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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Petra Rosas Huerta, Petitioner, v. **Troy Schilling**, Administrator, Crow Wing County Jail, Brainerd, MN**; David Venturella**, Acting Director of U.S. Immigration and Customs Enforcement; **Markwayne Mullin,** Secretary of the U.S. Department of Homeland; Security **and Todd Blanche,** Attorney General Of the United States, in their official capacities, Respondents.	Case No. 26-3077 **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Petra Rosas Huerta is currently detained at Crow Wing County Jail in Brainerd, Minnesota in the custody of Immigration and Customs Enforcement (ICE). She has been detained by ICE since June 22, 2026 despite being a Deferred Action for Childhood Arrivals (DACA) recipient for years, and thus considered "lawfully present" in the U.S. 8 C.F.R. § 236.21(c)(3), and has a pending DACA renewal.

2. Petitioner entered the U.S. without inspection in approximately 1994 as a minor child. She has remained in the U.S. since then.

3. In approximately 2012 or 2013, Ms. Rosas Huerta applied for DACA, which was approved. which was approved on September 22, 2014. Since then, she has continued to renew her DACA every two years, and she currently has a renewal pending at USCIS since November 2025.

4. Despite the fact that Petitioner has held DACA status for years which prohibits her removal from the U.S. for the validity period and the fact that she has a pending DACA renewal at USCIS, she is being held in Immigration and Customs Enforcement ("ICE") custody, presumably subject to mandatory detention under current Department of Homeland Security ("DHS") policy under an incorrect interpretation of 8 U.S.C. § 1225(b). Accordingly, to vindicate Petitioner's statutory and constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

5. Absent an order from this Court, Petitioner will remain unlawfully detained for the duration of her removal proceedings.

6. Petitioner asks this Court to find that Petitioner is being unlawfully detained as a DACA recipient, assume jurisdiction over this matter, and order declaratory and injunctive relief in the form of immediate release from detention, or order bond so that Petitioner may be released from unlawful detention.

JURISDICTION

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.

8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq*., the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

10. Venue is proper because Petitioner is detained at Crow Wing County Jail in Brainerd, Minnesota, which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

12. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement."

Fay v. Noia, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

13. Petitioner is a noncitizen. Currently, Petitioner is detained at Crow Wing County Jail in Brainerd, Minnesota. She is in the custody, and under the direct control, of Respondents and their agents.

14. Respondent Troy Schilling is the Administrator of Crow Wing County Jail in Brainerd, Minnesota. Petitioner is located in Crow Wing County Jail and Respondent Schilling has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens. Respondent Schilling is a legal custodian of Petitioner.

15. Respondent David Venturella is the Acting Director of U.S. Immigration and Customs Enforcement. As such, Respondent Venturella is Petitioner's legal custodian and is responsible for Petitioner's detention and removal. He is sued in his official capacity.

16. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Mullin is a legal custodian of Petitioner.

17. Respondent Todd Blanche is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice

(DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Blanche is a legal custodian of Petitioner.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. There is no statutory requirement of administrative exhaustion before immigration detention may be challenged in federal court by a writ of habeas corpus. *See* 8 U.S.C. § 1252(d)(1); *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007) ("Under the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal.").

19. The Supreme Court has recognized that exhaustion is not required where a plaintiff "may suffer irreparable harm if unable to secure immediate judicial consideration of her claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). This is the case here, where Ms. Rosas Huerta raises constitutional and statutory claims that the agency cannot redress, and where each day that passes is one in which he is being unconstitutionally deprived of her liberty.

20. To the extent that prudential consideration may require exhaustion in some circumstances, Petitioner has exhausted all effective administrative remedies available to him as she has shown her removal is not substantially likely to occur in the reasonably foreseeable future due to her DACA eligibility.

21. Prudential exhaustion is not required when to do so would be futile or "the administrative body . . . has . . . predetermined the issue before it." *McCarthy v. Madigan*,

503 U.S. 140, 148 (1992), *superseded by statute on other grounds as stated in Woodford v. Ngo*, 548 U.S. 81 (2006).

22. Prudential exhaustion is also not required in cases where "a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *McCarthy*, 503 U.S. at 147. Every day Petitioner is unlawfully detained causes her and her family irreparable harm. *Jarpa v. Mumford*, 211 F. Supp. 3d 706, 711 (D. Md. 2016) ("Here, continued loss of liberty without any individualized bail determination constitutes the kind of irreparable harm which forgives exhaustion."); *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018) (explaining that "a loss of liberty" is "perhaps the best example of irreparable harm"); *Hamama v. Adducci*, 349 F. Supp. 3d 665, 701 (E.D. Mich. 2018) (holding that "detention has inflicted grave" and "irreparable harm" and describing the impact of prolonged detention on individuals and their families).

STATEMENT OF FACTS

23. Petitioner Petra Rosas Huerta is a 42-year-old citizen of Mexico. Ms. Rosas Huerta and has resided peacefully in the U.S. since 1994 when she entered the U.S. without inspection as a minor with her family. The U.S. is the only home Ms. Rosas Huerta has known, and she has built her life here. She has two U.S. citizen children, one age 19 and one age 3. Petitioner's children depend on her, as do her other family members in the U.S.

24. Ms. Rosas Huerta was granted DACA as a young adult and has maintained her DACA to present day. Those who meet DACA's rigorous criteria are thus "granted

affirmative . . . relief from removal." *Enriquez-Perdomo v. Newman,* 54 F.4th 855, 863 (6th Cir. 2022). Ms. Rosas Huerta has consistently renewed and been approved for DACA extensions over the past decade. She timely filed her DACA renewal in November 2025 before its expiration in December 2025. Her renewal remains pending at USCIS.

25. Ms. Rosas Huerta is currently being prosecuted for an alleged domestic violence charge and has not received a final disposition or conviction on the case. She was arrested for this incident in Rice County on June 18, 2026. She was turned over to ICE custody on June 22, 2026.

26. On June 22, 2026, the Federal Respondents issued a Notice to Appear initiating removal proceedings against Ms. Rosas Huerta. This charging document alleges that Ms. Rosas Huerta is "an alien present in the United States who has not been admitted or paroled."

27. Ms. Rosas Huerta has not received a Notice of Intent to Terminate her DACA, and thus has DACA valid through July 24, 2027.

28. Ms. Rosas Huerta is currently being held at the Crow Wing County Jail in Brainerd, MN in ICE custody in ICE custody pending full removal proceedings.

29. Petitioner is currently scheduled for a Master Calendar Hearing in immigration court on July 16, 2026 before Immigration Judge Ivany.

30. As a recipient of DACA for the thirteen years, Ms. Rosas Huerta has been considered "lawfully present" under 8 C.F.R. § 236.21(c)(3). Upon the approval of her

DACA renewal, she will once again be lawfully present and cannot be detained on the basis of being unlawfully present. She must be released from custody immediately.

31. Ms. Rosas Huerta has relied on DACA in structuring her life: she has lived in the U.S. since childhood, worked lawfully with employment authorization, and has built her life here with her family. She ordered her affairs around the government's promise that, as a DACA recipient, she would not be targeted for arrest or removal.

32. The government's decision to detain Ms. Rosas Huerta, despite her being "lawfully present" for the past decade and unable to remove her, inflicts concrete, ongoing harm upon him and undermines the legal commitments upon which she had reasonably relied. She timely filed her DACA renewal.

33. Petitioner thus seeks immediate release as someone who been a DACA recipient is has a pending DACA renewal. A DACA recipient is "lawfully present" pursuant to a valid grant of DACA. 8 C.F.R. § 236.21(c)(3). Although DACA benefits are discretionary and subject to agency approval, Petitioner has come to rely on DACA over the past decade and through multiple successful DACA renewals. Further, Petitioner will suffer irreparable harm if she is not released, as USCIS cannot approve a DACA request while the applicant is in immigration custody. C.F.R. § 236.23(a)(2).

34. Alternatively, as a person arrested inside the United States and held in civil immigration detention for pending removal proceedings, Petitioner is subject to detention, if at all, pursuant to 8 U.S.C. § 1226. However, under current DHS and EOIR policy, Petitioner has been misclassified as subject to mandatory detention under 8 U.S.C.

§ 1225(b)(2), making her ineligible for bond. Her procedural due process rights have been violated.

LEGAL FRAMEWORK

35. The Fifth Amendment's Due Process Clause specifically forbids the government to "deprive[]" any "person . . . of . . . liberty . . . without due process of law." U.S. Const. amend. V.

36. The Due Process Clause of the Fifth Amendment to the U.S. Constitution "applies to all 'persons' within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001).

37. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas,* 533 U.S. at 678.

38. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *Id.* It also protects noncitizens who have been ordered removed from the U.S. and who face continuing detention. *Id.* at 690.

39. The Supreme Court, thus, "has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection," including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979). Further, "the interest in being free from physical

detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld,* 542 U.S. 507, 529, 531.

40. In recent decades, the U.S. immigration system has implemented this balance of due process protections through a network of three mutually exclusive detention statues.

41. First, at the border, individuals "seeking admission" who are placed into removal proceedings are subject to detention without a bond hearing under 8 U.S.C. § 1225(b)(2). *See Jennings v. Rodriguez,* 583 U.S. 281, 287 (2018) (describing § 1225 as relating to "borders and port of entry"). Detained individuals falling under this statue may request release through humanitarian parole under 8 U.S.C. § 1182(d)(5)(A).

42. Second, noncitizens arrested inside the U.S. are generally placed into removal proceedings under 8 U.S.C. § 1229(a), during which an Immigration Judge (an "IJ")—and later potentially the Board of Immigration Appeals (the "BIA") and a U.S. Court of Appeals—will decide whether or not the person should be deported. During § 1229(a) proceedings, a noncitizen may apply for forms of relief such as asylum, withholding of removal, or cancellation of removal. The IJ will hold a series of hearings to determine if the individual is eligible for relief or eligible for deportation, which can take months or years.

43. While § 1229(a) proceedings are ongoing, noncitizens are generally subject to the detention authority of 8 U.S.C. § 1226. *See Jennings*, 583 U.S. at 288-89 (describing § 1226 detention as relating to people "inside the United States" and "present in the country"). Most of these individuals are eligible for release on bond and conditions

under § 1226(a), and they are consequently entitled to a custody redetermination (a "bond hearing") before an IJ to decide whether they should be detained or released. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d).

44. Third, if a noncitizen completes their removal proceedings and all appeals, and is ordered removed, they are subject to detention under 8 U.S.C. § 1231 while the government attempts to remove them.

45. This landscape—in which noncitizens arrested inside the U.S. are generally eligible for a bond hearing and release during immigration proceedings—has existed essentially in its current form since Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, Div. C, § 3003, 110 Stat. 3009-546, 3009-585 to 3009-587 (codified at 8 U.S.C. § 1226).

46. Further, this eligibility for a bond hearing and potential release has applied to noncitizens arrested in the U.S., regardless of whether they initially entered the country with or without inspection.

47. Additionally, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during "the removal period," which is defined as the 90-day period beginning on "the latest" of either the "date the order of removal becomes administratively final;" if the removal order is "judicially reviewed and if a court orders a stay of removal of the [noncitizen], the date of the court's final order;" or if the noncitizen is "detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement."

48. However, beginning in 2022, the Immigration Court in Tacoma, Washington began to misclassify § 1226 detainees arrested inside the U.S. as mandatory detainees under § 1225 solely because they initially entered the country without inspection. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1244 (W.D. Wash. 2025). The U.S. District Court for the Western District of Washington ruled that this practice was likely illegal and ordered a bond hearing for a wrongfully detained litigant. *See id.* at 1263.

49. On July 8, 2025, the Department of Homeland Security and the Department of Justice adopted the Tacoma Immigration Court's unlawful practice of misclassifying bond-eligible § 1226 detainees as mandatory § 1225(b)(2) detainees and refuses to conduct bond hearings on that basis. *See* Interim Guidance Regarding Detention Authority for Applicants for Admission, https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

50. On September 5, 2025, the Board of Immigration Appeals issued a precedential decision requiring Immigration Judges to misclassify bond-eligible § 1226 detainees as mandatory § 1225(b)(2) detainees. *See Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025).

51. Most federal courts have already ruled that the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado* is not entitled to any deference under

Loper Bright Enters. v. Raimondo, 603 U.S. 369, 412-13 (2024), and have rejected the BIA's decision as contrary to law.[1]

52. Every day, federal courts continue to "join[] [the] chorus" of courts rejecting Respondents' erroneous interpretation of the law, unlawfully detaining bond-eligible noncitizens like Ms. Rosas Huerta. *See Dominguez Sanchez v. Bondi,* No. 25-cv-03682 (D. Minn. Oct. 1, 2025).[2]

53. The Fifth and Eighth Circuits have recently rejected Petitioner's statutory arguments, but have left the door open for procedural due process claims. *Buenrostro-Mendez v. Bondi,* --F.4th --, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026); *Avila v. Bondi*, No. 25-3248, 2026 LX 118293 (8th Cir. Mar. 25, 2026). In fact, multiple Courts within the Fifth and Eighth Circuits have since issued decisions granting similarly-situated habeas petitions based on due process reasoning. *See Hassen v. Noem,*

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[1] Over 250 courts have adopted Petitioner's correct interpretation of the law. The following cases represent a small sampling of cases across the country. *See Lema Zamora v. Noem,* 2025 WL 2958879 (D. Mass. Oct. 17, 2025); *Chiliquinga Yumbillo v. Stamper,* 2025 WL 2783642 (D. Me. Sept. 30, 2025); *Da Saliva v. ICE,* 2025 WL 2778083 (D.N.H. Sept. 29, 2025); *Ayala Casun v. Hyde,* 2025 WL 2806769 (D.R.I. Oct. 2, 2025); *Carballo Gonzalez v. Joyce,* 2025 WL 2961626 (S.D.N.Y. Oct. 19, 2025); *Artiga v. Genalo,* 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025); *Rivera Zumba v. Bondi,* 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Leal-Hernandez v. Noem,* 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Singh v. Lyons,* 2025 WL 2932635 (E.D. Va. Oct. 14, 2025); *Lopez Santos v. Noem,* 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Lopez Arevalo v. Ripa,* 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Buenrostro Mendez v. Bondi,* 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Singh v. Lewis,* 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Contreras Lomeli v. Raycraft,* 2025 WL 2976739 (E.D. Mich. Oct. 21, 2025); *Sanchez Alvarez v. Noem,* 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025); *Morales Chavez v. Director,* 2025 WL 2959617 (N.D. Ohio Oct, 20, 2025); *Patel v. Crowley,* 2025 WL 2996787 (N.D. Ill. Oct. 24, 2025); *Campos Leon v. Forestal,* 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025); *Hernandez Marcelo v. Trump,* (S.D. Iowa Sept. 10, 2025); *A.A. v. Olson*, 2025 WL 2866729 (D. Minn. October 8, 2025); *Lorenzo Perez v. Kramer,* 2025 WL 2624387 (D. Neb. Sept. 11, 2025); *Echevarria v. Bondi,* 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); *Sabi Polo v. Chestnut,* 2025 WL 2959346 (E.D. Cal. Oct. 17, 2025); *Garcia Cortes v. Noem,* 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Salazar v. Dedos,* 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Paredes Padilla v. Galovich,* 2025 WL 3251446 (W.D. Wis. Nov. 21, 2025).

[2] *Id.*

3:26-cv-00048-DB (W.D. Tex. Feb. 9, 2026) ("The Court reiterates its original holding that noncitizens who have "established connections" in the United States by virtue of living in the country for a substantial period acquire a liberty interest in being free from government detention without due process of law.") (quoting *Dept. of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020)); *Cumbe Lema v. De Anda-Ybarra,* 3:26-cv-00249-KC (W.D. Tex. Feb. 9, 2026) (denying the statutory claim in a habeas petition, but granting the petition on constitutional due process grounds); *Chourio Herrera v. Bondi,* 26-cv-01895-JMG-DLM (D. Minn. March 25, 2026) (acknowledging precedent in the Eighth Circuit but finding offensive due process violations and granting the immediate release of Petitioner); *Nabijon N. v. Mullin*, No. 26-cv-2469 (LMP/LIB) (D. Minn. June 18, 2026).

54. Regarding Petitioner's status as a DACA recipient for many years, she has been considered "lawfully present" in the U.S. 8 C.F.R. § 236.21(c)(3) while under valid DACA. DACA provides deferred action to recipients, which is "a form of enforcement discretion not to pursue the removal of certain aliens for a limited period in the interest of ordering enforcement priorities in light of limitations on available resources, taking into account humanitarian considerations and administrative convenience." 8 C.F.R. § 236.21(c)(1).

55. In 2022, DHS promulgated a final rule codifying DACA's structure, adjudicative standards, collateral consequences, and termination procedure. *Deferred Action for Childhood Arrivals*, 87 Fed. Reg. 53,152 (Aug. 30, 2022) (codified at 8 C.F.R. §§ 236.21–236.23). The rule defines deferred action as "a form of enforcement discretion

not to pursue the removal of certain [noncitizens]," or a "temporary forbearance from removal." 8 C.F.R. § 236.21(c)(1).

56. DACA eligibility is also extended to noncitizens who have been ordered removed: "A voluntary departure order or a final order of exclusion, deportation, or removal is not a bar to requesting Deferred Action for Childhood Arrivals." 8 C.F.R. § 236.23(a)(2). In other words, a grant of DACA stays the removal of the beneficiary for the validity of the DACA period.

57. The regulations also lay out specific procedures by which DACA may be terminated. 8 C.F.R. § 236.23(d). First, DHS sub-agency USCIS has exclusive jurisdiction to consider applications for DACA, and USCIS alone may terminate DACA. 8 C.F.R. §§ 236.23(a)(2), (d). A grant of DACA may be terminated by USCIS anytime at its discretion. USCIS must provide a Notice of Intent to Terminate and provide an opportunity for response. 8 C.F.R. § 236.23(d). In very limited circumstances—none of which apply here—USCIS is not required to provide a Notice of Intent to Terminate and opportunity to respond if the recipient is convicted of a national security-related offense or an egregious public safety offense. *Id.*

58. The structured, uniform, and repeated vetting of DACA recipients creates predictable, government-induced expectations that recipients reasonably rely upon.

59. Aside from Petitioner's many years receiving DACA, Petitioner's due process rights have been undeniably violated in her detention by ICE. The procedural due process guarantee of the Fifth Amendment requires that individuals be provided notice

and an opportunity to be heard before being deprived of liberty or property interests. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).

60. One of the first inquiries in any case of violation of procedural due process is whether the plaintiff has a protected property or liberty interest and, if so, the extent or scope of that interest. *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 569–70 (1972). Reliance on government policies and assurances may give rise to protected expectations under the Due Process Clause. *Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972).

61. Under the *Eldrige* Due Process test, the government's decision to arrest Ms. Rosas Huerta without any notice or an opportunity to respond, and continue to detain her without an opportunity to meaningfully challenge that detention, clearly violates her procedural due process rights.

62. First, Ms. Rosas Huerta has a private interest in being free from physical detention—one of the most fundamental liberty interests recognized by the Constitution. *See Zadvydas,* 533 U.S. at 690. Courts have repeatedly recognized that civil immigration detention imposes severe restrictions comparable to penal incarceration. The deprivation of liberty here is therefore profound and demands robust procedural protections.

63. Second, the risk of erroneous deprivation is severe. Petitioner has not been provided any meaningful opportunity to challenge the basis of her detention, and has categorically been denied access to a bond hearing. Had she have been provided process, she would have had the opportunity to present the facts about her arrest and challenge it, however, she is unable to do so as an Immigration Judge would decline to hold any

hearing based on a finding of a lack of jurisdiction, not based on individualized findings, but on a blanket interpretation that would foreclose review altogether.

64. This combination of factors creates an extreme risk of erroneous deprivation. Without a hearing, Petitioner has no ability to demonstrate that her detention is unlawful or that she is neither a flight risk nor a danger to the community, despite substantial evidence supporting release. Such a hearing would allow for adversarial testing of the government's justification and ensure that detention remains tied to its lawful purposes.

65. Third, the government's interest in ensuring appearance at removal proceedings and protecting the community is legitimate, but those interests do not justify ignoring the law and regulations through operations that simply ensure mass detention with no individualized considerations. Accordingly, the government's interests can be fully served through individualized procedures, without resorting to categorical detention.

66. At its core, due process requires a "meaningful opportunity to be heard at a meaningful time." *Mathews*, 424 U.S. at 333. Petitioner has been afforded neither.

50. She has not received a meaningful opportunity to challenge the basis of her arrest, the legality of her detention, or the necessity of continued confinement.

67. The denial of any forum in which to contest detention renders the process constitutionally deficient. Because the current scheme provides no meaningful opportunity to be heard, Petitioner's detention violates the Due Process Clause. Therefore, habeas relief is warranted.

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Substantive Due Process

69. The allegations in the above paragraphs are realleged and incorporated herein.

69. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Freedom from physical restraint "lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas*, 533 U.S. at 690.

65. Detention of a person with a valid, unrevoked grant of DACA violates the Fifth Amendment's protection of liberty.

70. To comply with the Due Process Clause, detention must always bear "some reasonable relation to the purpose for which the individual was committed." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Brown v. Taylor*, 911 F.3d 235, 243 (5th Cir. 2018).

71. Here, Ms. Rosas Huerta's detention is not reasonably related to its purpose. As someone with a pending DACA renewal, years of valid DACA grants that have never been revoked, he cannot be removed from the U.S. and he is deemed lawfully present.

72. Ms. Rosas Huerta' continued detention is unrelated to its purpose, as her DACA grant bars her removal. Thus, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
Violation of the Administrative Procedure Act

73. The allegations in the above paragraphs are realleged and incorporated herein.

74. The Administrative Procedure Act provides that courts "shall . . . hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," or is "unsupported by substantial evidence." 5 U.S.C. §§ 706(2)(A), (E).

75. As a DACA recipient of many years, Ms. Rosas Huerta has been lawfully present under 8 C.F.R. § 236.21(c)(3).

76. Detaining Ms. Rosas Huerta despite her previous valid grants of DACA and pending renewal; despite her long-standing ties to the United States; and despite no changed circumstances is arbitrary and capricious, an abuse of discretion, and unsupported by substantial evidence.

77. For these reasons, Petitioner's detention is therefore unlawful.

COUNT THREE
8 U.S.C. § 1226(a) and Implementing Regulations

78. The allegations in the above paragraphs are realleged and incorporated herein.

79. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

80. Under 8 U.S.C. § 1226(a) and its associated regulations, Petitioner is entitled to bond, and any bond determination would be denied solely based on a purported lack of jurisdiction by the immigration court. *See* 8 C.F.R. §§ 236.1(d), 1236.1, 1003.19(a)-(f); *see also Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025).

81. For these reasons, Petitioner's detention is therefore unlawful.

COUNT FOUR
Violation of the *Accardi* Doctrine Regarding 8 C.F.R. § 236.23(d)

82. The allegations in the above paragraphs are realleged and incorporated herein.

83. Under the *Accardi* doctrine, the government and its agencies are required to follow their own binding rules. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). Where a regulation governing agency behavior has been promulgated, citizens and noncitizens alike are entitled to "that due process required by the regulations." *Id.* at 268.

84. In the present case, DHS's own regulations recognize that recipients are "lawfully present" for all relevant purposes. 8 C.F.R. § 236.21(c)(3). And relevant regulations enumerate a specific process by which DACA may be terminated. *See* 8 C.F.R. § 236.23(d). That process requires, as relevant here, that USCIS issue a Notice of Intent to Terminate DACA and an opportunity to respond prior to termination. 8 C.F.R. § 236.23(d)(1).

85. Here, Ms. Rosas Huerta has not received a Notice of Intent to Terminate her DACA or a denial of her DACA renewal from USCIS and will thus lawfully present once it is approved.

86. Petitioner's detention is therefore unlawful.

COUNT FIVE
Violation of Fifth Amendment Right to Procedural Due Process

87. The allegations in the above paragraphs are realleged and incorporated herein.

88. The procedural due process guarantee of the Fifth Amendment requires that individuals be provided notice and an opportunity to be heard before being deprived of liberty or property interests. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).

89. One of the first inquiries in any case of violation of procedural due process is whether the plaintiff has a protected property or liberty interest and, if so, the extent or scope of that interest. *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 569–70 (1972). Reliance on government policies and assurances may give rise to protected expectations under the Due Process Clause. *Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972).

90. Here, Ms. Rosas Huerta reasonably relied on government assurances—made explicit through innumerable public statements—that DACA provides some protection from arrest, detention, and removal for those who follow the rules, and allows its recipients to establish stable lives in the United States. This reliance has created a legally protectable liberty interest.

91. Under the *Eldrige* Due Process test, the government's decision to arrest Ms. Rosas Huerta without any notice or an opportunity to respond, and continue to detain her without an opportunity to meaningfully challenge that detention, clearly violates her procedural due process rights. First, Ms. Rosas Huerta has a substantial, legally protectable liberty interest, created by her reliance on government DACA policies and associated assurances. Second, the risk of erroneously depriving Ms. Rosas Huerta of that

interest is severe, as she is separated from her family, home, community, and work indefinitely, and has been thrown into sudden instability. She has been afforded absolutely no process, let alone constitutionally sufficient process, prior to or since this deprivation, making the value of additional process high. *See Eldridge*, 424 U.S. at 343. She also runs the risk of losing her opportunity to be granted her DACA renewal altogether, as DACA cannot be approved by USCIS while the applicant is in immigration custody. Third, the government's interest in detaining Ms. Rosas Huerta is minimal. Ms. Rosas Huerta cannot be deported once her DACA renewal is approved and she does not present any flight risk or danger: she has been a continuous resident in the United States since childhood, has obvious and strong ties to the United States, and has gone through semiannual vetting processes for over a decade to renew her DACA. Her detention is thus not rationally related to any purpose. And, additional process would entail little to no burden on the government, especially in light of the process the government must already follow to terminate DACA per 8 C.F.R. § 263.23(d). *See Eldridge*, 424 U.S. at 347.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(3) Prohibit Petitioner's removal from the United States during the pendency of this action;

(4) Declare Petitioner's arrest and continued detention violate the Fifth Amendment of the U.S. Constitution; 8 U.S.C. § 1226; The Administrative Procedure Act; and the *Accardi* doctrine as to 8 C.F.R. § 236.23(d) as a DACA recipient under 8 C.F.R. § 236.21(c)(3);

(5) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner;

(6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Dated: June 24, 2026

/s/ *Paschal O. Nwokocha*
PASCHAL O. NWOKOCHA, ESQ.
Counsel for Petitioner
MN 269797

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Petra Rosas Huerta, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 24th day of June, 2026.

s/ *Paschal O. Nwokocha*
Attorney for Petitioner