Erica Sanchez
Of Counsel for Shefer Law Firm, P.A.
Arizona Bar #027107
800 SE 4th. Ave #803
Hallandale Beach, Florida 33009
Telephone: (786) 295-9077
erica@shefer.legal.com
Attorney for Petitioner

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Yeniffer Yisandra Labrada-Pelegrin,
Petitioner,

v

Markwayne Mullin, et al.,
Respondents.

Case No. 26-CV-02824-PHX-MJM (ASB)

Agency No. [redacted]

REPLY IS SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Respondents' opposition should be denied. Their mootness argument fails because Petitioner challenges the legality of her current confinement following DHS's re-detention of her without notice, a hearing, or compliance with the governing release procedures. A later removal order does not retroactively cure an unlawful seizure or eliminate this Court's ability to grant effective relief.

I. The petition is not moot.

Petitioner seeks habeas relief from her present detention and an order restoring her to the same release conditions DHS previously imposed. The Court can still grant that relief.

Respondents' mootness theory depends on the premise that Petitioner's detention "became lawful" once the immigration judge ordered removal and the BIA appeal period expired. But that premise is exactly what Petitioner disputes. The petition alleges that DHS first exercised discretion to release Petitioner on her own recognizance, Petitioner complied with all release conditions, and DHS then re-detained her without advance notice, without a hearing, and without lawful revocation of the prior release. Those allegations present a live controversy regarding the legality of the current custody.

II. Respondents have not shown that § 1231 automatically cures the due process violation.

Respondents argue that once the removal order became final, Petitioner entered the "removal period" under 8 U.S.C. § 1231(a)(1)(A) and became subject to mandatory detention under 8 U.S.C. § 1231(a)(2)(A). But that is a conclusory answer, not a complete one. The question is not whether the government may lawfully detain a person under § 1231 in the abstract; the question is whether DHS lawfully re-detained Petitioner in the first place, after granting release and without the process the Fifth Amendment and agency rules require.

Petitioner's petition challenges the re-detention decision as a new deprivation of liberty. The government cannot avoid review by re-labeling the detention after the fact.

III. Respondent's authorities are distinguishable and nonbinding.

Respondents contend that courts have "overwhelmingly acknowledged" that alleged defects in pre–final order process do not affect the Government's authority to detain under Section 1231, citing *Singh v. Warden, No. 1:26-cv-01406-KES-HBK (HC), 2026 U.S. Dist. LEXIS 90342, at *2, 5 & n.2 (E.D. Cal. Apr. 23, 2026); Oliveros v. Kaiser, No. 25-cv-07117-BLF, 2026 U.S. Dist. LEXIS 94783, at *18–19 (N.D. Cal. Apr. 29, 2026); Banjoko v. Blanche, No. 2:26-cv-00016-MIS-JMR, 2026 U.S. Dist. LEXIS 76834, at *4 (D.N.M. Apr. 6, 2026)*. But

none of these nonbinding district court decisions addresses the discrete due process violation alleged here—Petitioner's re-detention after a prior release on recognizance without notice, a hearing, or compliance with DHS's own procedures—nor do they resolve whether such a deprivation of liberty may be imposed without any individualized justification. Accordingly, Respondents' reliance on these authorities is misplaced, and their assertion that the Petition should be denied on that basis should be rejected.

IV. The Fifth Amendment and Accardi theories remain live.

The petition alleges that DHS's re-detention violated the Fifth Amendment because the government withdrew a previously granted liberty interest without constitutionally adequate process. That claim is not mooted by a later removal order. It is also reinforced by the Accardi doctrine, which requires agencies to follow their own rules and procedures. United States ex rel. *Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *Morton v. Ruiz*, 415 U.S. 199 (1974). If DHS failed to comply with the regulations and instructions governing revocation of release, the resulting detention is unlawful regardless of how Respondents now characterize the custody.

V. Even if the Court applies § 1231, Respondents still have not justified Petitioner's detention.

Respondents argue that Petitioner's detention shifted to 8 U.S.C. § 1231(a) once her removal order became final. Even assuming that is correct, it does not resolve the case in Respondents' favor. Section 1231 requires removal within 90 days of the start of the removal period, and mandatory detention applies only during that period. See 8 U.S.C. § 1231(a)(1)(A), (a)(2).

Here, the Immigration Judge ordered Petitioner removed on January 7, 2026, and Respondents contend the order became final no later than February 6, 2026. Either date places

the government well into, or at the very end of, the 90-day statutory removal period as of May 4, 2026. Respondents have not shown that they have removed Petitioner, lawfully extended the removal period under 8 U.S.C. § 1231(a)(1)(C), or complied with the post-removal custody review procedures governing continued detention. See 8 U.S.C. § 1231(a)(6); 8 C.F.R. § 241.4.

Accordingly, even under Respondents' preferred § 1231 framework, the Court should require the government to account for its failure to effectuate removal and to justify any continued detention under the statute and applicable regulations.

VI. Conclusion

For these reasons, Petitioner respectfully requests that the Court grant the Petition for Writ of Habeas Corpus, order Petitioner's immediate release from custody, and restore her to the same conditions of release previously imposed by DHS. Petitioner further requests such other and further relief as the Court deems just and proper.

Dated this 4th day of May, 2026.

By: */s/ Erica Sanchez*
Erica Sanchez, Esq.
Of Counsel for Shefer Law Firm, P.A.
800 SE 4th. Ave #803
Hallandale Beach, Florida 33009
(786) 295-9077
erica@sheferlegal.com