 (8th Cir. 2001) (administrative agencies may not take action "inconsistent with their internal regulations when it would affect individual rights").

As noted above, Directive 11032.4 provides that ICE "should not detain . . . individuals known to be nursing . . . unless release is prohibited by law or exceptional circumstances exist." The court specifically directed respondents to show cause why petitioner's release pending removal proceedings is prohibited by law or explain otherwise what exceptional circumstances exist that prohibit petitioner's release pursuant to ICE Directive 11032.4. (Dkt. #10.) They concede that there are none. (Dkt. #11, at 2.) Having identified no exceptional circumstance or other legal reason why her release is impermissible under ICE Directive 11032.4, respondents are in violation of *Accardi* for failure to comply with an agency policy that plainly affects individual rights. Thus, the court will grant the petition and order respondents to release petitioner under conditions deemed appropriate.

ORDER

IT IS ORDERED that:

- 1) The petition for a writ of habeas corpus filed by Maria Concepcion Banegas Santos (dkt. #1) is GRANTED.
- 2) Respondents shall release petitioner from custody immediately and certify compliance with this order by filing a notice with the court by February 24, 2026.

Entered this 19th day of February, 2026.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge