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DETAINED

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Noy BOUCHALEON
Petitioner-Plaintiff,

CASE NO.: '26CV3553 CAB MSB

vs.

WARDEN/OFFICER IN CHARGE,
Otay Mesa Detention Center or
current ICE detention facility;
SAN DIEGO FIELD OFFICE DIRECTOR,
U.S. Immigration and Customs Enforcement;
SENIOR OFFICIAL PERFORMING THE
DUTIES OF DIRECTOR,
U.S. Immigration and Customs Enforcement;
SECRETARY, U.S. Department of Homeland
Security;
U.S. Immigration and Customs Enforcement
and U.S. Department of Homeland Security,

PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS;
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF;
EMERGENCY MOTION FOR
TEMPORARY RESTRAINING
ORDER

CHALLENGE TO UNLAWFUL RE-
DETENTION; REQUEST FOR
EMERGENCY STAY OF REMOVAL
AND TRANSFER

Respondents-Defendants.

**PETITION FOR WRIT OF HABEAS CORPUS; EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER; REQUEST FOR ORDER TO SHOW CAUSE
WITHIN THREE DAYS**

**PETITION FOR WRIT OF HABEAS CORPUS; EMERGENCY
TEMPORARY RESTRAINING ORDER; AND ORDER TO SHOW CAUSE
WITHIN THREE DAYS**

Petitioner Noy Bouchaleon ("Ms. Bouchaleon"), by and through undersigned counsel, petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241, declaratory and injunctive relief, and emergency temporary restraining relief under Federal Rule of Civil Procedure 65 to remedy Respondents' unlawful civil immigration detention of her after years of release on supervision, family caregiving, and community reintegration. Petitioner also requests an immediate stay of removal and a prevention of transfer so that this Court may adjudicate the legality of her custody before Respondents remove her from the United States or move her to a facility that frustrates counsel's access and this Court's habeas jurisdiction.

INTRODUCTION

1. This case presents an urgent post-order detention and re-detention challenge. Ms. Bouchaleon is a native and citizen of Laos,  who entered the United States as a refugee in or about 1982 when she was approximately two years old. After fleeing Laos with her family, she grew up in the United States, attended K-12 school here, later worked here, and after several years obtained lawful permanent resident status with her family.

1 2. The Government has known the core adverse facts for many years. In 2009, Ms.
2 Bouchaleon was arrested and convicted of conspiracy to distribute controlled
3 substances arising from a crystal-methamphetamine case. She received
4 approximately three years in federal custody. This Petition does not minimize
5 the seriousness of that conviction. But the criminal sentence was completed, the
6 conviction was known to DHS before the current detention, and completed
7 punishment cannot itself be converted into a present civil immigration detention
8 justification without current individualized evidence.
9

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11 3. After she completed her federal sentence, Ms. Bouchaleon was placed in
12 removal proceedings. She received a removal order on or about February 13,
13 2012. The order was not executed because, at that time, Laos was not accepting
14 her return. Respondents instead placed her on a yearly check-in system or order
15 of supervision.
16

17
18 4. For approximately fourteen years after the 2012 order, Ms. Bouchaleon
19 remained in the United States under supervision. The available record does not
20 identify any new conviction, any recent failure to report, any refusal to
21 cooperate with travel-document efforts, any violation of supervision, or any new
22 conduct that would justify sudden re-detention.
23

24
25 5. On June 2, 2026, several months before her expected annual check-in in August,
26 an ICE officer called Ms. Bouchaleon and instructed her to report immediately
27

1 to her local ICE office. She complied. When she appeared, ICE detained her and
2 transferred her to Otay Mesa. Her compliance with the unexpected ICE
3 instruction is powerful evidence that she is not a flight risk and that less
4 restrictive conditions can ensure her appearance.
5

6 6. Ms. Bouchaleon has substantial family and humanitarian equities. She has an
7 adult United States citizen daughter. Her sister, Juddy Ogas, is willing to
8 sponsor her and assist with supervision. After Ms. Bouchaleon's work
9 authorization expired in August 2025, she stopped working and became a full-
10 time caregiver for her terminally ill mother. These are current facts that
11 Respondents must consider before continuing physical detention.
12
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14 7. The central due-process defect is that Respondents seek to detain Ms.
15 Bouchaleon based on facts that were known before she was permitted to remain
16 at liberty for years. Once the Government releases a person after a final removal
17 order, or allows her to live in the community under supervision because removal
18 is not reasonably foreseeable, due process and the governing regulations require
19 fair notice, a meaningful opportunity to respond, and a material change in
20 circumstances before liberty is revoked.
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23 8. The material-change requirement is especially strong here because the historical
24 reason for non-removal was not Ms. Bouchaleon's noncooperation; it was Laos'
25 refusal or inability to accept her return. If Respondents contend that
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1 circumstances have changed, they must identify the change: a valid travel
2 document, consular acceptance by Laos, a specific flight itinerary, carrier
3 confirmation, a new violation, noncooperation, or current individualized
4 evidence that no conditions can protect the community or ensure compliance.
5

6 9. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Clark v. Martinez*, 543 U.S.
7 371 (2005), detention under 8 U.S.C. § 1231(a)(6) is limited to a period
8 reasonably necessary to effect removal. Once there is good reason to believe
9 there is no significant likelihood of removal in the reasonably foreseeable
10 future, the Government must rebut that showing with evidence, not unsupported
11 assurances.
12

13
14 10. The regulations reinforce the same rule. Under 8 C.F.R. §§ 241.4 and 241.13,
15 DHS must conduct meaningful post-order custody review, consider
16 removability in the reasonably foreseeable future, disclose the reasons for
17 custody or revocation, and permit the person to respond. If release was premised
18 on the absence of a significant likelihood of removal, revocation for removal
19 requires changed circumstances showing that removal is now significantly
20 likely in the reasonably foreseeable future.
21

22
23 11. Several arguments used by Respondents in similar cases do not defeat habeas
24 relief here. A conclusory deportation-officer declaration does not substitute for
25 the underlying travel document, consular correspondence, itinerary, carrier
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1 confirmation, and transportation records. A scheduled removal does not prove
2 that removal will actually occur. A unilateral revocation of supervision by the
3 detaining agency does not establish that detention is lawful. Boilerplate
4 warnings about obstruction do not prove obstruction. And anticipated removal
5 does not moot a habeas case while Petitioner remains in custody and faces
6 ongoing restraint.
7

8
9 12. Immediate relief is necessary. Detention causes irreparable harm each day.
10 Transfer would impair counsel access and frustrate this Court's jurisdiction.
11 Removal before judicial review would defeat meaningful habeas relief. The
12 Court should issue an Order to Show Cause within three days, enter a TRO
13 preserving jurisdiction, stay removal and transfer, order Respondents to produce
14 the underlying record, and order release or a constitutionally adequate custody
15 hearing with the Government bearing the burden of proof.
16
17

18 JURISDICTION

19
20 13. This action arises under the Constitution of the United States, 28 U.S.C. §§
21 1331, 2241, 2242, and 2243; Article I, § 9, cl. 2 of the United States
22 Constitution; the Fifth Amendment; the Immigration and Nationality Act
23 ("INA"), including 8 U.S.C. § 1231; the Administrative Procedure Act ("APA"),
24 5 U.S.C. §§ 702 and 706; the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and
25 2202; and the All Writs Act, 28 U.S.C. § 1651.
26
27

1 14. This Court has habeas jurisdiction because Ms. Bouchaleon is in Respondents'
2 physical and legal custody at Otay Mesa, or at any current ICE detention facility,
3 and she challenges the legality of that custody as contrary to the Constitution,
4 federal statutes, and governing regulations. 28 U.S.C. § 2241(c)(3); *Jones v.*
5 *Cunningham*, 371 U.S. 236, 240 (1963).
6

7 15. Federal courts retain jurisdiction to review constitutional and legal challenges
8 to immigration detention. *Demore v. Kim*, 538 U.S. 510, 516-17 (2003);
9 *Zadvydas*, 533 U.S. at 687-88. Jurisdiction-stripping provisions do not bar
10 habeas review of constitutional claims or questions of law concerning detention.
11 *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018).
12
13

14 16. This Petition does not ask the Court to reopen the removal order, review the
15 merits of the removal order, or substitute its discretion for the agency's on an
16 issue committed to discretion. It challenges current custody, the legal authority
17 for that custody, the absence of meaningful post-order review, the absence of a
18 material-change showing, the failure to disclose evidence, and the risk that
19 transfer or removal will defeat habeas jurisdiction.
20
21

22 17. Section 2243 requires expedited treatment. The Court must award the writ or
23 issue an order to show cause forthwith unless it appears from the petition that
24 the detained person is not entitled to relief. If an order to show cause issues,
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1 Respondents must make a return within three days unless, for good cause, the
2 Court allows additional time not exceeding twenty days.

3 18. The Court may grant declaratory and injunctive relief ancillary to habeas when
4 necessary to preserve jurisdiction and make habeas relief meaningful. 28 U.S.C.
5 § 1651(a); *Nken v. Holder*, 556 U.S. 418, 426-27 (2009); *Leiva-Perez v. Holder*,
6 640 F.3d 962, 966-68 (9th Cir. 2011).
7
8

9 VENUE

10 19. Venue is proper in the Southern District of California because Ms. Bouchaleon
11 is currently detained at Otay Mesa Detention Center in San Diego County, or
12 otherwise within the San Diego Field Office's custody and control, and the San
13 Diego Field Office of ICE exercises authority over custody, supervision,
14 transfer, release, and removal decisions affecting her. 28 U.S.C. § 1391(e).
15
16

17 20. Respondents named in this action exercise legal and practical custody over Ms.
18 Bouchaleon through ICE and DHS. The Warden or Officer in Charge of Otay
19 Mesa or her current ICE detention facility is her immediate physical custodian.
20 The San Diego Field Office Director and national DHS/ICE officials are
21 responsible for the challenged detention, transfer, release, and removal
22 decisions.
23
24

25 21. If Respondents contend that the immediate physical custodian is outside this
26 District because of a transfer or facility designation, Petitioner respectfully
27

1 requests emergency preservation of this Court's jurisdiction and transfer to the
2 proper district rather than dismissal. 28 U.S.C. §§ 1404(a), 1406(a), 1631;
3 *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004).
4

5 **CUSTODY AND REQUIREMENTS OF 28 U.S.C. §§ 2241, 2242, AND 2243**

6 22. Ms. Bouchaleon is in custody for purposes of 28 U.S.C. § 2241 because
7 Respondents physically confine her in ICE custody and exercise legal custody
8 over her through DHS and ICE. Alternatively, if Respondents claim that she is
9 restrained under an order of supervision, parole, or comparable restraint, those
10 restraints are sufficient custody for habeas purposes because they are not shared
11 by the public generally.
12
13

14 23. Section 2242 requires the petition to allege facts concerning detention, the
15 custodian, and the claimed authority for custody. This Petition identifies the
16 custodial officials and alleges facts showing that Ms. Bouchaleon's detention is
17 unlawful because removal to Laos has historically been unavailable, detention
18 is based on stale adverse facts, and Respondents have not shown a material
19 change in circumstances.
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22 24. Section 2243 requires swift judicial action. The Court should issue the writ or
23 an order to show cause forthwith and require Respondents to certify the true
24 cause of detention within three days, including the statutory authority relied on,
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1 the basis for revocation, and the evidence demonstrating that removal is
2 significantly likely in the reasonably foreseeable future.

3 25. Emergency relief is necessary because detention is ongoing, a potential flight
4 may be scheduled or may be scheduled at any time, transfer would impair
5 counsel access, and removal before adjudication would prevent meaningful
6 habeas review.
7

8
9 **PARTIES**

10 26. Petitioner Noy Bouchaleon is a native and citizen of Laos. Her Alien
11 Registration Number is  She entered the United States as a refugee
12 in or about 1982, became a lawful permanent resident after several years, and
13 has lived in the United States for approximately forty-four years.
14

15 27. Ms. Bouchaleon is the person whose liberty is restrained. She brings this action
16 to challenge Respondents' current civil immigration detention and to seek
17 release, a TRO preventing removal and transfer, and constitutionally adequate
18 process.
19

20
21 28. Respondent Officer in Charge of Otay Mesa Detention Center, or the Officer in
22 Charge of Petitioner's current ICE detention facility, is Petitioner's immediate
23 physical custodian and is responsible for day-to-day confinement. This
24 Respondent is named in an official capacity.
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27

1 29. Respondent San Diego Field Office Director, U.S. Immigration and Customs
2 Enforcement, exercises authority over local ICE custody, supervision, transfer,
3 release, and removal decisions affecting Petitioner and is named in an official
4 capacity.
5

6 30. Respondent Senior Official Performing the Duties of Director of U.S.
7 Immigration and Customs Enforcement exercises authority over ICE detention
8 policy and the actions of subordinate ICE officials. This Respondent is named
9 in an official capacity.
10

11 31. Respondent Secretary of the U.S. Department of Homeland Security exercises
12 authority over DHS components, including ICE, and is named in an official
13 capacity.
14

15 32. Respondent ICE is the federal agency responsible for immigration arrest,
16 detention, custody classification, transfer, release decisions, supervision, and
17 removal operations affecting Petitioner.
18

19 33. Respondent DHS is the federal agency with authority over ICE and the
20 immigration enforcement actions challenged here. Respondents collectively
21 hold Petitioner in custody and are capable of providing the relief ordered by this
22 Court.
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LEGAL FRAMEWORK

A. Post-order detention under 8 U.S.C. § 1231(a)(6) is limited by *Zadvydas* and *Clark*.

34. After a removal order becomes administratively final, 8 U.S.C. § 1231(a)(1) establishes a ninety-day removal period. During that period, detention is generally mandatory. After the removal period, any continued detention of covered noncitizens rests on 8 U.S.C. § 1231(a)(6).

35. Section 1231(a)(6) does not authorize indefinite detention. In *Zadvydas*, the Supreme Court construed § 1231(a)(6) to avoid serious constitutional concerns and held that post-order detention is authorized only for a period reasonably necessary to effect removal. 533 U.S. at 689, 699-701.

36. *Zadvydas* recognized six months as a presumptively reasonable period. After that period, once the detained person provides a good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing. *Id.* at 701.

37. *Clark* confirms that the same statutory limitation applies across the categories covered by § 1231(a)(6). 543 U.S. at 378, 386. The Government may not rely on criminal history alone to continue detention when removal is not significantly likely in the reasonably foreseeable future.

1 38. The statutory exception in 8 U.S.C. § 1231(a)(1)(C), which can extend the
2 removal period where a person refuses or fails to cooperate in good faith with
3 travel-document efforts, does not apply on the present record. The known reason
4 removal was not executed was that Laos was not accepting her return, not that
5 Ms. Bouchaleon obstructed removal.
6

7 **B. DHS regulations require meaningful post-order custody review, notice, and a**
8 **changed-circumstances showing.**
9

10 39. DHS regulations governing post-order custody recognize the *Zadvydas*
11 limitation. 8 C.F.R. § 241.13 establishes special review procedures for detained
12 noncitizens subject to final orders who provide good reason to believe there is
13 no significant likelihood of removal to the country of removal, or to a third
14 country, in the reasonably foreseeable future.
15

16
17 40. Under 8 C.F.R. § 241.13, the person may submit documentation supporting the
18 assertion that removal is not significantly likely in the reasonably foreseeable
19 future. The agency must respond in writing, consider relevant evidence, give
20 the person an opportunity to respond to evidence on which the agency intends
21 to rely, and issue a written decision based on the administrative record.
22

23 41. If DHS determines there is no significant likelihood of removal in the
24 reasonably foreseeable future, the regulations require release under appropriate
25 conditions absent special circumstances. 8 C.F.R. § 241.13(g)-(h).
26
27

1 42. If DHS has released a person because removal was not significantly likely,
2 revocation for removal requires changed circumstances. Under 8 C.F.R. §
3 241.13(i)(2), DHS may revoke release and return the person to custody only if,
4 on account of changed circumstances, DHS determines there is a significant
5 likelihood that the person may be removed in the reasonably foreseeable future.
6

7 43. Upon revocation, DHS must provide notice of the reasons for revocation and
8 promptly conduct an informal interview, giving the person an opportunity to
9 respond and submit evidence that removal remains not significantly likely or
10 that she did not violate conditions. 8 C.F.R. § 241.13(i)(3).
11

12 44. Even under 8 C.F.R. § 241.4, which governs continued detention and custody
13 reviews for certain post-order detainees, DHS must give written notice, consider
14 release and supervision conditions, evaluate risk based on current facts, and
15 provide reasons for revocation if it returns a supervised person to custody.
16

17
18 **C. Due process protects a released person's continued liberty interest.**

19 45. The Fifth Amendment protects all persons within the United States from
20 arbitrary deprivations of liberty. *Zadvydas*, 533 U.S. at 693. Freedom from
21 physical restraint lies at the core of the liberty protected by due process. *Id.* at
22 690; *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).
23

24 46. A person who has been released from custody has a protected continued-liberty
25 interest. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972), recognized that release
26
27

1 from physical confinement creates a liberty interest whose termination inflicts
2 a grievous loss. *Young v. Harper*, 520 U.S. 143, 152 (1997), applied the same
3 principle to a pre-parole release program.
4

5 47. Federal courts have applied that principle in immigration custody cases. *Saravia*
6 *v. Sessions* required a prompt hearing before a neutral decisionmaker when
7 previously released immigrant youth were re-arrested based on alleged changed
8 facts. 905 F.3d 1137 (9th Cir. 2018). *Ortega v. Bonnar* held that re-arrest after
9 immigration release implicated a due-process interest in remaining out of
10 custody absent a material change in circumstances. 415 F. Supp. 3d 963 (N.D.
11 Cal. 2019).
12
13

14 48. The material-change rule follows from basic fairness. If the Government already
15 knew the facts and still released the person, those same facts cannot later
16 become the reason for re-detention unless something material has changed. The
17 change must bear on a legitimate detention purpose: current danger, current
18 flight risk, a violation of release conditions, noncooperation, or a genuinely
19 renewed likelihood of removal.
20
21

22 49. The *Mathews v. Eldridge* balancing test confirms the need for process. Ms.
23 Bouchaleon's liberty interest is weighty; the risk of error is high if DHS relies
24 on stale convictions while ignoring her compliance, family ties, caregiving, and
25 Laos' historical refusal to accept return; and the Government's legitimate
26
27

1 interests can be protected through notice, disclosure, a prompt neutral review,
2 and reasonable release conditions. 424 U.S. 319, 335 (1976).

3 **D. Temporary restraining relief is warranted to preserve habeas jurisdiction.**
4

5 50. A temporary restraining order is appropriate where the movant shows likelihood
6 of success on the merits, likely irreparable harm, a balance of equities favoring
7 relief, and consistency with the public interest. *Winter v. Natural Res. Def.*
8 *Council, Inc.*, 555 U.S. 7, 20 (2008). Serious questions going to the merits may
9 support relief where the balance of hardships tips sharply in the movant's favor.
10 *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-35 (9th Cir.
11 2011).
12
13

14 51. A stay of removal is warranted where the petitioner shows serious legal
15 questions, irreparable injury, a favorable balance of equities, and public interest
16 in lawful procedures. *Nken*, 556 U.S. at 434; *Leiva-Perez*, 640 F.3d at 966-68.
17

18 52. No bond should be required under Rule 65(c), or only nominal security should
19 be required, because the relief sought protects constitutional rights and habeas
20 jurisdiction, and Respondents face no monetary injury from complying with the
21 Constitution, statutes, regulations, and Court orders.
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FACTUAL BACKGROUND

A. Ms. Bouchaleon entered as a refugee, became a lawful permanent resident, and has lived in the United States since early childhood.

53. Ms. Bouchaleon is a native and citizen of Laos. She was born in 1980. Pursuant to federal privacy rules, this Petition does not state her full date of birth.

54. In or about 1982, when Ms. Bouchaleon was approximately two years old, she and her family fled Laos and entered the United States as refugees.

55. After several years in the United States, Ms. Bouchaleon and her family obtained lawful permanent resident status.

56. Ms. Bouchaleon grew up in the United States. She attended K-12 school here, entered adulthood here, and worked in the United States after high school.

57. Her adult life, family, caregiving responsibilities, and community ties are centered in the United States. She has resided here for approximately forty-four years.

B. The known adverse criminal and immigration history is old, completed, and known to the Government.

58. In 2009, Ms. Bouchaleon was arrested and later convicted of conspiracy to distribute controlled substances. The case involved a large quantity of crystal methamphetamine. According to information supplied to counsel, this was her first offense, and she received approximately three years in federal custody.

1 59. The 2009 conviction is serious. Petitioner does not ask this Court to disregard
2 it. But the conviction is old, the criminal sentence was completed, and
3 Respondents knew the conviction before allowing Ms. Bouchaleon to live in the
4 community under supervision for years.
5

6 60. After she completed her federal sentence, Ms. Bouchaleon was placed in
7 removal proceedings. She lost her case and received a removal ruling or final
8 removal order on or about February 13, 2012.
9

10 61. Removal was not affected because Laos was not accepting deportees or was not
11 accepting Ms. Bouchaleon's return. Instead, Respondents placed her on a yearly
12 check-in system or a supervision order.
13

14 62. The practical barrier to removal was therefore the receiving country's non-
15 acceptance, not any failure by Ms. Bouchaleon to complete her criminal
16 sentence or any refusal to cooperate with ICE.
17

18 63. On information available to counsel, the record does not show a new conviction,
19 a new arrest, a recent failure to appear, a violation of supervision conditions, a
20 refusal to provide information, or other current conduct justifying re-detention.
21

22 64. If Respondents rely on the 2009 conviction alone to justify present detention,
23 they must explain why the same known fact that did not prevent years of
24 supervised liberty suddenly justifies civil detention now. Absent a material
25 change, the old record cannot carry the Government's burden.
26
27

1 **C. Ms. Bouchaleon complied with supervision and reported to ICE when**
2 **unexpectedly summoned.**

3 65. After the February 2012 removal order, Ms. Bouchaleon was not removed. She
4 was instead placed on a yearly check-in system.

6 66. Her next regular yearly check-in was expected in or about August 2026.

7 67. On June 2, 2026, several months before that expected check-in, Ms. Bouchaleon
8 received a telephone call from an ICE officer instructing her to report
9 immediately to the local ICE office.

11 68. Ms. Bouchaleon complied with the instruction. She did not flee, hide, ignore the
12 call, or refuse to report. She appeared at the ICE office as instructed.

14 69. When she appeared, ICE detained her and transferred her to Otay Mesa
15 Detention Center.

17 70. Her compliance with an unexpected ICE call is powerful individualized
18 evidence that she is not a flight risk and that reasonable supervision conditions
19 are adequate.

21 **D. Ms. Bouchaleon has current family, sponsor, and humanitarian equities.**

22 71. Ms. Bouchaleon has an adult United States citizen daughter, approximately
23 twenty-two years old.
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1 72. Ms. Bouchaleon's sister, Juddy Ogas, contacted counsel and is willing to act as
2 a sponsor and outside contact. A stable family sponsor sharply reduces any
3 alleged flight risk and supports release under supervision.
4

5 73. Ms. Bouchaleon's work authorization expired in or about August 2025. Since
6 then, rather than working without authorization, she has been caring full-time
7 for her terminally ill mother.
8

9 74. Her caregiving role is a significant humanitarian equity. It also gives her a strong
10 incentive to remain in contact with her family, counsel, ICE, and the Court.
11

12 75. Her long residence, family ties, adult U.S. citizen daughter, sponsor support,
13 and caregiving responsibilities weigh strongly in favor of release and sharply
14 undermine any claim that detention is the only available tool.
15

16 **E. The available record does not establish any valid travel document, flight**
17 **itinerary, or acceptance by Laos.**

18 76. On information and belief, Ms. Bouchaleon's family has not been provided a
19 copy of any travel document, any consular acceptance by Laos, any flight
20 itinerary, any carrier confirmation, any transportation record, or any other
21 documentary proof that removal to Laos is significantly likely in the reasonably
22 foreseeable future.
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1 77. Ms. Bouchaleon's family is currently unaware whether a flight has been booked.
2 Because a removal could be attempted with little notice, emergency stay relief
3 is necessary to preserve this Court's jurisdiction.
4

5 78. If Respondents contend that Ms. Bouchaleon has a flight scheduled for next
6 week, or at any other near date, the Court should require Respondents to produce
7 the underlying documents rather than accept administrative assurances.
8

9 79. If Respondents contend that Laos has changed its position since 2012,
10 Respondents should produce reliable evidence of that change, including any
11 valid travel document, consular correspondence, authorization terms, expiration
12 date, transit approvals, and carrier confirmations.
13

14 80. The available record does not establish whether Ms. Bouchaleon's 2009
15 conviction was connected to any other person's case or arose from a separate
16 matter. This Petition does not rely on that unresolved fact. The legality of
17 detention turns on current custody, current removal feasibility, and current
18 individualized risk.
19
20

21 ARGUMENT

22 **I. The Court should issue the writ or an Order to Show Cause forthwith in three**
23 **days.**
24

25 81. The Petition states substantial habeas claims. Ms. Bouchaleon is detained by
26 federal immigration officials; she has a final removal order that was not
27

1 executed for approximately fourteen years because Laos was not accepting her
2 return; she lived under supervision and complied with ICE; and Respondents
3 have not identified a material change justifying renewed detention.
4

5 82. Section 2243 requires a prompt response. Respondents should be ordered within
6 three days to identify the precise statutory authority for custody, the date and
7 basis of detention, the custody-review history, any order of supervision or
8 release conditions, the alleged changed circumstances, and any evidence that
9 Laos will issue or has issued travel documents and will accept her return in the
10 reasonably foreseeable future.
11

12
13 83. Respondents should also produce the custody file, removal file, travel-document
14 communications, post-order custody reviews, notices of revocation, criminal
15 conviction records relied upon, risk assessment, detention memorandum, and
16 any document used to justify detention or removal.
17

18 84. Without prompt production, Ms. Bouchaleon cannot meaningfully challenge
19 Respondents' factual assertions. Habeas review cannot depend on agency
20 conclusions unsupported by the underlying record.
21

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1 **II. Continued detention violates § 1231(a)(6), *Zadvydas*, and *Clark* because**
2 **removal to Laos is not shown to be significantly likely in the reasonably**
3 **foreseeable future.**

4
5 85. The strongest fact in this case is the prolonged failure to remove Ms.
6 Bouchaleon after the 2012 order. Laos did not accept her return, and DHS
7 therefore placed her on yearly supervision rather than executing the order.

8
9 86. When the receiving country will not accept the return, detention loses its
10 statutory purpose. *Zadvydas* held that where removal is not reasonably
11 foreseeable, continued detention is no longer authorized by § 1231(a)(6). 533
12 U.S. at 699-701.

13
14 87. Far more than six months have passed since Ms. Bouchaleon's 2012 removal
15 order. She has good reason to believe removal is not reasonably foreseeable in
16 the near future because Laos has historically refused to accept her return, and
17 Respondents have identified no concrete change in that position.

18
19 88. The burden therefore shifts to Respondents to rebut that showing with evidence.
20 Respondents must produce actual travel-document evidence, consular
21 acceptance, flight records, carrier confirmations, or other reliable proof that
22 removal to Laos or a third country is significantly likely in the reasonably
23 foreseeable future.
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1 89. Generalized assertions that DHS is pursuing removal, that old convictions are
2 serious, or that removal may become possible at some unspecified future date
3 do not satisfy *Zadvydas*. The prospect for removal must be reasonable under the
4 circumstances, not speculative.
5

6 90. If Respondents assert that § 1231(a)(1)(C) extends the removal period, they
7 must prove noncooperation. The existing record shows the opposite: removal
8 failed because Laos did not accept return, while Ms. Bouchaleon later complied
9 when ICE called her to report.
10

11 **III. The revocation of supervision does not establish the legality of detention.**
12

13 91. Respondents may argue that detention is lawful because ICE revoked Ms.
14 Bouchaleon's order of supervision. That argument fails because the revocation
15 decision is an internal administrative act by the same agency seeking to justify
16 detention. The legality of custody cannot turn solely on the Respondents'
17 unilateral label.
18

19 92. The relevant question before this Court is whether continued detention comports
20 with § 1231(a)(6), *Zadvydas*, *Clark*, the Fifth Amendment, the APA, and the
21 governing regulations. ICE's revocation decision cannot substitute for judicial
22 review of that question.
23
24

25 93. Under 8 C.F.R. § 241.13(i)(2), if release was granted because removal was not
26 significantly likely, DHS may revoke release for removal only if changed
27

1 circumstances show a significant likelihood that the person may be removed in
2 the reasonably foreseeable future. The available record does not identify such
3 changed circumstances.

4
5 94. Under 8 C.F.R. § 241.13(i)(3), upon revocation, DHS must notify the person of
6 the reasons for revocation and conduct a prompt interview affording an
7 opportunity to respond to the reasons stated in the notification. A boilerplate or
8 vague notice that fails to identify the basis for revocation is not a meaningful
9 notice.
10

11 95. Any informal ICE interview conducted only after detention, without advance
12 disclosure of the evidence and without a neutral decisionmaker, does not satisfy
13 due process where the practical result is deprivation of physical liberty after
14 years of supervised release.
15

16
17 96. Respondents must produce any Notice of Revocation, any explanation of
18 reasons, any interview notes, and any documents showing that Ms. Bouchaleon
19 had a meaningful opportunity to respond. If no such documents exist, detention
20 is procedurally unlawful.
21

22 **IV. Due process prohibits re-detention after years of release without notice,**
23 **neutral review, and proof of a material change in circumstances.**
24

25 97. Ms. Bouchaleon lived at liberty under supervision after the Government could
26 not remove her. That period of liberty, family life, caregiving, and compliance
27

1 created a legitimate expectation that the Government would not revoke her
2 freedom based on the same facts it already knew.

3 98. A released person's liberty interest is not erased by immigration status or old
4 criminal history. *Morrissey* and *Young* establish that release from physical
5 custody creates protected liberty. *Saravia* and *Ortega* apply that principle in
6 immigration re-detention contexts.
7

8
9 99. The Government, therefore, must show a material change in circumstances. In
10 a post-order Laos case, a material change would include proof that Laos has
11 now agreed to accept her; proof of a valid travel document; proof of a new
12 violation of release conditions; proof of noncooperation; or current evidence
13 that no reasonable conditions can address danger or flight risk.
14

15 100. Respondents have not identified any such change. The 2009 conviction and
16 2012 removal order were known long before the current detention. Stale facts
17 cannot become changed circumstances merely because DHS decides to rely on
18 them again.
19

20
21 101. Due process requires notice of the reasons for detention, disclosure of the
22 evidence, a meaningful opportunity to respond, access to counsel, a neutral
23 decisionmaker, and consideration of alternatives to detention. Without those
24 safeguards, the risk of erroneous deprivation is unacceptably high.
25
26
27

102. The *Mathews* factors favor Petitioner. Her private interest is freedom from physical detention and family/caregiving disruption; the risk of error is high because Respondents appear to rely on outdated facts while ignoring compliance and infeasibility of removal; and the Government's interests can be met through release conditions and a lawful custody review.

V. The old criminal conviction does not establish current danger or a lawful basis for civil detention.

103. Petitioner acknowledges the seriousness of the 2009 controlled-substances conspiracy conviction. But the civil detention question is not whether the past conduct was serious. The question is whether detention now is reasonably related to a legitimate regulatory purpose and supported by current individualized evidence.

104. Completed criminal sentences cannot be converted into indefinite civil immigration detention. *Zadvydas* itself involved individuals with criminal histories, yet the Supreme Court still required a statutory limit where removal was not reasonably foreseeable.

105. Current evidence cuts against detention. Ms. Bouchaleon completed her federal sentence, complied with supervision for years, answered an unexpected ICE call, appeared as instructed, maintained family ties, and has been caring for her terminally ill mother.

1 106. Her adult U.S. citizen daughter, family sponsor, long residence in the United
2 States, and caregiving responsibilities show strong incentives to comply with
3 supervision and no reason to treat physical detention as the only available tool.

4
5 107. Respondents must consider less restrictive alternatives. An order of supervision,
6 in-person or telephonic check-ins, cooperation on travel documents, address
7 reporting, sponsor placement with Juddy Ogas, travel restrictions, and
8 electronic or telephonic monitoring, if truly necessary, can address any
9 legitimate concerns without physical detention.
10

11 **VI. A scheduled removal, if alleged, does not establish that removal will actually**
12 **occur or that detention is lawful.**
13

14 108. Respondents may contend that Ms. Bouchaleon's removal is imminent. But an
15 assertion that removal is scheduled does not prove that all legal, logistical,
16 diplomatic, operational, and administrative conditions for removal have been
17 satisfied.
18

19 109. A scheduled removal can be postponed, canceled, delayed, or interrupted
20 despite prior scheduling. In a case involving Laos, where the historical problem
21 was receiving-country acceptance, a schedule alone is not enough.
22

23 110. If Respondents rely on an alleged travel document, they must produce it. The
24 Court should not rely on a conclusory declaration that does not attach the travel
25 document, identify its expiration date, describe its terms, establish that Laos will
26
27

1 accept Ms. Bouchaleon, or show that transit countries and carriers will accept
2 the removal.

3 111. If Respondents rely on a flight itinerary, they must produce it, together with
4 carrier confirmation, transportation arrangements, and any communication
5 showing that Laos and any transit country will accept travel on the proposed
6 route.
7

8
9 112. If Respondents rely on a new diplomatic development or agreement with Laos,
10 they must produce the relevant records or at least a sworn, specific, non-
11 conclusory explanation identifying the changed circumstances. Materiality
12 requires more than allegations of new developments.
13

14 113. Until Respondents produce conforming evidence, the Court should not treat an
15 asserted schedule as proof that removal is significantly likely in the reasonably
16 foreseeable future.
17

18 **VII. Respondents have not identified any conduct by Ms. Bouchaleon justifying**
19 **detention or extension of the removal period.**
20

21 114. The available record contains no allegation that Ms. Bouchaleon refused to
22 cooperate with immigration officials, refused to complete travel-document
23 applications, concealed identity information, provided false information,
24 refused transportation, or otherwise acted to prevent removal.
25
26
27

1 115. To the contrary, the record shows compliance. When ICE unexpectedly called
2 her to report before her regular annual check-in, she did report.

3 116. Boilerplate warnings about obstruction or 8 U.S.C. § 1253(a) do not prove
4 obstruction. Warnings are not evidence.
5

6 117. If Respondents seek to rely on § 1231(a)(1)(C) or § 1253(a), they must identify
7 the specific alleged conduct and provide notice and evidence. They cannot
8 extend detention based on implication, speculation, or generalized warnings.
9

10 118. Because there is no evidence of obstruction or noncooperation, the removal
11 period cannot be treated as extended on that basis.
12

13 **VIII. Respondents' actions are arbitrary, capricious, contrary to law, and without**
14 **observance of required procedure.**

15 119. The APA requires courts to hold unlawful and set aside agency action that is
16 arbitrary, capricious, an abuse of discretion, not in accordance with law,
17 contrary to constitutional right, in excess of statutory authority, or without
18 observance of procedure required by law. 5 U.S.C. § 706(2)(A)-(D).
19

20
21 120. Respondents acted contrary to law by detaining Ms. Bouchaleon beyond the
22 time reasonably necessary to effect removal without showing that removal to
23 Laos is significantly likely in the reasonably foreseeable future.
24

25 121. Respondents acted without observance of the procedure required by law by
26 failing to provide the meaningful review required by 8 C.F.R. §§ 241.4 and
27

1 241.13, including notice, disclosure, an opportunity to respond, a written
2 decision grounded in the record, and a changed-circumstances showing if
3 release was revoked because removal supposedly became foreseeable.
4

5 122. Respondents acted arbitrarily by failing to consider key aspects of the problem:
6 Laos' historical refusal or inability to accept return, the age of the adverse facts,
7 the completion of the criminal sentence, Ms. Bouchaleon's compliance with
8 supervision, her response to ICE's unexpected call, her U.S. citizen daughter,
9 her sponsor, her caregiving for a terminally ill mother, and alternatives to
10 detention.
11

12
13 123. Respondents' reliance on an old removal order also fails to account for the
14 agency's broad enforcement discretion and the availability of non-custodial
15 tools. While Petitioner does not ask this Court to order prosecutorial discretion,
16 the existence of those tools undercuts any claim that physical detention is
17 inevitable or narrowly tailored.
18

19
20 124. A rational custody decision must connect current facts to present detention. The
21 current record contains no rational connection between a completed 2009
22 conviction and a 2026 need for physical civil detention after years of supervised
23 liberty.
24
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IX. A TRO staying removal and transfer is necessary to prevent irreparable harm and preserve jurisdiction.

125. Petitioner is likely to succeed, or at a minimum raises serious questions, on her *Zadvydas*, due process, APA, and regulatory claims. The record shows a final order that could not be executed because Laos did not accept return, years of supervision, compliance with an unexpected ICE call, and no identified material change.

126. Irreparable harm is immediate. Loss of physical liberty is irreparable. Transfer would impair counsel access, family communication, evidence gathering, and this Court's jurisdiction. Removal would likely defeat meaningful habeas review and deprive this Court of the ability to decide whether detention is lawful before the consequences become irreversible.

127. The balance of equities favors Petitioner. She seeks preservation of the status quo, a lawful custody review, release or supervision under reasonable conditions, and production of the actual record. Respondents suffer no cognizable harm from being required to comply with the Constitution and governing regulations.

128. The public interest favors lawful immigration enforcement, individualized custody decisions, accurate post-order review, preservation of habeas

jurisdiction, and release under reasonable conditions when detention is not legally necessary.

129. The Court should therefore stay removal, prohibit transfer outside the District or to any location that would frustrate counsel's access absent advance notice and leave of Court, and require Respondents to show cause within three days.

X. The Court should require production of the underlying record and, if necessary, hold an evidentiary hearing.

130. If the Respondents' position depends on the existence and validity of a travel document, finalized removal arrangements, or a material change in Laos' position, fairness requires production of those materials.

131. Petitioner respectfully requests that Respondents be directed to produce the alleged travel document issued by Laos, correspondence with Laotian authorities, any MOU or agreement relied upon, transportation records, flight confirmations, carrier acceptance documentation, transit-country approvals, and all records relied upon to justify detention or removal.

132. Absent production of those materials, Ms. Bouchaleon's ability to challenge Respondents' factual assertions is severely limited.

133. If Respondents assert facts that Petitioner cannot test on the written record, material factual disputes will remain concerning the certainty, timing, and feasibility of removal and the legality of re-detention. The Court should then

1 hold an evidentiary hearing at which Respondents must present competent
2 evidence supporting custody.

3 134. To the extent Respondents argue that anticipated removal renders the Petition
4 moot, that argument is premature. Ms. Bouchaleon remains detained, subject to
5 the challenged custody, and continues to suffer the concrete injury that forms
6 the basis of this action. The controversy remains live until this Court can
7 adjudicate the legality of detention, and meaningful relief is no longer available.
8

9 See Abdala v. INS, 488 F.3d 1061 (9th Cir. 2007).

10
11 **CAUSES OF ACTION**

12
13 **COUNT ONE**

14 **Violation of 8 U.S.C. § 1231(a)(6), *Zadvydas*, and *Clark* - Unlawful Post-Order**
15 **Detention**
16

17 135. Petitioner repeats, realleges, and incorporates by reference each preceding
18 paragraph as if fully set forth herein.

19 136. Section 1231(a)(6), as construed by *Zadvydas* and *Clark*, authorizes post-order
20 detention only for a period reasonably necessary to effect removal.
21

22 137. Ms. Bouchaleon has good reason to believe there is no significant likelihood of
23 removal to Laos in the reasonably foreseeable future because Laos historically
24 did not accept her return after the 2012 removal order and Respondents have
25 identified no material change in that position.
26
27

1 138. Respondents' continued detention violates § 1231(a)(6), *Zadvydas*, and *Clark*
2 unless Respondents prove that removal is significantly likely in the reasonably
3 foreseeable future.

4
5 139. The Court should issue the writ and order Ms. Bouchaleon released under
6 reasonable conditions of supervision.

7
8 **COUNT TWO**

9 **Violation of 8 C.F.R. §§ 241.4 and 241.13 - Failure to Provide Lawful Post-Order**

10 **Custody Review**

11 140. Petitioner repeats, realleges, and incorporates by reference each preceding
12 paragraph as if fully set forth herein.

13
14 141. Respondents were required to comply with 8 C.F.R. §§ 241.4 and 241.13 before
15 continuing detention under a final order where removal is not significantly
16 likely in the reasonably foreseeable future.

17
18 142. If Respondents revoked release because removal allegedly became foreseeable,
19 8 C.F.R. § 241.13(i)(2)-(3) required changed circumstances, notice of reasons,
20 a prompt opportunity to respond, and consideration of evidence that removal
21 remains not significantly likely.

22
23 143. Respondents failed to provide a meaningful custody review, failed to disclose
24 the basis for detention, failed to produce the alleged travel documents or
25 removal arrangements, and failed to consider alternatives to detention.
26
27

1 144. Respondents' detention and revocation decisions are unlawful and should be set
2 aside.

3
4 **COUNT THREE**

5 **Violation of the Fifth Amendment - Re-Detention Without Due Process or**
6 **Material Changed Circumstances**

7 145. Petitioner repeats, realleges, and incorporates by reference each preceding
8 paragraph as if fully set forth herein.

10 146. The Fifth Amendment prohibits the government from depriving any person of
11 liberty without due process of law.

13 147. By releasing or allowing Ms. Bouchaleon to live at liberty under supervision
14 after the Government knew her criminal history and after Laos did not accept
15 return, Respondents created a legitimate expectation that she would remain at
16 liberty absent a material change in circumstances and fair process.

18 148. Respondents violated due process by detaining or continuing to detain her based
19 on stale facts without advance notice, a neutral hearing, disclosure of evidence,
20 an opportunity to respond, and proof of a material change bearing on danger,
21 flight risk, violation of release conditions, noncooperation, or likelihood of
22 removal.
23
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1 149. The Court should declare the detention unconstitutional and order release or a
2 constitutionally adequate custody hearing at which the Government bears the
3 burden of proof.
4

5 **COUNT FOUR**

6 **Violation of the Fifth Amendment - Arbitrary Civil Detention and Failure to**

7 **Consider Alternatives**
8

9 150. Petitioner repeats, realleges, and incorporates by reference each preceding
10 paragraph as if fully set forth herein.

11 151. Civil immigration detention may not be punitive. It must be reasonably related
12 to a legitimate regulatory purpose, such as ensuring appearance or protecting
13 the community.
14

15 152. Respondents have not made a lawful current individualized finding that Ms.
16 Bouchaleon presents a danger or flight risk that cannot be addressed through
17 reasonable conditions.
18

19 153. Respondents failed to give meaningful weight to Ms. Bouchaleon's years of
20 supervision, compliance with ICE, family sponsor, adult U.S. citizen daughter,
21 caregiving responsibilities, and the availability of supervision conditions.
22

23 154. Detention under these circumstances is excessive, arbitrary, and
24 unconstitutional.
25
26
27

COUNT FIVE

Violation of the APA - Arbitrary and Capricious Agency Action, Contrary to Law, and Without Required Procedure

155. Petitioner repeats, realleges, and incorporates by reference each preceding paragraph as if fully set forth herein.

156. The APA requires courts to hold unlawful agency action that is arbitrary, capricious, an abuse of discretion, contrary to law, contrary to constitutional right, in excess of statutory authority, or without observance of procedure required by law. 5 U.S.C. § 706(2)(A)-(D).

157. Respondents acted contrary to the law by detaining Ms. Bouchaleon beyond the period reasonably necessary to effect removal without reliable evidence that removal is significantly likely in the reasonably foreseeable future.

158. Respondents acted without observance of the required procedure by failing to provide the notice, disclosure, custody review, and changed-circumstances process required by 8 C.F.R. §§ 241.4 and 241.13.

159. Respondents acted arbitrarily by ignoring current equities, compliance, family sponsorship, caregiving responsibilities, and less restrictive alternatives to detention.

160. The Court should declare the Respondents' custody decision unlawful and order appropriate habeas, declaratory, and injunctive relief.

COUNT SIX

All Writs Act, Rule 65, and Habeas Authority - Stay of Removal and Transfer

161. Petitioner repeats, realleges, and incorporates by reference each preceding paragraph as if fully set forth herein.

162. The All Writs Act authorizes this Court to issue all writs necessary or appropriate in aid of its jurisdiction. 28 U.S.C. § 1651(a). Rule 65 authorizes temporary restraining relief to prevent irreparable harm.

163. Removal or transfer before this Court adjudicates the legality of custody would frustrate habeas jurisdiction, impair counsel access, and risk irreparable harm.

164. Petitioner satisfies the *Winter*, *Nken*, *Leiva-Perez*, and *Alliance for the Wild Rockies* standards because she raises serious and likely meritorious legal questions, faces irreparable harm, and seeks relief consistent with the public interest.

165. The Court should stay the removal and transfer pending further order.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause requiring Respondents to show cause within three days why the writ should not be granted;

- (3) Declare that Petitioner's continued detention violates 8 U.S.C. § 1231(a)(6), *Zadvydas v. Davis*, *Clark v. Martinez*, the Fifth Amendment, the APA, and 8 C.F.R. §§ 241.4 and 241.13;
- (4) Declare that Respondents may not detain or re-detain Petitioner based on facts known before release, absent fair process and a material change in circumstances;
- (5) Declare that Respondents must produce reliable evidence that removal to Laos or a third country is significantly likely in the reasonably foreseeable future before continuing detention under § 1231(a)(6);
- (6) Issue a writ of habeas corpus ordering Respondents to release Petitioner from custody under reasonable conditions of supervision;
- (7) In the alternative, order Respondents to provide a prompt constitutionally adequate custody hearing or post-order custody review before a neutral decisionmaker, with the Government bearing the burden to justify detention by clear and convincing evidence;
- (8) Order Respondents to produce the full custody file, removal file, travel-document communications, post-order custody-review records, release or supervision records, revocation records, Notice of Revocation, interview notes, risk assessments, and all evidence relied upon to justify detention;

- 1 (9) Order Respondents to produce any travel document, consular correspondence
2 with Laos, flight itinerary, carrier confirmation, transit approval, transportation
3 record, MOU, agreement, or other evidence relied upon to assert that removal
4 is imminent or reasonably foreseeable;
- 6 (10) Issue a Temporary Restraining Order staying Petitioner's removal from the
7 United States pending further order of this Court;
- 9 (11) Issue a Stay of Removal Order Prohibiting Respondents from transferring
10 Petitioner outside this District, or to any location that would frustrate counsel's
11 access or this Court's jurisdiction, without advance notice to counsel and leave
12 of Court;
- 14 (12) Require Respondents to preserve all custody, removal, travel-document,
15 supervision, criminal-history, release, transfer, and communications records
16 concerning Petitioner;
- 18 (13) Set an expedited evidentiary hearing if Respondents dispute the factual basis for
19 relief or rely on documents not produced with their return;
- 21 (14) Set no bond under Rule 65(c), or only a nominal bond, because the requested
22 relief protects constitutional rights and imposes no monetary harm on
23 Respondents;
- 25 (15) Grant such other and further relief as the Court deems just, equitable, and
26 proper.

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Dated: June 15, 2026

Respectfully submitted,

//s// Mario Portugal
Mario Portugal
Attorney for Petitioner Noy Bouchaleon