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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Yeniffer Yisandra Labrada-Pelegrin, **Petitioner,** v. **Markwayne Mullin**, Secretary of the United States Department of Homeland Security, in his official capacity; **Sirce Owen**, Acting Director of Executive Office for Immigration Review, in her official capacity; **Eric Rokosky**, Warden of the Eloy Detention Center in his official capacity, **Respondents**	**Case No. 2:26-cv-02824-MJM-ASB** **Agency No.** [redacted] **EMERGENCY MOTION FOR IMMEDIATE ADMINISTRATIVE STAY OF REMOVAL, TEMPORARY RESTRAINING ORDER, AND EXPEDITED CONSIDERATION**

Petitioner Yeniffer Yisandra Labrada-Pelegrin respectfully moves for an immediate administrative stay of removal, a temporary restraining order pursuant to Rule 65 of the Federal Rules of Civil Procedure, expedited consideration, and all relief necessary to preserve the status quo pending adjudication of Petitioner's constitutional habeas claims.

This motion is brought pursuant to Rule 65, the Court's inherent equitable authority, the All Writs Act, 28 U.S.C. § 1651(a), and the Court's authority to preserve its jurisdiction and ability to provide meaningful relief.

I.

INTRODUCTION

This case concerns the Government's revocation of liberty previously granted to Petitioner and her subsequent re-detention without constitutionally adequate notice, hearing, or process.

Petitioner has contemporaneously moved for leave to file a Second Amended Petition for Writ of Habeas Corpus. The proposed amendment addresses material facts that arose after completion of the original habeas briefing, including ICE's June 4, 2026 notice that Petitioner is scheduled for removal to Ecuador beginning June 8, 2026. Ex 1.

Petitioner does not seek review of the Immigration Judge's January 7, 2026 removal order. Ex. 4.

Petitioner does not ask this Court to determine whether Ecuador is ultimately a proper country of removal. Rather, Petitioner seeks temporary preservation of the status quo so that this Court may adjudicate the constitutional claims already before it and provide effective relief if warranted. The constitutional injury alleged in this case occurred when Respondents revoked Petitioner's previously granted liberty and re-detained her without constitutionally adequate process.

ICE has now advised counsel that removal is imminent and absent immediate intervention by this Court, Petitioner may be removed before the Court can adjudicate the constitutional claims presently before it.

II.

EMERGENCY NATURE OF THIS MOTION

1. This matter presents an immediate emergency.
2. Petitioner remains detained at Eloy Detention Center. Ex. 2.
3. On June 4, 2026, ICE Deportation Officer Tanner Alcon advised counsel that Petitioner possesses Franco status and that ICE was providing notice of Petitioner's anticipated removal for that reason.
4. Officer Alcon specifically stated:

"Due to the fact she has the FRANCO status I am to inform you of any upcoming removals and to give a 72 hour notice of her movement." Ex 5.

5. Officer Alcon further advised that Petitioner was scheduled to be staged beginning June 8, 2026 for removal to Ecuador during the same week.
6. Following receipt of Officer Alcon's email, Attorney Nera Shefer immediately requested information concerning whether Ecuador had agreed to admit Petitioner, whether travel documents had been issued, whether all approvals necessary to effectuate removal had been obtained, and whether all requirements applicable to Franco class members had been satisfied. Ex. 6.

7. As of the filing of this Motion, no response has been received, but Petitioner was told on June 7, 2026 by an ICE or a Detention Officer, to fix her belongings because she was being transferred out of Arizona to start her journey to Ecuador.
8. Petitioner reasonably believes removal may occur at any time.
9. If Petitioner is removed before this Court adjudicates the constitutional claims presently before it, the Court's ability to provide effective relief may be substantially impaired.
10. Petitioner is a native and citizen of Cuba.
11. On August 8, 2022, DHS exercised its discretion to release Petitioner from immigration custody pursuant to Form I-220A and permitted her to remain at liberty in the United States pending immigration proceedings.
12. Following her release, Petitioner remained in the community for more than three years and established substantial family and community ties in the United States, including the birth of her United States citizen child.
13. In October 2025, ICE re-detained Petitioner following her release from criminal custody.
14. At the time ICE re-detained Petitioner, she did not have a final order of removal.
15. The Immigration Judge's removal order was not entered until January 7, 2026, several months after Petitioner's re-detention.
16. Petitioner alleges that Respondents revoked her previously granted liberty and re-detained her without constitutionally adequate notice, hearing, or process.
17. Petitioner thereafter filed the present habeas action challenging the constitutionality of her re-detention and continued confinement.

18. Following completion of habeas briefing, ICE Deportation Officer Tanner Alcon advised counsel by email dated June 4, 2026 that Petitioner possesses Franco status and that she was scheduled to be staged beginning June 8, 2026 for removal to Ecuador during the same week.

19. ICE's notice is the first communication counsel received indicating that Petitioner's removal was imminent.

20. Upon receipt of that notice, Attorney Nera Shefer immediately requested information concerning the contemplated removal, including whether Ecuador had agreed to admit Petitioner, whether travel documents had been issued, whether all approvals necessary to effectuate removal had been obtained, and whether all requirements applicable to Franco class members had been satisfied.

21. As of the filing of this Motion, neither Attorney Shefer nor undersigned counsel has received a response to that inquiry.

22. Petitioner remains detained at Eloy Detention Center.

23. ICE has advised counsel that Petitioner's removal may occur at any time.

24. Absent intervention by this Court, Petitioner may be removed before this Court adjudicates the constitutional claims presently before it and before the Court determines whether Petitioner's re-detention violated the Fifth Amendment.

III.

REQUEST FOR IMMEDIATE ADMINISTRATIVE STAY

25. Petitioner respectfully requests that the Court immediately enter an administrative stay preserving the status quo pending adjudication of this Motion.

26. A stay is an exercise of judicial discretion dependent upon the circumstances of the case. *Nken v. Holder*, 556 U.S. 418, 433 (2009).

27. The Supreme Court has recognized that a stay serves to preserve the status quo while a court determines whether meaningful relief remains available. *Id.* at 421, 427, 433–35.

28. An immediate administrative stay is necessary because removal may occur before this Court has an opportunity to adjudicate the constitutional claims presently before it.

29. The requested stay is narrowly tailored and seeks only to preserve the Court's ability to provide meaningful relief.

IV.

TEMPORARY RESTRAINING ORDER STANDARD

30. A temporary restraining order is appropriate where the movant demonstrates:

a. A likelihood of success on the merits;

b. A likelihood of irreparable harm absent relief;

c. That the balance of equities tips in the movant's favor; and

d. That injunctive relief is in the public interest.

Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20 (2008).

31. Under Ninth Circuit precedent, serious questions going to the merits coupled with a balance of hardships that tips sharply in the movant's favor may support injunctive

relief where the remaining factors are satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011).

V.

PETITIONER SATISFIES THE REQUIREMENTS FOR TEMPORARY RESTRAINING RELIEF

A. Likelihood of Success on the Merits

32. Petitioner has demonstrated a likelihood of success on the merits and, at minimum, serious questions warranting preservation of the status quo.

33. Petitioner does not challenge the validity of the January 7, 2026 removal order.

34. Petitioner challenges the constitutionality of Respondents' decision to revoke previously granted liberty and re-detain her without constitutionally adequate notice, hearing, or process.

35. Respondents contend that Petitioner's detention is presently governed by 8 U.S.C. § 1231.

36. Even assuming that is correct, the existence of a final removal order does not retroactively cure the constitutional injury alleged in this case.

37. The constitutional deprivation occurred when Respondents revoked liberty they had previously granted and returned Petitioner to immigration custody without constitutionally adequate notice, hearing, or process. Importantly, Petitioner did not have a final order of removal at that time. The Immigration Judge's removal order was not entered until January 7, 2026, several months after Petitioner's re-detention. Accordingly, the constitutional injury challenged in this action arose before any final

order existed and is not retroactively cured by the subsequent issuance of that order or by Respondents' later reliance on 8 U.S.C. § 1231.

38. Procedural due process imposes constraints on governmental decisions that deprive individuals of liberty. *Mathews v. Eldridge*, 424 U.S. 319, 332–33 (1976).

39. Freedom from physical restraint lies at the core of the liberty protected by the Fifth Amendment. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

40. Numerous courts have recognized that individuals previously released from immigration custody possess a protected liberty interest and are entitled to meaningful process before that liberty is withdrawn.

41. Most recently, Chief Judge Michael J. McShane concluded in *Steeve Joachim v. Rosa*, No. CV-26-02540-PHX-MJM (D. Ariz. June 4, 2026), that the Due Process Clause imposes constitutional constraints on the Government's decision to re-detain individuals who were previously released from immigration custody. See Ex. 7.

42. The Court further concluded that the *Mathews* factors favor requiring meaningful process before re-detention and that immediate release may be an appropriate habeas remedy where such process was not provided.

43. Petitioner's circumstances are materially similar.

44. DHS released Petitioner from immigration custody on August 8, 2022.

45. DHS permitted Petitioner to remain in the community for more than three years.

46. DHS thereafter revoked that previously granted liberty and re-detained Petitioner without constitutionally adequate notice, hearing, or process.

47. Accordingly, Petitioner has demonstrated a likelihood of success on the merits or, at minimum, serious questions going to the merits.

B. Irreparable Harm

48. Petitioner faces immediate and irreparable harm absent relief.

49. ICE has already advised counsel that removal is scheduled to begin June 8, 2026 and on June 7, 2026 was told to pack her belongings because she was starting her journey to Ecuador.

50. The threatened harm is not speculative.

51. The Supreme Court has recognized that courts must evaluate the practical consequences of removal in light of the claims pending before them. *Nken*, 556 U.S. at 434–35.

52. Those concerns are present here.

53. Petitioner presently has pending constitutional habeas claims challenging the legality of her re-detention.

54. If Respondents remove Petitioner before those claims are adjudicated, Respondents may contend that meaningful habeas relief is no longer available or that portions of the controversy have become moot.

55. Removal would substantially interfere with this Court's ability to provide effective relief should the Court ultimately determine that Petitioner's re-detention violated the Constitution.

56. Removal would likewise substantially complicate Petitioner's ability to communicate with counsel, assist in the development of the factual record, execute declarations, and participate in ongoing litigation.

57. The Ninth Circuit has recognized that irreparable injury exists where removal threatens meaningful judicial review of claims presently being litigated. *Leiva-Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011).

58. Accordingly, the irreparable-harm requirement is satisfied.

C. Balance of Equities

59. The balance of equities tips sharply in Petitioner's favor.

60. Petitioner seeks only temporary preservation of the status quo while this Court adjudicates the constitutional claims presently before it.

61. Petitioner does not seek release through this Motion.

62. Respondents lose nothing more than the ability to remove Petitioner before the Court determines whether the challenged conduct violated the Constitution.

63. By contrast, Petitioner faces permanent and irreversible consequences if removed before judicial review is completed.

64. Once removed, the Court's ability to provide effective relief may be substantially impaired.

65. Accordingly, the balance of hardships tips decisively in Petitioner's favor.

D. Public Interest

66. The public interest strongly supports temporary relief.

67. The public has a substantial interest in ensuring that constitutional claims receive meaningful judicial review.

68. The public likewise has a strong interest in ensuring that governmental detention decisions comply with constitutional requirements.

69. Preserving the status quo while the Court adjudicates constitutional claims promotes confidence in the judicial process and protects the integrity of federal court proceedings.

70. Accordingly, the public-interest factor strongly favors relief.

E. ICE Has Acknowledged Petitioner's Franco Status

71. On June 4, 2026, ICE advised counsel that Petitioner possesses "Franco" status and that notice of the contemplated removal was being provided for that reason. See Ex. 5. Upon information and belief, ICE uses the term "Franco" to refer to individuals covered by the Franco class-action litigation for whom advance notice of removal is provided.

72. ICE further acknowledged that removal is imminent and provided notice because of that status.

73. Counsel immediately requested information concerning Ecuador's acceptance, travel documentation, travel authorization, Franco compliance, and removal arrangements.

74. No response has been received.

75. ICE's own communications therefore confirm both the immediacy of the threatened harm and the need to preserve the status quo while this Court adjudicates Petitioner's constitutional claims.

VI.

ALL WRITS ACT

76. Independent of Rule 65, this Court possesses authority under the All Writs Act, 28 U.S.C. § 1651(a), to preserve its jurisdiction and ability to provide meaningful relief.

77. An order preserving the status quo pending adjudication of the constitutional claims presently before the Court falls squarely within that authority.

VII.

EXPEDITED CONSIDERATION

78. District courts possess inherent authority to manage their dockets and expedite matters requiring immediate judicial attention. *Landis v. North American Co.*, 299 U.S. 248, 254 (1936).

79. Expedited consideration is warranted because ICE has advised counsel that removal is imminent.

80. Absent prompt judicial intervention, Petitioner may be removed before this Court has an opportunity to adjudicate the pending constitutional claims.

81. Petitioner therefore respectfully requests that Respondents be required to respond within twenty-four (24) hours.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Immediately enter an administrative stay prohibiting Respondents from removing, deporting, transporting, sending, or otherwise effectuating Petitioner's departure from the United States;

2. Immediately enter an administrative stay prohibiting Respondents from removing Petitioner to Ecuador or any other country pending further order of this Court;
3. Immediately enter an administrative stay prohibiting Respondents from transferring Petitioner outside the District of Arizona;
4. Enter a Temporary Restraining Order granting the same relief;
5. Order Respondents to provide counsel with at least seventy-two (72) hours advance written notice of any intended removal, transfer, transportation, or action designed to effectuate Petitioner's departure from the United States;
6. Preserve Petitioner's current custodial status and location pending adjudication of the Second Amended Petition and further order of this Court;
7. Require Respondents to file a response within twenty-four (24) hours;
8. Alternatively, order Respondents to show cause within twenty-four (24) hours why Petitioner's removal should not be temporarily stayed;
9. Set the matter for expedited hearing while maintaining the administrative stay in effect; and
10. Grant such other and further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED this 8 day of June, 2026.

By: */s/ Erica Sanchez*
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LIST OF EXHIBITS	
Exhibit 1	Declaration of Counsel in Support of the Emergency Motion for Immediate Administrative Stay of Removal, Temporary Restraining Order, and Expedited Consideration.
Exhibit 2	ICE Detainee Locator Printout.
Exhibit 3	Form I-213 Record of Deportable/Inadmissible Alien.
Exhibit 4	Order of the Immigration Judge dated January 7, 2026.
Exhibit 5	June 4, 2026 email from ICE Deportation Officer Tanner Alcon providing Franco notice and advising of schedule removal to Ecuador.
Exhibit 6	June 5, 2026 email from counsel to ICE Deportation Officer Tanner Alcon requesting information conserving Ecuador's acceptance, travel documentation, Franco status and removal arrangements.
Exhibit 7	Copy of the order from *Steeve Joachim v. Rosa*, No. CV-26-02540-PHX-MJM (D. Ariz. June 4, 2026).
Exhibit 8	Email sent to AUSA dated June 8, 2026.

CERTIFICATE OF SERVICE

I, Erica Sanchez, hereby certify that on June 8, 2026, I electronically filed the foregoing document and its Exhibits with the Clerk of the Court using the CM/ECF system. I further certify that all participants are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

By: */s/ Erica Sanchez*
Erica Sanchez, Esq.