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5 **UNITED STATES DISTRICT COURT FOR THE**  
6 **WESTERN DISTRICT OF WASHINGTON**  
7 **AT SEATTLE**

8 ROSA PADILLA PAZ

9 Petitioner,

Case No. 2:26-cv-1394

10 v.

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

11 JULIO HERNANDEZ, in his official capacity,  
12 Acting Director for the Seattle ICE Field Office;  
13 BRUCE SCOTT, in his official capacity, Warden  
14 of Northwest ICE Processing Center; TODD M.  
15 LYONS, in his official capacity, Acting Director  
16 for U.S. Immigration and Customs Enforcement;  
17 MARKWAYNE MULLIN, in his official  
18 capacity, Secretary of the Department of  
19 Homeland Security; TODD BLANCHE, in his  
20 official capacity, Acting Attorney General of the  
21 United States.

22 Respondents.  
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PET. FOR WRIT OF HABEAS CORPUS  
Case No. 2:26-cv-1394

NORTHWEST IMMIGRANT RIGHTS PROJECT  
615 Second Ave., Ste. 400  
Seattle, WA 98104  
(206) 957-8611

### INTRODUCTION

1           1. Petitioner Rosa Padilla Paz (“Rosa”) brings this petition to challenge her prolonged and  
2           needless detention by Respondents.

3           2. Rosa is a single mother of three U.S. citizen children, ages 11, 15, and 20. She survived  
4           almost a decade of domestic abuse and human trafficking as a young woman. Through  
5           strangulation, rape, and death threats against her and her daughters, Rosa’s trafficker forced  
6           her to sell drugs. Though she was convicted in 2010 of one count of transportation of a  
7           controlled substance under Cal. Health and Safety Code § 11352 and in 2014 of one count of  
8           accessory after the fact to a felony under Cal. Pen. Code § 32, those convictions have since  
9           been vacated as legally invalid under California Penal Code § 236.15 because they were the  
10          result of her violent and abusive relationship.

11          3. Rosa has not been arrested since she escaped her abuser. For over a decade, she lived  
12          a tranquil, law-abiding life, caring for her children, working, and paying taxes, until she was  
13          arrested by Immigration and Customs Enforcement (“ICE”) in June 2025 after dropping her  
14          daughter off at school.

15          4. Rosa’s ten-month detention at the Northwest ICE Processing Center (“NWIPC”)   
16          exceeds any legitimate regulatory purpose. Conditions are harsh and cruel. She is confined to  
17          a cell for much of the day, and guards prohibit detainees from hugging each other or otherwise  
18          expressing mutual support. Rosa and is separated from her daughters, who live over 800 miles  
19          away, and her health has declined precipitously. The only treatment offered for her intrusive  
20          PTSD symptoms has been sleep medication.

21          5. No reasonable adjudicator could find that Rosa is a danger or a flight risk—the only  
22          permissible bases for civil detention. Her now-vacated criminal history took place under  
23          duress, and she has not engaged in any unlawful activity in the intervening twelve years. She  
24          worked with law enforcement to report the crimes against her; she has pending applications  
25          for relief based on her status as a trafficking victim; and a recent forensic risk assessment found  
26          her to be at a low risk of recidivism. Nothing presented by ICE supports a finding that she  
27

1 poses a danger to anyone. To the contrary, her prolonged absence from the community is  
2 putting her daughters at risk.

3 6. This past weekend, Rosa's nephew Jacobo—who had been helping care for her  
4 daughters—died unexpectedly. Rosa obtained legal guardianship of Jacobo when he was a  
5 child and raised him like a son. For the past 10 months, Jacobo has provided crucial support to  
6 Rosa's oldest daughter, Jennifer, and the two minor children. Rosa is now needed to inter  
7 Jacobo's body and arrange for his funeral as his guardian and next of kin.

8 7. Despite the exigent circumstances of her nephew's death, and the uncontested evidence  
9 that Rosa is a trafficking survivor, the immigration court denied her a new bond hearing, citing  
10 Executive Office for Immigration Review ("EOIR") policy that she is subject to mandatory  
11 detention. Rosa hereby brings this habeas petition and accompanying motion for temporary  
12 restraining order to urgently request her release from custody. Under the particular  
13 circumstances of this case, the length and nature of Rosa's detention exceed the bounds of what  
14 due process can tolerate, and civil objectives can be met through less extreme means than the  
15 absolute deprivation of her liberty. The Court should accordingly order her release.

### 16 JURISDICTION

17 8. Rosa is detained in the custody of Respondents at the NWIPC in Tacoma, Washington.

18 9. Jurisdiction is proper over a writ of habeas corpus pursuant to Art. 1 § 9, cl. 2 of the  
19 United States Constitution (the Suspension Clause); 28 U.S.C. § 2241 (habeas corpus); and 28  
20 U.S.C. § 1331 (federal question). This action arises under the Due Process Clause of the Fifth  
21 Amendment of the U.S. Constitution and the Immigration & Nationality Act ("INA"). This  
22 Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the  
23 Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

### 24 VENUE

25 10. Venue for the instant habeas corpus petition properly lies in this District because it is  
26 the District of Rosa's confinement. *See Doe v. Garland*, 109 F.4th 1188, 1198 (9th Cir. 2024).

**PARTIES**

11. Petitioner Rosa Padilla Paz was born in Honduras and fled to the United States as an unaccompanied minor in 2004. She has lived in the United States for over two decades and is a single mother to three U.S. citizen children. She has been in ICE custody continuously since June 2, 2025, without a final resolution to her removal case.

12. Respondent Julio Hernandez is the Field Office Director of ICE, in Seattle, Washington, and is named in his official capacity. The Seattle Field Office is Responsible for carrying out ICE's immigration detention operations at NWIPC, where Rosa is detained. Respondent Hernandez is a legal custodian of Rosa.

13. Respondent Bruce Scott is the warden of NWIPC, where Rosa is presently confined. Respondent Scott is Rosa's immediate custodian. He is named in his official capacity.

14. Respondent Todd Lyons is the Acting Director of ICE, and is named in his official capacity. ICE, a component of the Department of Homeland Security ("DHS"), is responsible for detaining and removing noncitizens according to immigration law, and oversees custody determinations. Respondent Lyons is responsible for ICE's policies, practices, and procedures, including those related to the civil detention of immigrants. In his official capacity as head of ICE, Respondent Lyons is a legal custodian of Rosa.

15. Respondent Markwayne Mullin is the Secretary of DHS, and is named in his official capacity. He has authority over the detention and departure of noncitizens, because he administers and enforces immigration laws pursuant to Section 402 of the Homeland Security Act of 2002. Given this authority, Respondent Mullin is a legal custodian of Rosa.

16. Respondent Todd Blanche is the Acting Attorney General of the United States and the most senior official at the Department of Justice, and is named in his official capacity. As such, he is responsible for overseeing the implementation and enforcement of the federal immigration laws. The Attorney General delegates this responsibility to EOIR, which administers the immigration courts and the BIA.

**STATEMENT OF FACTS**

**I. Rosa Escapes Sexual and Physical Persecution in Honduras as a Teen Only to be Trafficked and Experience Further Sexual and Physical Violence in the United States .**

17. Rosa Padilla Paz is a thirty-seven-year-old single mother who first came to the United States as a minor, over two decades ago, fleeing severe violence in Honduras. *See* Ex. E at 5, 9-10.<sup>1</sup> As a young child, Rosa was stalked and sexually harassed by [REDACTED]

[REDACTED]  
[REDACTED] *Id.*

As a result of these ongoing abuse and threats, Rosa's family created a plan for her to leave Honduras. *Id.* As a fifteen-year-old, she entered the United States in 2004 and initially stayed with her aunt in San Francisco. *Id.* Shortly thereafter she met a twenty-year old named [REDACTED] who was also from Honduras [hereinafter "[REDACTED]" or "[REDACTED]"]. *Id.*

18. [REDACTED] took advantage of Rosa's vulnerability and groomed her, paying attention to her and encouraging her to leave her aunt to live with him. *See* Ex. E at 5. [REDACTED] *Id.* at 5-6. He engaged in possessive behavior, isolating her from her family. *Id.* He limited her ability to talk to friends and family members. *See id.* 6, 25. He limited and controlled her movement. *Id.*; *see also id.* at 71. [REDACTED]

[REDACTED]  
[REDACTED]

19. Shortly after Rosa moved in with [REDACTED] she learned that she was pregnant. Ex. E at 6. She also learned that far from working in construction or painting as he had originally claimed, [REDACTED] was actually involved in drug sales. *Id.* However, still very young, pregnant, and isolated from her family, Rosa did not feel like she could leave him. *Id.*

<sup>1</sup> The pagination citations refer to the bates stamped EOIR page numbers on all exhibits filed before EOIR.

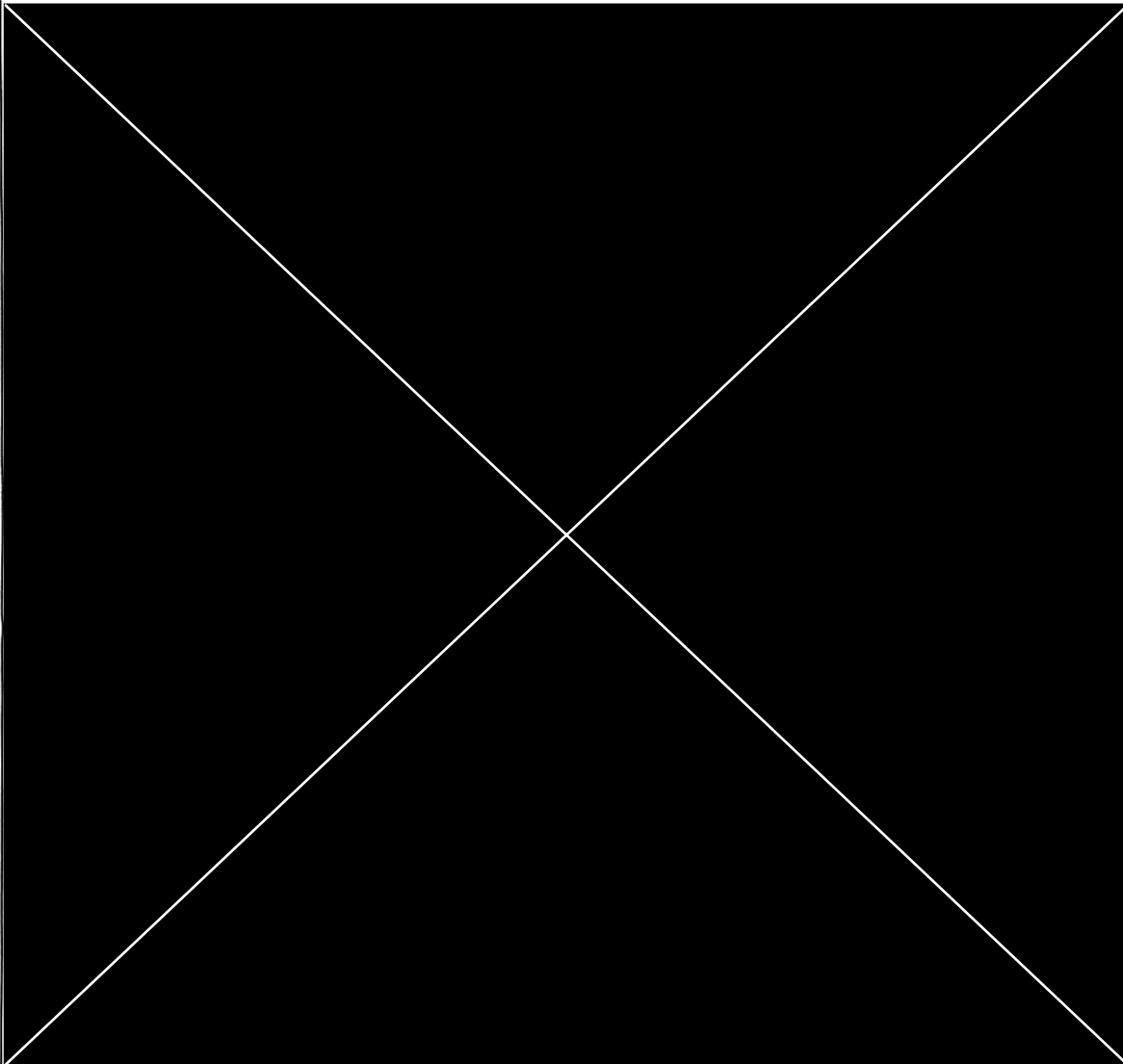
20. In 2005, Rosa gave birth to her first daughter, Jennifer (or “Jenny”) Bonilla. Ex. E at 6; 18. N~~X~~ insisted that Rosa lie about her own date of birth to hospital staff and on Jenny’s birth certificate so that he would not get in trouble for having sex with a minor since Rosa was only 16 and N~~X~~ was 21 at the time of Jenny’s birth. *Id.*; *Compare* Ex. E at 18 (birth certificate for Jennifer Bonilla showing N~~X~~’s DOB and false DOB for Rosa) *and id.* at 13 (birth certificate for E.B.P. showing N~~X~~’s same DOB and correct DOB for Rosa).

21. N~~X~~ Bonilla’s emotional and psychological abuse and intimidation escalated to routine physical violence in this period after Jennifer’s birth. *See* Ex. E at 6-7. 

 *Id.* As noted by the Domestic Violence (DV) expert who analyzed her case, strangling in domestic violence contexts is associated with a much higher risk profile for eventual homicide by the abuser.<sup>2</sup> Once, he stabbed her in the hand with a fork. *Id.*  *Id.* at 3, 6.

22. The physical and emotional violence escalated and became routine; N~~X~~ did not bother to hide it from his children and neighbors. *Id.*; *see also* Ex. E at 24 

<sup>2</sup> *See* Ex. D at 6-7 (“Strangulation is a particularly remarkable and often preferred of control. Colloquially referred to as “choking,” strangulation has repeatedly been identified as a lethal risk factor in abusive partnerships that is committed primarily by men against women. Most perpetrators do not strangle to kill, but to show that they *can* kill.”); *see also* Glass N. et al, “Non-fatal strangulation is an important risk factor for homicide of women,” JOURNAL OF EMERGENCY MED. Vol. 35 Iss. 3, 329-35 (Oct 2008), *available at* <https://pmc.ncbi.nlm.nih.gov/articles/PMC2573025/>



23. N~~X~~ told Rosa that calling the police would be pointless because he would be released anyway. She believed him and was afraid so did not report him at the time. Ex. E at 3.

24. Through physical violence and threats, N~~X~~ coerced Rosa into assisting him in his drug sales. Ex. E at 6-7. N~~X~~ cut the drugs, told her how much they were, where to stand, and when she could leave. *Id.* He kept all money and repeated to her that the work was her obligation. *Id.* On the times she resisted, she faced violent retribution, so she eventually stopped resisting out of fear. *Id.* N~~X~~ used their daughter Jennifer as leverage against her; she was afraid that he would harm Jennifer if she left, and it made it seem even more impossible to her that she could leave. *Id.* at 12.

**II. Rosa's Criminal Arrests and Prior Removal Order**

25. Rosa was arrested on a number of occasions between 2007 and 2014 for non-violent crimes including shoplifting and drug related offenses. *See* Ex. E at 7-8; Ex. F (Criminal History Chart); Ex. H (police reports and vacatur order).

26. Rosa's three convictions from those incidents have since all been vacated. *See* Ex. F at 6-7 (vacatur of 2007 shoplifting conviction under Cal. Pen. Code 1016.5), 14-18 (vacatur of 2010 conviction under Cal. Pen. Code § 236.15); Ex. H at 36 (vacatur of 2014 conviction under Cal. Pen. Code § 236.15). The criminal courts recognized that her drug-related convictions were legally invalid because she "lacked the requisite intent to commit the offense" due to her status as a DV and trafficking victim at the time. *See* Ex. F at 16 and Ex. H at 36 (vacating her convictions pursuant to California Penal Code § 236.15). Cal. Penal Code § 236.15 provides for vacatur where petitioner establishes "by clear and convincing evidence, that the arrest or conviction was the direct result of being a victim of intimate partner violence or sexual violence that demonstrates that the person lacked the requisite intent to commit the offense." These convictions no longer exist as a matter of law.

27. In 2010, Rosa came into contact with U.S. immigration officials twice, resulting in her detention and removal. *See* Ex. G at 4. Fearing for her own safety and that of her daughter Jennifer (who N had control of while she was detained), Rosa followed N instructions to say she was from Mexico, even though she was not. Exh. E at 12. As a result, she was twice removed to Mexico. *See id.* at 12, 73; Ex. G at 4. Once in Mexico, N made all of the arrangements to have Rosa brought back into the United States and delivered to him. Ex. E at 12.

**III. Rosa's Law-Abiding Life After Escaping Her Trafficker**

28. Rosa gave birth to her second daughter, E.B.P., in 2011 in San Francisco. *See* Ex. E at 19. N's physical, emotional and sexual violence continued to escalate. *See* Exh. R at 147. Rosa was caring not just for her own two children, but also for her nephew Jacobo, and she grew increasingly fearful for the children's safety, especially Jacobo's. *Id.*; *see also* Ex. E at

1 88. Rosa eventually summoned the courage to leave N with the children and was able to get  
2 custody of the children at the end of 2014. *See* Ex. E at 8; Exh. R at 147.

3 29. Since escaping her abusive relationship with N and getting custody of their children  
4 at the end of 2014, Rosa has had no further contact with the criminal legal system. Ex. E at 8;  
5 Ex. F (criminal history chart); *see also* Ex. G at 5 (2025 I-213 summary of criminal history).  
6 Neighbors, friends and family alike have all noted the change in Rosa since escaping that  
7 relationship. *See* Ex. E at 32 (“My mom’s main mistake was getting involved with my dad who  
8 put her in the situation that she is in now. My dad was very violent with her, and she had to go  
9 along with what he said. My mom was very young when they were together – she was only 15  
10 when they got together, and he was already an adult. She was new to the country and isolated  
11 and he took advantage of her. She was finally able to leave him and has turned her life around  
12 for over a decade now, supporting me and my sisters, paying taxes, and doing everything she  
13 can to be a good citizen and community member.”); 67 (“I was distanced from Rosa for a while  
14 because of her relationship with N but reconnected with her a few years ago and we revived  
15 our friendship. She is doing much better with him out of her life. She has been able to gain  
16 more independence and is working and supporting her kids on her own.”); 74 (“Since leaving  
17 N Rosa has become a lot more confident. She has been working to be a good single  
18 mother.”); 80 (“After was out of her life, Rosa looked happy and in control. She  
19 is a stronger woman now.”); 84 (“Once Rosa left N her life completely changed. She became  
20 happier, more independent, and more free. She learned how to drive, began working jobs  
21 through Instawork and Pared, and took steps to live a healthier life, including going to the gym  
22 and running in the mornings. Most importantly, she has been focused on being the best mother  
23 possible for her three children.”); 88 (“Eventually, Rosa found the strength to leave him for  
24 good and never go back. After that, her life changed. I was still living with her, and I saw her  
25 working tirelessly – cleaning, cooking, and taking any job she could to support us. Even when  
26 she was exhausted – she never gave up and always made sure we were safe and cared for.”)

30. Since escaping from N~~X~~Rosa has focused on supporting her children. Ex. E at 9-10. Rosa has raised her three U.S. citizen daughters and her nephew Jacobo—for whom she serves as guardian—as a single mom. *See* Ex. E at 9-10; 18-21 (birth certificates); 28 (declaration of daughter Jennifer Bonilla); 88 (letter of nephew Jacobo Padilla); Exh. U (Guardianship Order). She has worked in restaurants, cleaning jobs, as a tow truck dispatcher and as a supervisor at an ice cream factory. Ex. E at 9-10; 28-29. She also learned to drive and obtained a driver's license. *Id.* at 9; 16. She received an ITIN so that she could pay taxes. *Id.* at 9-10; 112-13 (ITIN); 114-24 (Tax Returns). By all accounts she has been an outstanding parent and a hard working, caring, and law-abiding community member. *See id.* at 39-40 (“Rosa is not just a neighbor. She is, in many ways, the heart of the building she lives in. On countless occasions, I’ve watched her distribute hot meals to children and elders in her building, even on days when I suspect she didn’t have much to give herself. She is the type of person who never lets a child go unnoticed or unfed. I’ve seen her open her door to kids who didn’t have a coat, who didn’t have a ride to school, or just needed someone safe to talk to. That’s who she is.”); 67 (“I have always witnessed Rosa to be respectful and dedicated to her family. She is kind and considerate. Rosa doesn’t use drugs and barely drinks alcohol. She will even offer to help others without them having to ask – she helps people she doesn’t even know. She is hard working and very family oriented.”); 85 (“Rosa is a kind, living, hardworking, and resilient woman. Despite the trauma and violence she endured, she never let it stop her from protecting those she loves. She has shown nothing but courage and determination to create a better life for her children and for others around her.”); 97 (“Before her detention, Rosa was actively involved in S[C.P.]’s education. She communicated regularly with teachers, attended school events and meetings, and showed great concern for S[C.P.]’s academic growth and social adjustment. Rosa’s engagement reinforced S[C.P.]’s confidence in school and helped her thrive both academically and personally.”); 99 (“Rosa Padilla Paz has always stood out as a deeply involved, devoted, and selfless parent. As a single mother, she ensures that her daughters have every opportunity to succeed, consistently enrolling them in enrichment

1 activities such as Saturday sports programs, summer camps, and cultural events. Rosa doesn't  
2 just participate — she contributes. She has volunteered her time to support our programming  
3 and has always been a reliable, warm presence at school events and parent meetings. Her  
4 advocacy for her children and her active role in our community speak volumes about her  
5 character.”); 102 (“Through my time getting to know Rosa, I have seen her go above and  
6 beyond for the people she cares about, even when it is not easy or expected. Whether it’s aiding  
7 a struggling neighbor, voicing community concerns, or swiftly attending to family needs, I can  
8 always count on Rosa to leave a situation having contributed to its resolution. Rosa is an  
9 outstanding individual that would be an exemplary model of a US resident/citizen should she  
10 be afforded the opportunity.”). Rosa has been active in her children’s lives and education and  
11 in seeking programming for them. *See id.* at 28-32 (declaration of daughter Jennifer Bonilla);  
12 105-07 (letter from 15 year old daughter E.B.P.); 109 (letter from 11 year old daughter S.C.P.);  
13 97 (letter of support from daughter S.C.P.’s school principal); 99-100 (letter of support from  
14 after school provider); Ex. R at 251 (letter of support from family liaison at daughters’  
15 elementary school), 254-55 (letter of support from outreach coordinator & community liaison  
16 at local community center).

17 31. Rosa was also proactive about seeking medical care for her children when needed. Her  
18 daughter Jennifer suffers from epilepsy and Rosa got her the treatment she required. Ex.. E at  
19 9, 29. More recently Rosa was supporting her now-fifteen year old daughter E.B.P., who  
20 suffers from severe depression, generalized anxiety, and autism spectrum disorder. Ex. E at 9-  
21 10; 91 (letter from E.B.P.’s psychologist); Ex. R at 241-46 (Evaluation) (psychological  
22 evaluation of E.B.P. conducted in December 2025-January 2026 showing she “scored protocol  
23 using the module 4 Algorithm resulted in the classification ‘autism,’” and that E.B.P. met  
24 “criteria for Autism Spectrum Disorder (ASD) in the Mild to Moderate range”). E.B.P.’s  
25 psychologist opined that “[c]ontinuity of caregiving with her mother is not a preference but a  
26 clinical necessity, as disruptions in caregiving or reliance on individuals without autism-  
27 specific understanding are likely to exacerbate anxiety, dysregulation, and functional decline.”

1 Exh. R at 246. The psychologist providing behavior health services for E.B.P. since October  
2 states that “[i]t is my professional opinion that separation from Emelyn's mother has and will  
3 continue to exacerbate her psychiatric symptoms and level of risk. In order to regain and  
4 maintain stability and wellbeing, it is necessary that she has support in the form of parental  
5 oversight which is best provided by her mother.” *Id.* at 248.

6 **IV. Rosa’s 2025 Arrest by ICE and Her Custody Review**

7 32. On June 2, 2025, after dropping her daughter off at school, Rosa returned home to find  
8 ICE waiting for her. Ex. E at 11; Ex. 6 at 4 (2025 I-213 showing method and location of  
9 apprehension). She was taken into ICE custody and sent to NWIPC in Tacoma, Washington,  
10 where she has since remained. *Id.*

11 33. Since Rosa’s detention, her oldest daughter, Jennifer, was left alone to care for her two  
12 younger siblings E.B.P. and S.C.P, while also attending college and working part time. *See* Ex.  
13 4 at 30. Rosa’s nephew Jacobo, who she had raised like a son and for whom Rosa was legal  
14 guardian when he was a minor, returned to San Francisco and assisted Jennifer with some  
15 financial support towards the rent and assisted Jennifer with taking the younger two girls to  
16 and from school or doing grocery shopping and cooking. *See* Ex. A, Rosa Habeas Declaration  
17 ¶¶ 17-23; Ex. U. (Guardianship Order).

18 34. In October 2025, after vacating two of her three convictions which had subjected her  
19 to mandatory detention, Rosa requested and was granted a bond hearing before the  
20 Immigration Judge. *See* Ex. B, Decl. of Hayley Upshaw ¶ 16.

21 35. Rosa’s bond hearing was initially scheduled for October 8, 2025. *Id.* ¶ 17. Rosa filed  
22 hundreds of pages of supporting evidence with the immigration court. *See generally* Ex. C  
23 (psychological evaluation); Ex. D (expert declaration of DV expert), Ex. E (evidence in support  
24 of bond); Ex. F (criminal history chart including vacatur orders). The evidence she filed in  
25 support of her release on bond included certified criminal court records including the vacaturs  
26 from two of her criminal convictions; declarations from DV and trafficking experts; letters  
27 from family and friends who had direct knowledge of the abuse she suffered in the past by Noe

1 and changes they'd witnessed since Rosa had escaped the relationship; letters from her  
2 daughters' schools and community organizations that had interacted with Rosa over the years;  
3 birth certificates for her children; her own tax returns and those of her daughter Jennifer and  
4 co-sponsor Joc Wilson; her lease for the fixed address where she had lived prior to detention  
5 and would live upon release; and letters from her daughters' therapists and E.B.P.'s  
6 psychologist regarding the deleterious impact Rosa's detention was having on them. *Id.* At the  
7 hearing, IJ John Odell stated that he required the police reports for the drug related arrests be  
8 filed as well and set the bond hearing over to October 21, 2025. *See* Ex. B, Decl. of Hayley  
9 Upshaw ¶ 19.

10 36. Rosa filed the police reports for her four drug related arrests, along with a vacatur order  
11 of her last remaining conviction and a declaration from a former San Francisco Police  
12 Commission board member from 2010 through 2014 (the two years that Rosa sustained drug-  
13 related arrests) stating that she was not aware of any policies or protocols at that time to screen  
14 individuals with drug-related arrests to determine if they were DV or trafficking survivors, so  
15 it was not surprising that the information was not included in the police reports at the time. *See*  
16 Ex. H at 5-31 (Police Reports), 33-34 (Declaration of Angela Chan), 36 (vacatur order).

17 37. The only evidence DHS counsel submitted were records of her vacated 2010  
18 conviction, multiple forms I-213 from her 2010 and 2025 immigration arrests, and a copy of  
19 the IJ order denying her applications for asylum and related protections, which had been issued  
20 after a hearing on October 10, 2025, and for which she was in the process of filing a timely  
21 appeal. *See* Ex. B, Decl. of Hayley Upshaw ¶ 18, 22; Ex. G (DHS filing); Ex. I (DHS additional  
22 filing).

23 38. At the bond hearing on October 21, 2025, the IJ took brief argument from counsel and  
24 stated his decision to deny bond, finding that he lacked jurisdiction but that in the alternative,  
25  
26  
27

1 he would deny bond because he believed Rosa was a danger and a flight risk. *See* Ex. B, Decl.  
2 of Hayley Upshaw ¶ 23; Ex. J (Bond Minute Order).<sup>3</sup>

3 39. Rosa timely appealed the denial of bond to the Board of Immigratoin Appeals (“BIA”).  
4 Ex. B, Decl. of Hayley Upshaw ¶ 25. The IJ then issued a written bond memorandum,  
5 justifying the the denial. *Id.* The IJ found that Rosa’s behavior in assisting in her abuser’s drug  
6 sale activity on at least four occasions between 2010 and 2014 makes her a danger to the  
7 community and that the “pressure” from her abusive and controlling partner did not  
8 “sufficiently mitigate the dangerousness of the trafficking activities.” *See* Ex. K (IJ Bond  
9 Memorandum). The IJ found that Rosa was a poor bond risk because she had been denied  
10 asylum (though had timely appealed by the point the bond memorandum was issued) and while  
11 she planned to file a T and U visa with USCIS, had not yet done so at the time of her bond  
12 hearing. *Id.*

13 40. In the BIA custody appeal, Rosa filed a detailed brief and also requested remand on the  
14 basis of the U and T visa that she had filed in the interim. *See* Ex. B, Decl. of Hayley Upshaw  
15 ¶ 32 DHS did not file a brief. *Id.* The bond appeal is fully briefed and remains pending before  
16 the BIA. *Id.*

17 41. In addition, Rosa filed a motion for a new bond hearing with the IJ based on changed  
18 circumstances. Rosa filed evidence of her U and T visa applications then pending before  
19 USCIS, for which she had received the law enforcement certification after her last bond hearing  
20 as well as a validated risk assessment finding her to be a low risk, along with additional letters  
21 of support and psychological records relating to her daughter E.B.P.’s new autism spectrum  
22 diagnosis and need for parental care. *See* Ex. B, Decl. of Hayley Upshaw ¶ 33; *see generally*

23  
24 <sup>3</sup> Ms. Padilla Paz previously sought habeas relief as a class member in *Rodriguez Vazquez v.*  
25 *Hermosillo*, No. 3:25-cv-05240 (W.D. Wash.). However, that petition was denied because of the  
26 flight risk and danger findings, which the *Rodriguez Vazquez* court has held must first be  
27 addressed to obtain relief as a *Rodriguez Vazquez* class member. *See Corrales Castillo v.*  
28 *Wamsley*, No. 2:25-cv-02172-TMC, 2025 WL 3204370, at \*2–3 (W.D. Wash. Nov. 17, 2025).  
The questions of flight risk and danger and substantive due process were neither litigated nor  
decided, and this petition now brings those claims.

Ex. Q (Motion for Bond Hearing Based on Changed Circumstances); Ex. R (New Bond Evidence). After receiving notice on April 18, 2026, that Rosa's nephew Jacobo had died suddenly, counsel filed an additional notification of the urgent circumstances requesting a bond hearing as soon as possible. *See* Ex. B, Decl. of Hayley Upshaw ¶¶ 34-35. On April 22, 2026, IJ Odell issued an order denying Rosa's motion for a new bond hearing, stating only "Respondent has failed to establish material changed circumstances since her last bond hearing" and "Respondent remains subject to mandatory detention under INA section 235(b)(2)(A)." *See* Ex. T(IJ Order Denying Motion for Bond Hearing).

**V. Rosa's Cooperation with Law Enforcement, and Pending Relief as a Survivor of Human Trafficking and Violent Crime**

42. At the recommendation of the San Francisco District Attorney's Office, Rosa reported the crimes committed against her by Noe. *See* Ex. B, Decl. of Hayley Upshaw ¶ 15, 26. Rosa submitted her declaration to the San Francisco Police Department, the law enforcement agency with jurisdiction over most of the crimes, which occurred mostly where they lived in San Francisco. She met by Zoom with Acting Lieutenant Antonio Flores in the Special Victims Unit on November 13, 2025, and Lieutenant Flores took her report. *Id.* Lieutenant Flores later provided certifications of her assistance with the ongoing law enforcement investigations into rape, human trafficking and other crimes. *See* Ex. R, New Bond Evidence, at 108-12 (T visa I-914 Supplement B); Tab F at 192-96 (U visa I-918 Supplement B).

43. With those certifications, Rosa was able to file for U and T nonimmigrant status along with requests to waive any applicable inadmissibility grounds, including her prior immigration violations. *See* Ex. R at 68-152 (T visa application) and 154-228(U visa application).<sup>4</sup> Both applications are currently pending with USCIS. *See* Ex. R at 68-68 (I-914, T visa receipt

<sup>4</sup> The copies of the T and U visa applications filed in the bond motion included the receipt notices, all USCIS forms and attachments, the cover letter with legal argument and complete index of evidence filed for each visa application but because much of the evidence including letters from corroborating witnesses, photographs, psychological evaluation, DV expert report of Prof. Kaur are voluminous and duplicates of documents already were already in the bond record, counsel did not file those duplicative documents.

notice), 154-55, (I-918, U visa receipt notice) and 70-71, 156-57 (I-192 inadmissibility waivers receipt notices). Rosa completed the necessary biometrics and is awaiting a bona fide determination pursuant to 8 C.F.R. § 214.205. *See* Ex. R at 230-37 (confirmation from ICE that biometrics were taken). Rosa requested that a decision on the applications be expedited, but that request was denied. *See* Ex. L (requested for expedited review); Ex. M (USCIS denial of request to expedite); Ex. N (emails from USCIS to Senator Alex Padilla's office confirming denial of request to expedite). The current USCIS processing time estimate for T visa applications is 29.5 months. *See* Ex. O. The current USCIS processing time estimate for U visa applications is allegedly 19 months, but the processing times website also calculates that based on the filing date, Rosa should not inquire about her U visa application until January 27, 2028 (more than 25 months after her U visa was filed). *See* Ex. P.

### ARGUMENT

#### **I. The Due Process Clause requires that detention be related to a valid government purpose and not be punitive.**

44. Rosa has a profound liberty interest in freedom from physical confinement. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom from imprisonment...lies at the heart of the liberty" that the Due Process Clause protects).

45. "[D]ue process requires that the nature and duration of civil detention bear some reasonable relation to the purpose for which the individual is detained." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Otherwise, civil detention amounts to unlawful punishment. *Jones v. Blanas*, 393 F.3d 918, 931 (9th Cir. 2004) (quoting *Jackson*, 406 U.S. at 738).

46. Ninth Circuit and Supreme Court case law confirms that civil and pre-trial detention must be non-punitive and rationally related to a legitimate government purpose. *See, e.g., United States v. Salerno*, 481 U.S. 739, 750 (1987); *Youngberg v. Romeo*, 457 U.S. 307, 320-21 (1982) ("[W]e upheld those restrictions on liberty that were reasonably related to legitimate government objectives and not tantamount to punishment [in *Bell*]. We have taken a similar approach in deciding procedural due process challenges to civil commitment proceedings.")

1 (regarding civil mental health commitment); *Jackson*, 406 U.S. at 738 (“At the least, due  
2 process requires that the nature and duration of commitment bear some reasonable relation to  
3 the purpose for which the individual is committed.”) (regarding incompetent pre-trial  
4 detainees); *Bell v. Wolfish*, 441 U.S. 520, 539 (1979) (“[I]f a restriction or condition is not  
5 reasonably related to a legitimate goal—if it is arbitrary or purposeless—a court permissibly  
6 may infer that the purpose of the governmental action is punishment that may not  
7 constitutionally be inflicted upon detainees qua detainees.”) (regarding pre-trial detainees);  
8 *Jones*, 393 F.3d at 931 (“[L]egitimate, non-punitive government interests include ensuring a  
9 detainee’s presence at trial, maintaining jail security, and effective management of a detention  
10 facility. . . . Because he is detained under civil—rather than criminal—process, an SVPA  
11 detainee is entitled to ‘more considerate treatment’ than his criminally detained counterpart.”).

12 47. This fundamental principle applies equally to noncitizens detained by ICE. *See*  
13 *Mathews v. Diaz*, 426 U.S. 67, 77 (1976) (the Due Process Clause applies to every “person” in  
14 the United States). Noncitizens in immigration detention—just like pretrial detainees or people  
15 held under civil process—cannot be detained under conditions tantamount to punishment. *See*  
16 *Wong Wing v. United States*, 163 U.S. 228, 237-38 (1896) (civil detention of a removable  
17 noncitizen violates the Constitution if it is punitive); *Zadvydas v. Davis*, 533 U.S. 678, 690  
18 (2001) (“The proceedings at issue here are civil, not criminal, and we assume that they are  
19 nonpunitive in purpose and effect.”).

20 48. Accordingly, to remain lawful, immigration detention must remain tethered to one of  
21 “two regulatory goals: ensuring the appearance of aliens at future immigration proceedings and  
22 preventing danger to the community.” *Id.* (citation modified); *see also id.* at 699 (civil  
23 immigration detention is justified to “assure the [noncitizen’s] presence at the moment of  
24 removal.”).

25 49. In a case analyzing a substantive due process challenge to criminal pre-trial detention,  
26 the Ninth Circuit identified the following factors as relevant: (1) the length of detention; (2)  
27

1 the prosecution's contribution to delay; and (3) "evidence supporting detention under [the] Bail  
2 Reform Act." *United States v. Torres*, 995 F.3d 695, 708-09 (9th Cir. 2021).

3 50. Applying the Ninth Circuit's *Torres* analysis to the immigration context, one district  
4 court identified five factors for ruling on when ICE detention violates substantive due process:  
5 (1) the length of detention; (2) the government's contribution to any delay; (3) the evidence  
6 supporting the determination that detention is warranted to prevent flight risk or community  
7 danger; (4) whether the government interests could be protected through less restrictive means;  
8 and (5) the conditions of detention and how they compare to criminal incarceration. *See Doe*  
9 *v. Becerra*, 723 F. Supp. 3d 688, 692 (N.D. Cal. 2024) (citing *Torres*, 995 F.3d at 708 and  
10 *Jones*, 393 F.3d at 934).

11 51. Other recent decisions in the Ninth Circuit have followed suit, finding that substantive  
12 due process may warrant an order of release for noncitizens whose detention is excessive  
13 relative to a rational regulatory purpose. *See Doe v. Chestnut*, No. 1:24-CV-00943-EPG, 2025  
14 WL 3240400 (E.D. Cal. Nov. 20, 2025) (finding the length and conditions of petitioner's  
15 detention indicated he must be released); *Sorio v. Hermosillo*, No. 25-cv-02492-TL, 2025 WL  
16 3240400, at \*12 (W.D. Wa. Feb. 13, 2026) (finding medical care conditions punitive in  
17 petitioner's case and ordering release).

18 52. Regardless of the test, it is evident that due process imposes an "outer bound" on civil  
19 immigration detention. *Doe v. Becerra*, 732 F. Supp. 3d 1071, 1080 (N.D. Cal. 2024) (due  
20 process "imposes outer bounds on both the duration and conditions of civil immigration  
21 detention."). And under Ninth Circuit precedent, district courts have the authority to review  
22 custody determinations for civil immigration detainees. *Martinez v. Clark*, 124 F.4th 775, 784-  
23 85 (9th Cir. 2024); *see also Lima Soriano v. Hernandez*, No. 2:26-CV-00900-DGE, --- F Supp.  
24 3d ----, 2026 WL 969764 (W.D. Wash. Apr. 10, 2026); *Vasquez Lopez v. Hernandez*, No. C26-  
25 0775 TSZ, --- F. Supp. 3d ----, 2026 WL 984151 (W.D. Wash. Apr. 13, 2026); *Escalante Perez*  
26 *v. Hernandez*, No. 2:26-0956-TSZ, 2026 WL 1004559 (W.D. Wash. Apr. 14, 2026).

1 53. Rosa's ongoing civil detention is unreasonable by any measure. She is not a flight risk  
2 or danger; is being held in carceral conditions; has been detained for nearly a year and will  
3 continue to be detained for months or years; and inadequate agency process has left her without  
4 the ability to be released. *See* Section II.B.2, *infra*. For these reasons, this Court should order  
5 her immediate release.

6 **II. Rosa's civil detention is excessive relative to a legitimate government purpose under**  
7 **the *Torres* factors.**

8 **A. The duration of Rosa's detention is unreasonable.**

9 54. Rosa's detention has lasted nearly twice the length of detention the Supreme Court  
10 found was "presumptively reasonable" in *Zadvydas*. *See* 533 U.S. at 701 ("Congress previously  
11 doubted the constitutionality of detention for more than six months"). Across her arrests and  
12 now-vacated convictions, Rosa served a total of 17 days in county jail. Yet to date, she has  
13 now spent 324 days in ICE custody, which is meant to be non-punitive. This is 19 times longer  
14 than the criminal custody she served for the now-vacated offenses she committed over a decade  
ago under duress.

15 55. While it is not sufficient to "count [her] months and leave it at that" to determine  
16 whether the length of detention is unreasonable, *Rodriguez Diaz v. Garland*, 53 F.4th 1189,  
17 1208 (9th Cir. 2022), Rosa's continued detention is particularly unwarranted given the unique  
18 circumstances of her case. She is not a current flight risk or danger, as she has not been arrested  
19 or had any other problems in the past 12 years. She has no criminal convictions, and all of her  
20 arrests stem from a period of time when she was a victim of domestic violence and human  
21 trafficking. She is actively cooperating with law enforcement in the investigation of her  
22 trafficker and has pending "T visa" and "U visa" immigration relief on that basis. Rosa's  
23 removal proceedings are ongoing before the BIA. The BIA appeal in her removal proceedings  
24 was filed six months ago, on October 24, 2025, but has not yet even received a briefing  
25 schedule, let alone a decision. *See* Ex. B, Decl. of Hayley Upshaw ¶ 24. This detention is also  
26 likely to continue for much longer, as Rosa's appeal of her removal order remains pending,  
27

1 and after that, she is entitled to file a petition for review with the Ninth Circuit Court of  
2 Appeals. This process is likely to take well over a year, at a minimum. *See, e.g., Diaz Reyes v.*  
3 *Wolf*, Case No. 2:20-cv-0377-JLR-MAT, 2020 WL 6820903, at \*6 (W.D. Wash. Aug. 7, 2020)  
4 (finding 9–12-month Ninth Circuit appeal process favors a bond hearing); *Martinez v. Clark*,  
5 No. C18-1669-RAJ-MAT, 2019 WL 5968089, at \*9 (W.D. Wash. May 23, 2019) (finding that  
6 a 6-month BIA appeal process and 12–20-month Ninth Circuit appeal process supported  
7 granting the petitioner’s request for a bond hearing), *R&R adopted*, No. 18-CV-01669-RAJ,  
8 2019 WL 5962685 (W.D. Wash. Nov. 13, 2019).

9 56. Courts have regularly recognized that the length of detention here is one that requires  
10 due process protections. *See, e.g., Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1118 (W.D.  
11 Wash. 2019) (noting that 17 months of detention was a “very long time” that “strongly  
12 favor[ed] granting a bond hearing); *Maliwat v. Scott*, No. 2:25-CV-00788-TMC, 2025 WL  
13 2256711, at \*4 (W.D. Wash. Aug. 7, 2025) (collecting cases granting bond hearings at, inter  
14 alia, nine, ten, eleven, and twelve months of detention); *Cardozo v. Bostock*, No. 2:25-CV-  
15 00871-TMC-BAT, 2025 WL 2597521, at \*5 (W.D. Wash. July 29, 2025) (detention of ten  
16 months favored granting bond hearing), *R&R adopted in part, rejected in part*, No. 2:25-CV-  
17 00871-TMC, 2025 WL 2592275 (W.D. Wash. Sept. 8, 2025); *Gonzalez v. Bonnar*, No. 18-cv-  
18 05321-JSC, 2019 WL 330906, at \*5 (N.D. Cal. Jan. 25, 2019) (detention of just over a year  
19 that would last several more months favored granting bond hearing); *Martinez* 2019 WL  
20 5968089, at \*1 (detention of thirteen months favored granting bond hearing); *Cabral v. Decker*,  
21 331 F. Supp. 3d 255, 261 (S.D.N.Y. 2018) (same, for seven months); *Liban M.J. v. Sec’y of*  
22 *DHS*, 367 F. Supp. 3d 959, 963 (D. Minn. 2019) (same, for twelve months). While these cases  
23 focused on procedural due process protections, their analysis of the length of detention applies  
24 with equal force here.

25 57. The non-speculative aspect of Rosa’s future detention further supports release. *See,*  
26 *e.g., United States v. Gonzales Claudio*, 806 F.2d 334 (2d Cir. 1986) (noting that the non-  
27 speculative additional 12-months of pretrial confinement contributed to a due process

1 requirement for release); *United States v. Hare*, 873 F.2d 796, 797, 801 (5th Cir. 1989)  
2 (remanding for failure to consider the length of detention, including the “non-speculative  
3 nature of future detention” after ten months of defendant’s pretrial detention for charges  
4 relating to drug trafficking and the import of over one million pounds of marijuana).

5 58. This factor weighs in favor of finding a substantive due process violation.

6 **B. The delay factor favors Rosa or, at worst, is neutral.**

7 59. Here, much of Rosa’s civil detention stems largely from government-caused delay. *See*  
8 *Gonzalez Claudio*, 806 F.2d at 343 (finding that the government’s “significant enough”  
9 responsibility for pretrial delay added “considerable weight to the defendants’ claim that the  
10 duration of detention had exceeded constitutional limits,” even without determining precise  
11 fault); *United States v. Wright*, 649 F. Supp. 3d 1333, 1337 (S.D. Ga. 2022) (“[C]ourts have  
12 typically upheld detention only if the government was not responsible for any significant  
13 portion of the delay.” (internal citation omitted)); *United States v. Aileman*, 165 F.R.D. 571,  
14 582-83 (N.D. Cal. 1996).

15 60. Since her detention by ICE on June 2, 2025, Rosa has worked diligently with counsel  
16 to prepare her applications for relief in her removal proceedings and in applications for T and  
17 U visas before USCIS. *See generally* Exh. B, Decl. of Hayley Upshaw. Delays caused by the  
18 detention facility in scheduling attorney visits and cancelling attorney visits at the last minute  
19 caused initial delays in her ability to meet with counsel and prepare her applications for relief  
20 and required her to request two continuances in her removal case. The first continuance for 15  
21 days occurred after her counsel had not been able to access her in spite of attempts to do so  
22 prior to her initial master calendar hearing, and the second continuance was for 24 days when  
23 the immigration court advanced her hearing and counsel requested a continuance due to the  
24 need for more time to prepare the necessary evidence. *See id.* ¶ 5, 11-13. The remainder of the  
25 detention time is a result of delays by the Government. Her BIA appeal in her removal  
26 proceedings has been pending before the BIA for six months *without a briefing schedule*. *Id.*  
27 ¶ 24. The BIA appeal in her bond proceedings has likewise been pending nearly six months

1 without decision. *Id.* ¶ 25. *See Djelassi v. ICE Field Off. Dir.*, 434 F. Supp. 3d 917, 923 (W.D.  
2 Wash. 2020) (“[T]he record reflects that delay in this case is a product of the BIA’s and Ninth  
3 Circuit’s “crowded dockets,” which courts typically attribute to the Government—not the  
4 Petitioner.”).

5 61. Ms. Padilla Paz has also sought to have adjudication of her application for T  
6 nonimmigrant status expedited. *See* Ex. B (Decl. of Hayley Upshaw); *see also* Ex. L (Visa  
7 Expedite Request). Prior practice under multiple Presidential administrations was for  
8 applications for relief before USCIS to be expedited for noncitizens held in DHS detention, in  
9 order to avoid undue civil detention. *See* Decl. of Hayley Upshaw ¶ 29. However, Rosa’s  
10 request to expedite was denied. Ex. M (Expedite Denial); Ex. N (Emails with Senator Padilla’s  
11 Office).

12 62. Currently, U.S. Citizenship and Immigration Services (“USCIS”), a sub-agency of  
13 Respondent DHS, states that its processing time for decision on a T visa application is 29.5  
14 months. *See* Ex. O, USCIS Processing Time Printout. USCIS advises that based on the  
15 December 8, 2026 filing date, “the earliest [Rosa] can submit questions is August 15, 2028.”  
16 *Id.*

17 63. Respondents’ refusal to expedite processing on Rosa’s T visa application or release her  
18 from custody so that her application may be considered frustrates Congressional intent to  
19 protect survivors of human trafficking and promote cooperation with law enforcement. *See* Ex.  
20 S at 2 (SFPD Victim Advocate Letter); Ex. R 68-71 (I-914, T visa and inadmissibility waiver  
21 receipt notice); 108-12 (T visa I-914 Supplement B); *see also* Victims of Trafficking and  
22 Violence Protection Act of 2000, Pub. L. No. 106-386, § 102(b)(19), 114 Stat. 1464 at 1468  
23 (“Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or  
24 otherwise penalized solely for unlawful acts committed as a direct result of being Trafficked.”).

25 64. Even if part of Rosa’s detention relates to her good-faith defenses to removal, this is at  
26 most a neutral reason for delay. Courts “cannot effectively punish [petitioners] for choosing to  
27 exercise their legal right to challenge the Government’s case against them.” *Chavez-Alvarez v.*

1 *Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015) (internal quotations omitted),  
2 *abrogated on other grounds by Jennings v. Rodriguez*, 138 S. Ct. 830, 844 (2018); *see also*  
3 *Martinez*, 2019 WL 5968089, at \*10 (similar).

4 65. Much of Rosa's lengthy detention was caused by Government delays outside of Rosa's  
5 control. The rest of the time is, at most, a neutral factor. This counsels in favor of finding that  
6 Rosa's detention is arbitrary, punitive, and unreasonable.

7 **C. Rosa is not a danger or a flight risk.**

8 66. Rosa's civil detention does not serve its only permissible regulatory goals—  
9 safeguarding the community and ensuring her appearance for removal proceedings. *See*  
10 *Zadvydas*, 533 U.S. at 690. When a noncitizen “poses no danger and is not a flight risk, all the  
11 government does in requiring detention is separate families and remove from the community  
12 breadwinners, caregivers, parents, siblings and employees.” *Black v. Decker*, 103 F.4th 133,  
13 154 (2d Cir. 2024) (citation modified).

14 **1. Rosa is not a danger to the community.**

15 67. Rosa's history of arrests while she was a trafficking victim over 12 years ago cannot  
16 show, without more, that she is a current danger to the community. Ninth Circuit and BIA  
17 precedent indicate that the mere existence of a prior criminal record is not dispositive of danger.  
18 *See Singh v. Holder*, 638 F.3d 1196, 1206 (9th Cir. 2011) (“[N]ot all criminal convictions  
19 conclusively establish that a [noncitizen] presents a danger[,], even where the crimes are serious  
20 enough to render the [noncitizen] removable.”). Rather, the recency, severity, and nature of the  
21 offenses must be considered. *See Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006); *Matter*  
22 *of R-A-V-P-*, 27 I. & N. Dec. 803, 805 (BIA 2020). Here, all facts support the finding that Rosa  
23 is not a danger.

24 68. Since her escape from her trafficker, Rosa has lived a law-abiding life. She has worked,  
25 raised three U.S. citizen children as a single mother, acted as guardian to her nephew, and paid  
26 taxes. Ex. E at 9-10, 28-32, 39-40, 65-67, 74, 80, 85, 88, 97, 99-100, 102, 114-24. She has  
27 volunteered at her children's school. *Id.* at 97, 99. She has been a proactive advocate and

1 caretaker to her now-fifteen-year-old daughter, who is diagnosed with Major Depressive  
2 Disorder, anxiety and autism spectrum disorder. *Id.* at 9-10; 91; Ex. R, 241-46 (Psych  
3 Evaluation of E.B.P.) (finding Autism Spectrum Disorder diagnosis).

4 69. Dr. Trombley, a clinical psychologist and recidivism expert, also found that Rosa posed  
5 a very low risk of possible recidivism. *See* Ex. R at 447-66 (Psychological Evaluation and Risk  
6 Assessment). Using an objective Risk Management assessment tool, Dr. Trombley noted that  
7 Rosa is significantly older than at the time she was arrested and rearrest rates decrease with  
8 age, women recidivize at much lower rates than men, and that “social data, such as the number  
9 of children and quality of family relationships” is correlated with lower recidivism. Dr.  
10 Trombley also noted that Rosa “has lived in the free community for approximately 12 years  
11 without so much as a traffic ticket.” *Id.* at 453-55. On these bases, she found that “pertaining  
12 to the examinee’s future violence and reoffense risk, there are no specific or expected areas of  
13 concern.” *Id.*

14 70. In evaluating dangerousness, an “IJ must . . . consider whether the [detained person’s]  
15 circumstances have changed such that criminal conduct is now less likely.” *Calderon*  
16 *Rodriguez v. Wilcox*, 374 F. Supp. 3d 1024, 1033 (W.D. Wash. 2019) (citing *Singh*, 638 F.3d  
17 at 1205); *Obregon v. Sessions*, No. 17-CV-01463-WHO, 2017 WL 1407889 at \*7 (N.D. Cal.  
18 Apr. 20, 2017) (“Courts must consider . . . intervening events that might undermine a finding  
19 of dangerousness”).

20 71. Here, the prior “impetus for [Rosa’s] previous offenses” was an atmosphere of extreme  
21 violence and coercion. *Singh*, 648 F.3d at 1205. When Rosa was in the grip of her abuser and  
22 trafficker, he used physical and sexual violence, emotional manipulation and social isolation,  
23 threats to her children and family, and economic coercion to force Rosa to participate in his  
24 criminal schemes. *See* Ex.. E, 5-10, 12, 23-26, 65-67, 71-75, 79, 84, 88. During that period,  
25 she was arrested several times for theft and drug sale offenses. *See* Ex.. E at 7-8; Ex. F  
26 (Criminal History Chart); Ex. H (Police Reports and vacatur order).

1 72. At that time, the San Francisco Police Department did not screen for possible human  
2 trafficking. *See* Ex. H at 33-34 (Decl. of Angela Chan).

3 73. Once Rosa was connected to appropriate resources years later, she had her drug-related  
4 convictions vacated under Cal. P.C. § 236.15 on the basis that she was a domestic violence  
5 human trafficking victim at the time of the offenses and lacked the requisite mens rea to commit  
6 the offenses. Ex. F at 14-18 (vacatur of 2010 conviction under Cal. Pen. Code § 236.15); Ex.  
7 H at 36 (vacatur of 2014 conviction under Cal. Pen. Code § 236.15); *see also id.* 6-7 (vacatur  
8 of 2007 shoplifting conviction under Cal. Pen. Code 1016.5 for failure to advise of immigration  
9 consequences). In other words, but for the violence and control Rosa faced at the time, she  
10 would likely not have committed the offenses at all. This is borne out by the fact that she has  
11 not had another criminal contact in the subsequent 12 years since escaping N control. *See*  
12 Ex. E at 8; Ex. F (criminal history chart); *see also* Ex. G at 5 (2025 I-213 summary of criminal  
13 history).

14 74. Rosa is a victim of violence, not a perpetrator. DHS has offered no evidence whatsoever  
15 that Rosa has engaged in any violent or dangerous behavior while in the community between  
16 2014 and her arrest by ICE in 2025 or in the ten months she has spent in custody. The record  
17 shows that Rosa has been an asset to the community, not a danger. Her continued detention  
18 cannot be justified on that basis.

19 **2. Rosa is not a flight risk.**

20 75. Further, there is no reason to believe Rosa poses any risk of flight, much less a risk that  
21 cannot be mitigated.

22 76. Rosa has lived in the United States for over two decades. She has a stable address where  
23 she has lived for years with her children. She has extensive family and community support.

24 77. If released, Rosa would return to the same home she lived at the time of her detention  
25 by ICE last year, in the same community where she and her children have resided for almost  
26 all of the past two decades at a fixed address. *See* Ex E at 13, 23, 32, 39-40, 50.

1 78. Rosa has strong community support from friends, neighbors, and family members who  
2 will assist her in attending Court and any ICE check ins and following any Court orders or ICE  
3 requirements while she waits for a decision on her applications for protection. *See* Ex. E at 31-  
4 32, 39-40, 65-89, 97-103; *see also* Ex. R (New Bond Evidence) at 251-267.

5 79. Rosa is *prima facie* eligible for both a T visa and U visa and filed both applications  
6 with USCIS promptly after receiving the necessary law enforcement certifications. *See* Ex. B,  
7 Decl. of Hayley Upshaw ¶ 26-27; Ex. R at 68-68 (I-914, T visa receipt notice), 154-55, (I-918,  
8 U visa receipt notice), 70-71, 156-57 (I-192 inadmissibility waivers receipt notices). Rosa also  
9 awaits a final decision on her asylum, withholding of removal and Convention Against Torture  
10 applications. Although her applications were denied by the immigration court, she appealed  
11 the IJ's decision and her appeal remains pending before the BIA. *See* Ex. B, Decl. of Hayley  
12 Upshaw ¶ 24.

13 80. Moreover, even if there were strong evidence of flight risk or danger, it "cannot justify  
14 unlimited civil detention." *See Torres*, 995 F.3d at 710. Due process "always requires some  
15 degree of balance and proportionality." *Doe*, 732 F. Supp. 3d at 1086. Rosa's current detention  
16 is disproportionate given the evidence that she poses no risk to the community.

17 **D. The nature of Rosa's detention is harsh and punitive.**

18 81. "[T]he government's choice to detain noncitizens like [Rosa] in a crowded facility,  
19 with operations outsourced to a private contractor, informs the due process consideration of  
20 how long is too long." *See Doe*, 732 F. Supp. 3d at 1089 ("[H]arsh conditions multiply the  
21 burden on liberty for any given period.").

22 82. Nearly a year in a carceral setting with "limited access to medical care, legal assistance,  
23 and communications to the outside world is different, for constitutional purposes, from the  
24 same amount of time spent in more comfortable accommodations with greater access to  
25 services." *Id.*

26 83. "[A] presumption of punitive conditions arises" in civil confinement "where the  
27 individual is detained under conditions identical to, similar to, or more restrictive than"

1 criminal incarceration. *See Jones*, 393 F.3d at 934; *Doe v. Becerra*, 732 F. Supp. 3d at 1080-  
2 81; *See also Youngberg v. Romeo*, 457 U.S. 307, 321–22 (1982) (requiring civil detainees be  
3 given “more considerate treatment” than criminal detainees).

4 84. Here, this factor favors Rosa. As this Court has repeatedly recognized, the conditions  
5 at NWIPC “are similar to those in many prisons and jails,” despite Petitioner’s ostensible status  
6 as a “civil” detainee. *Diaz Reyes*, 2020 WL 6820903, at \*7; *see also Parada Calderon v.*  
7 *Bostock*, Case. No. 2:24-cv-01619-MJP-GJL, 2025 WL 879718, at \*4 (W.D. Wash Mar. 21,  
8 2025) (concluding this factor favored petitioner in procedural due process habeas); *Sarr v.*  
9 *Scott*, 765 F. Supp. 3d 1091, 1100–033 (W.D. Wash. 2025) (reviewing extensive evidence  
10 regarding conditions of detention at NWIPC and agreeing with petitioner that “the conditions  
11 . . . at NWIPC are similar or possibly worse than those . . . penal institutions”); *id.* at 1103  
12 (citing cases); *Toktosunov v. Wamsley*, Case No. 2:25-cv-1724-TL, 2025 WL 3492858, at \*5  
13 (W.D. Wash. Dec. 5, 2025) (concluding this factor favored petitioner in procedural due process  
14 habeas petition); *Duvine v. Hermosillo*, Case No. 25-cv-2583-SKV, 2026 WL 183374 at \*2  
15 (W.D. Wash Jan. 9, 2026) (same); *Kumar v. Hermosillo*, Case. No. 2:26-cv-00389-JNW, 2026  
16 WL 523276 at \*2 (W.D. Wash. Feb. 25, 2026) (same). Indeed, for all intents and purposes,  
17 NWIPC is a prison.

18 85. Rosa’s experience confirms this reality. The conditions Rosa has experienced are  
19 carceral, and worse than the jail in which she spent a total of 17 days across her entire past  
20 criminal history. *See Ex. A, Rosa Habeas Decl.* ¶ 6. She is provided only two sets of clothes  
21 and the underwear and bras are often stained and broken, leading her to develop rashes. *Id.* ¶  
22 7. There is no programming available in Spanish, and she describes being given a notebook  
23 and coloring materials “like kindergarteners.” *Id.* ¶ 8. She has witnessed women being put in  
24 “the hole”—solitary confinement—for 15 or 30 days for breaking a rule, leaving her feeling  
25 terrified. *Id.* ¶ 9. She has struggled to have adequate time communicating with her daughters,  
26 as the private prison company charges her approximately \$60 per week to make calls, and her  
27 daughters cannot easily visit in-person from California due to the expense and the facility’s

1 limitations on visits. *Id.* ¶¶ 15-16. Most significantly, the medical and mental health care are  
2 “very limited,” which is challenging for Rosa as she has dealt with nightmares and intrusive  
3 memories due to the past violence she has suffered, as well as the sudden death of her nephew.  
4 *Id.* ¶¶ 12, 14. No one has been allowed to hug her as she processes this trauma.

5 86. As in *Doe v. Becerra*, the Court should find that Rosa’s conditions at NWIPC “are  
6 harsh—possibly harsh enough to be punitive in their own right, but certainly harsh enough to  
7 mean that [her] continued detention under those conditions, after [months] and with no end  
8 currently in sight, has become punitive in light of the available alternatives.” 732 F. Supp. 3d  
9 at 1090.

10 **E. Less restrictive alternatives can meet the government’s objectives.**

11 87. To the extent Rosa poses any risk of danger or flight, the government’s objectives can  
12 be met through less restrictive means. “If alternatives can mitigate risks and protect the  
13 government’s interests” then detention is “unconstitutionally punitive.” *Doe*, 732 F. Supp. 3d  
14 at 1088; *see also Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017).

15 88. Alternatives to detention (“ATD”), including in-person check-ins with ICE, electronic  
16 monitoring, and phone calls from the Intensive Supervision Appearance Program (“ISAP”),  
17 have a high success rate at achieving the primary purpose of civil immigration detention:  
18 ensuring that noncitizens appear at future hearings. *Zadvydas*, 533 U.S. at 690; *Hernandez*,  
19 872 F.3d at 991. The Ninth Circuit has observed that ISAP, which relies on various alternative  
20 release conditions, resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance  
21 rate at final hearings. *Id.*

22 89. Release on supervision in an ATD program can achieve the government’s objectives  
23 without the total deprivation of liberty Rosa currently faces.

**CLAIMS FOR RELIEF**

**Count I**

**Violation of the Due Process Clause of the Fifth Amendment**

90. Rosa re-alleges and incorporates by reference paragraphs 1-89 as set forth above.

91. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

92. The only valid purpose for civil immigration detention is to safeguard the community and prevent flight during removal proceedings. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

93. Under the Due Process Clause, immigration detention must always “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore*, 538 U.S. at 527 (quoting *Zadvydas*, 533 U.S. at 690).

94. Petitioner’s detention does not bear a “reasonable relation” to either preventing flight risk or preventing danger to the community.

95. Accordingly, Petitioner’s detention violates the Due Process Clause of the Fifth Amendment.

96. Because Petitioner is not a flight risk, because he is not subject to mandatory detention, and because Respondents continue to subject her to unlawful detention, immediate release is appropriate. *See, e.g., Lima Soriano*, 2026 WL 969764, at \*6 (ordering immediate release after concluding the record did not support flight risk finding); *Vasquez Lopez*, 2026 WL 984151, at \*4.

**Count II**

**Violation of 8 U.S.C. § 1226**

97. Petitioner restates and realleges the paragraphs 1-89 as set forth above.

98. Section 1226(a), its implementing regulations, and caselaw governing bond proceedings require the IJ to assess several factors to determine flight risk and danger to the community.

99. The IJ abused his discretion in assessing these factors. The IJ erred by failing to correctly apply the required factors for danger and flight risk determinations. *See Matter of R-*

1 *A-V-P-*, 27 I. & N. Dec. at 805. The IJ further erred by ignoring case law on the importance of  
2 assessing recency for making dangerousness findings. *See, e.g., Singh*, 638 F.3d at 1206. The  
3 IJ also erred by misapprehending the meaning and relevance of Petitioner's vacatur orders, and  
4 ignoring the extensive record demonstrating Petitioner's virtually nonexistent recidivism risk  
5 and deep ties to the community. Finally, the IJ erred in relying on the old removal order to  
6 determine Rosa is a flight risk without assessing all the other positive equities that show she  
7 has a stable community, established residence, U.S. citizen children, and a strong support  
8 network.

9 100. In sum, no reasonable adjudicator could conclude that Petitioner is a danger or  
10 flight risk based on the record before the IJ.

11 101. Accordingly, Respondents have violated 8 U.S.C. § 1226(a), its implementing  
12 regulations, and the caselaw governing bond determinations in failing to set an adequate bond  
13 for Ms. Rosa Padilla Paz.

14 102. Because Petitioner is not a flight risk or danger, because she is not subject to  
15 mandatory detention, and because Respondents continue to subject her to unlawful detention,  
16 immediate release is appropriate. *See, e.g., Lima Soriano*, 2026 WL 969764, at \*6 (ordering  
17 immediate release after concluding the record did not support flight risk finding); *Vasquez*  
18 *Lopez*, 2026 WL 984151, at \*4.

### 19 **Count III**

#### **Request for Relief Pursuant to *Rodriguez Vazquez* Declaratory Judgment**

20 103. Petitioner restates and realleges paragraphs 1-89 as set forth above.

21 104. Petitioner is a member of the certified Bond Denial Class in *Rodriguez Vazquez*  
22 *v. Hermosillo*, No. 3:25-cv-05240 (W.D. Wash.).

23 105. The *Rodriguez Vazquez* court has explained that to be eligible for relief under  
24 the declaratory judgment in that case, a person must first overcome their flight risk or danger  
25 findings.  
26  
27

1 106. As detailed above, as a matter of law, Petitioner is not a flight risk or danger to  
2 the community.

3 107. Having overcome those findings, Petitioner must be considered detained under  
4 8 U.S.C. § 1226(a).

5 108. The declaratory judgment in *Rodriguez Vazquez* makes clear that Respondents  
6 violate the INA by applying § 1225(b)(2) to subject class members to mandatory detention.

7 109. Respondents are parties to *Rodriguez Vazquez* and bound by the Court's  
8 declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C.  
9 § 2201(a).

10 110. Because Petitioner is not a flight risk or danger, because she is not subject to  
11 mandatory detention, and because Respondents continue to subject her to unlawful detention,  
12 immediate release is appropriate. *See, e.g., Lima Soriano*, 2026 WL 969764, at \*6 (ordering  
13 immediate release after concluding the record did not support flight risk finding); *Vasquez*  
14 *Lopez*, 2026 WL 984151, at \*4.

15 **PRAYER FOR RELIEF**

16 Wherefore, Rosa requests this Court grant the following relief:

17 111. Exercise jurisdiction over this matter;

18 112. Declare that Rosa's prolonged civil detention violates the Due Process Clause  
19 of the Fifth Amendment;

20 113. Issue a writ of habeas corpus and order Respondents to immediately release  
21 Rosa from DHS's physical custody;

22 114. Order that upon Rosa's release, Respondents must return to her any personal  
23 property, including personal identification documents (other than a passport);

24 115. Award reasonable costs and attorney fees; and

25 116. Grant further relief as the Court deems just and proper.  
26  
27

1 Respectfully submitted this 24th day of April, 2026.

2 s/ Aaron Korthuis  
3 Aaron Korthuis, WSBA No. 53974  
4 aaron@nwirp.org

5 s/ Leila Kang  
6 Leila Kang, WSBA No. 48048  
7 leila@nwirp.org

8 s/ Matt Adams  
9 Matt Adams, WSBA No. 28287  
10 matt@nwirp.org

11 NORTHWEST IMMIGRANT RIGHTS PROJECT  
12 615 Second Ave., Suite 400  
13 Seattle, WA 98104  
14 (206) 957-8611

15 *Counsel for Petitioner*

s/ Hayley Upshaw\*

Hayley Upshaw

SAN FRANCISCO PUBLIC  
DEFENDER'S OFFICE  
555 Seventh Street  
San Francisco, CA 94103  
Telephone: (415) 754-3762  
Email: Hayley.Upshaw@sfgov.org

*\*Pro hac vice application forthcoming*