Tania D. Narciso (CA SBN #318280)
tania@hopelawpc.com
Hope Law Office of Tania Dominguez, PC
1650 Oregon St. Suite 104
Redding, CA 96001
Telephone: (530) 291-1787
Facsimile: (530) 206-5471

Attorney for Petitioner Mirlena Jasmin Figueroa

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

Mirlena Jasmin Figueroa,

Petitioner-Plaintiff,

v.

CHRISTOPHER CHESTNUT, Warden, California City Detention Facility; SERGIO ALBARRAN, Acting Field Office Director, U.S. Immigration and Customs Enforcement San Francisco; TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security; and MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security,

Respondents-Defendants.

No. 26-2751

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Mirlena Jasmin Figueroa ("Petitioner") has been living in the United States since on or about April 12, 1989 and has been a Lawful Permanent Resident since on or about July 23, 2004. Petitioner has five U.S. Citizen children and is currently pregnant with her sixth child.

2. Petitioner was detained by DHS Immigration and Customs Enforcement (ICE) on or about February 24, 2019. She was served with a Notice to Appear on March 19, 2019, released on her own recognizance and placed in removal proceedings. Petitioner complied with all requirements of the Immigration Court.

3. On March 3, 2026, Petitioner was re-detained by DHS Immigration and Customs Enforcement (ICE) in Las Vegas, Nevada. Petitioner's detention does not stem from any new criminal convictions. On April 9, 2026, Petitioner had a medical visit while in custody and discovered that she was pregnant. At the time, she was less than 18 weeks pregnant.

4. Petitioner has a high-risk pregnancy and struggles with bipolar disorder with psychotic features. *See* Ex. 1, Inmate Condensed Chart Report. In 2020, Petitioner had a lung removed after complications from Sepsis and COVID-19. As a result, Petitioner was left with one working lung. As her pregnancy advances, it's becoming very difficult for her to breath. The environment she has been placed in lacks adequate safeguards for her physical and mental health.

5. Detaining Petitioner while pregnant violates ICE's own directive instructing its agency that pregnant individuals should not be detained absent extraordinary

circumstances.

6. Furthermore, the Constitution protects Petitioner—and every other person present in this country—from arbitrary deprivations of liberty, prolonged detention, and guarantees due process of law. The government's power over immigration is broad, but as the Supreme Court has declared, it "is subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be released, without any bond requirement, and for declaratory and injunctive relief to prevent such harms from recurring.[1] Petitioner also asks this Court to find that Respondents' attempts to detain, transfer, and deport her are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing her transfer out of this district.

JURISDICTION

8. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101, *et seq.*

9. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and 28 U.S.C. § 1346 (U.S. as defendant), and 28 U.S.C. § 1651 (All Writs Act).

[1] Or any other relief this Court seems appropriate.

10. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (same); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *3 (D. Or. July 9, 2025) (same); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *7 (E.D. Cal. Aug. 21, 2025) (same).

11. 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.*, the All Writs Act, 28 U.S.C. § 1651, and the Court's inherent equitable powers.

VENUE

12. Venue is proper because Petitioner is in Respondents' legal and physical custody at California City. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondents' legal and physical custody, including her current and ongoing detention under the legal and physical custody of Respondent Chestnut, Facility Administrator of California City. 28 U.S.C. § 1391(e); *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) (habeas petition must be addressed to the federal district court of confinement); *Dighero-Castaneda v. Napolitano*, No. 2:12-CV-2367 DAD, 2013 WL 1091230, at *2 (E.D. Cal. Mar. 15, 2013) (finding venue proper where the petitioner is detained within this District).

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

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to the Respondents "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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.*

14. 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).

15. Petitioner is "in custody" for the purpose of 28 U.S.C. section 2241 because she was arrested by Respondents and remains in their legal and physical custody at California City. She is under Respondents' and their agents' direct control.

PARTIES

16. Petitioner is a 39-year-old citizen of El Salvador. She first arrived in the U.S. on or about February 1989 and became a Lawful Permanent Resident on or about June 23, 2004. Petitioner is currently residing in Respondents' legal and physical custody at California City as of the time of the filing of this petition. *See* **Exhibit 1**, ICE Detainee Locator dated July 10, 2026.

17. Respondent Christopher Chestnut ("Chestnut") is the Facility Administrator at California City, where Petitioner is detained. Chestnut is responsible for the day-to-day operations and confinement of non-citizens detained at that facility. Chestnut acts at the

direction of Respondents Albarran, Lyons, and Noem. Chestnut is a custodian of Petitioner and is named in their official capacity.

18. Respondent Sergio Albarran ("Albarran") is the Field Office Director of ICE in San Francisco, California. He acts at the direction of Respondents Lyons and Noem. ICE is responsible for local custody decisions relating to non-citizens charged with being removable from the U.S., including the arrest, detention, custody status, and removal of non-citizens. The San Francisco Field Office's area of responsibility includes California City in Kern County, California. Respondent Albarran is a custodian of Petitioner and is named in his official capacity.

19. Respondent Todd Lyons ("Lyons") is the Acting Director of US ICE, and he has authority over the actions of Respondents Chestnut and Albarran. ICE is responsible for local custody decisions relating to non-citizens charged with being removable from the U.S., including the arrest, detention, custody status, and removal of non-citizens. Respondent Lyons is a custodian of Petitioner and is named in his official capacity.

20. Respondent Markwayne Mullin ("Mullin") is the Secretary of DHS and has authority over the actions of all other DHS Respondents in this case, as well as all operations and federal agencies of DHS, including ICE. In his capacity as Secretary of DHS, Respondent Mullin is charged with faithfully administering the immigration and naturalization laws of the United States. 8 U.S.C. § 1103(a). Respondent Mullin is a custodian of Petitioner and is named in his official capacity.

21. Respondent ICE is responsible for local custody decisions relating to non-citizens charged with being removable from the U.S., including the arrest, detention,

custody status, and removal of non-citizens.

22. Respondent DHS is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

23. This action is commenced against Respondents Chestnut, Albarran, Lyons, and Mullin (collectively, "Respondents") all in their official capacities.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

24. Administrative exhaustion is not required where "...administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (quoting *S.E.C. v. G.C. George Sec., Inc.*, 637 F.2d 685, 688 (9th Cir.1981)). Here, Petitioner remains in custody of California City Detention Facility and was not given an individualized pre-deprivation hearing prior to being detained.

25. Furthermore, per ICE directive for pregnant women, Petitioner's release is not prohibited by law nor are there exceptional circumstances that exists that would require Petitioner's continued detention. Administration exhaustion is not required here where the correct remedy is immediate release. Therefore, a writ of habeas corpus is the sole avenue to vindicate Petitioner's constitutional, statutory, and regulatory rights and restore

FACTUAL BACKGROUND

26. Petitioner is a married 39-year-old citizen of El Salvador. She entered the United States on or about April 12, 1989, at or near San Ysidro, California. She was

granted lawful permanent resident status on or about June 23, 2004. Petitioner is married to a U.S. Citizen and has five U.S. Citizen children. Petitioner is currently pregnancy with her sixth child and suffers from bipolar disorder. **Exhibit. 2**, Inmate Condensed Chart Report

27. Petitioner was detained by DHS Immigration and Customs Enforcement (ICE) on or about February 24, 2019. She was served with a Notice to Appear on March 19, 2019 and placed in removal proceedings. **Exhibit. 3**, NTA dated March 19, 2019. Petitioner was released on her own recognizance from ICE custody on March 19, 2019.

28. Petitioner has been the victim [redacted] Prior to being detained, Petitioner was working on preparing a T nonimmigrant visa as part of her removal defense. Petitioner has the following criminal history: On April 28, 2009, Petitioner was convicted in the Justice Court, Las Vegas, Nevada for the offense of DUI. On June 7, 2010, Petitioner was convicted in the Justice Court, Las Vegas, Nevada for the offense Of Petit Larceny, in violation of Nevada Revised Statutes 205.240.

29. On May 30, 2012 Petitioner was convicted in the Justice Court, Las Vegas, Nevada for the 2nd offense of DTJl. On October 31, 2012, Petitioner was convicted in the Justice Court, Las Vegas, Nevada for the offense of Petit Larceny, in violation of Nevada Revised Statutes 205.240. On January 8, 2013, Petitioner was convicted in the Municipal Court, Henderson, Nevada for the offense of Petit Larceny, in violation of Nevada Revised Statutes 205.240. On March 18, 2013, Petitioner was convicted in the Municipal Court, Las Vegas, Nevada for the offense of Unlawful Use/Possession of Drug

Paraphernalia. On August 22, 2013, Petitioner was convicted in the Justice Court, Las Vegas, Nevada for the offense of Solicit/Engage in Prostitution, in violation of Nevada Revised Statutes 12.08.020.

30. On August 26, 2013, Petitioner was convicted in the Justice Court, Las Vegas, Nevada for the offense of Possession Drug not for interstate commerce. On June 4, 2014, Petitioner was convicted in the Justice Court, Las Vegas, Nevada for the offense of Solicit/Engage in Prostitution, In violation of Nevada Revised Statutes 12.08.020. On August 31, 2015, Petitioner was convicted in the Justice Court, Las Vegas, Nevada for the offense of Possession of drug not for interstate commerce. On February 24, 2019, Petitioner was arrested and charged by the Las Vegas Metropolitan Police Department for Possession/Receiving/Transfer Stolen Vehicle. On or about March 2, 2026, Petitioner was arrested for drug possession and possession of others credit card, but has no conviction.

31. Petitioner stated that she was going to be released no charges but on March 3, 2026, the Henderson Detention Center notified the Enforcement Removal Office in Las Vegas of the Immigration Detainer for Petitioner of her release. On March 3, 2026, Petitioner was re-detained by DHS Immigration and Customs Enforcement (ICE) in Las Vegas, Nevada. After being detained, Petitioner found out that she was is pregnant with her sixth child. All five of her previous pregnancies resulted in C-Sections. In addition, Petitioner underwent a major surgical procedure in 2020 to remove a lung, leaving her with a single functional lung. As her pregnancy progresses, she's been having difficulty breathing. Petitioner also suffers from bipolar disorder and takes medication. As a result of her medical conditions, Petitioner has a high-risk pregnancy.

32. On April 7, 2026, Petitioner was transported from the Henderson Immigration Detention Facility to California City Detention Facility where she is currently being detained. During her transfer to California City, Petitioner's hands and feet were restrained, despite her pregnancy. She was forced to walk with her legs and hands shackled. During the three-hour long drive to California City, Petitioner's hands remained restrained.

33. Petitioner is approximately five months pregnant and has received grossly inadequate obstetric care in ICE detention. For instance, the facility has only facilitated one visit to an outside care facility and she's only had one ultrasound since being detained. The medical staff at the facility has not facilitated prenatal examinations, necessary bloodwork, and other monitoring associated with basic obstetric care.

LEGAL FRAMEWORK

34. The Administrative Procedure Act ("APA) imposes limits on executive branch agencies to ensure complies with the laws and Constitution. It requires that Courts "shall hold unlawful and set aside agency action…found to be…arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law." APA § 10(e); 5 U.S.C. § 706(2)(A). Pursuant to the *Accardi* doctrine, an administrative agency is required to adhere to its own internal operating procedures that affect the fundamental rights of individuals., even self-imposed policies and processes that limit otherwise discretionary decisions. *See United States ex. rel. v. Accardi v. Shaughnessy*, 347 U.S. 260, 226 (1954); *Church of Scientology of Cal. V. United* States, 920 F2d 1481, 1487 (9th Cir 1990). This doctrine extends beyond formal regulations. *Alcaraz v. I.N.S.*, 384 F.3d 1150, 1162 (9th

Cir. 2004).

35. Furthermore, the U.S. Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533 U.S. at 693). "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 at 690. Even "[i]n the context of immigration detention, it is well-settled that due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Hernandez*, 872 F.3d at 990 (internal quotations omitted).

36. Due process rights are both substantive and procedural. Substantive due process requires that all forms of civil detention bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690-92; *see also Demore*, 538 U.S. at 519-520, 527-28, 531. Petitioner also has a due process interest of remaining free from prolonged detention.

37. Procedural due process requires adequate procedural safeguards *before* the deprivation of liberty. *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (noting the pre-liberty deprivation hearing is a Constitutional requirement). This is so even in cases where

freedom is lawfully revocable. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997) (noting that as part of the liberty protected by the Due Process Clause, a weighty liberty interest exists); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context)

38. To guarantee against arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (citation modified).

39. Due process thus guarantees notice and an individualized hearing before a neutral decisionmaker to assess danger or flight risk. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) ("The fundamental requisite of due process of law is the opportunity to be heard . . . at a meaningful time in a meaningful manner.") (citation modified). Thus, the failure to provide notice and opportunity to be heard creates irreparable harm. *See Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)) ("It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'").

40. Due process principles compel Petitioner's immediate release from detention at California City. Civil immigration detention is not meant to be punitive. *See Zadvydas*, 533 U.S. at 690-92; *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1036 (N.D. Cal. 2025) ("Detention for its own sake, to meet an administrative quota, or because the government has not yet established constitutionally required pre-detention procedures is not a legitimate government interest."). Yet, Respondents did not afford Petitioner, who

has lived in the U.S. for over 37 years, due process.

41. The Supreme Court has long held that a continuously present Lawful Permanent Resident has a right to due process. *Landon v. Plasencia,* 459 U.S. 21, 31-32 (1982). Here, Petitioner has been a Lawful Permanent Resident for over 22 years and has never abandoned her LPR status. As a continuously present lawful permanent resident, she has a right to due process and a liberty interest from being detained.

42. Petitioner has an interest in her liberty during the pendency of her removal proceedings. Although Petitioner is entitled to the procedural protections afford to her during removal proceedings, those processes only protect her right to remain in this country. They do not protect her interest in her liberty during the pendency of her removal proceedings.

43. Accordingly, Petitioner is entitled due process protections as an LPR who has been continuously present in the United States.

CAUSES OF ACTION

COUNT ONE

The *Accardi* Doctrine Require Respondent to Follow Their Promulgated Guidance

44. Under the APA, it is unlawful, capricious and abuse of discretion if agencies do not comply with the laws and Constitution. APA § 10(e); 5 U.S.C. § 706(2)(A). Furthermore, the *Accardi* doctrine requires administrative agencies to adhere to its own internal operating procedures that affect the fundamental rights of individuals. *United States ex. rel. Accardi*, 347 U.S. at 226. ICE has created a policy directive instructing that pregnant individual should not be detained unless released is prohibited by law or

exceptional circumstances exist. ICE Directive 11032.4, *Identification and Monitoring of Pregnant, Postpartum, or Nursing Individuals* (July 1, 2024), https://www.ice.gov/directive-identification-and-monitoring-pregnant-postpartum-or-nursing-individuals. Exceptional circumstances exist only in the following circumstances: (1) the individual poses national security concerns; or (2) the individual poses an imminent risk of death, violence, or physical harm to any individual. *Id.* at 3.4. It further prohibits the use of restraints absent "extraordinary circumstances." *Id.*

45. Petitioner's detention violates ICE's own policy and thus is unlawful. The only remedy for this violation would be immediate release, which she respectfully requests. Furthermore, Petitioner's release is not prohibited by law, and no exceptional circumstances exist as she does not post a concern to national security nor does she post an imminent risk of death, violence, or physical harm to any individual.

46. Petitioner only has one functioning lung, making it difficult for her to breath as her pregnancy progresses. Detention officials are aware that Petitioner is pregnant and that her health is deteriorating, yet they have failed to release her. This poses an immense harm on the wellbeing of Petitioner and her unborn child.

47. Furthermore, restraining Petitioner during her transport to California City Detention Facility is a flagrant violation of ICE's own directive and runs afoul to the *Accardi* doctrine. There were no extraordinary circumstances that warranted shackling her from her hands and feet while being transported to another facility. Therefore, according to ICE's own directive, detaining Petitioner is a violation of its own policies and regulations.

COUNT TWO

Violation of Fifth Amendment Right to Due Process: U.S. Const. Amend. V. Substantive Due Process

48. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

49. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). Even if the initial decision to release a non-citizen on from DHS custody is discretionary, "...after that individual is released from custody she has a protected liberty interest in remaining out of custody." *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *7 (E.D. Cal. Aug. 21, 2025) (quoting *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025)).

50. Petitioner has a vital liberty interest in remaining free from DHS custody. *See Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *4 (N.D. Cal. July 24, 2025) (citing *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025) (explaining that a non-citizen that ICE released from custody after initial apprehension "has a substantial private interest in remaining out of custody" which includes an interest in "...obtaining necessary medical care, [and] maintaining her relationships in the community..."). Petitioner was detained by ICE on February 24, 2019 and placed in removal proceedings. Petitioner was released on her own recognizance on

March 19, 2019. Petitioner was re-detained on March 3, 2026 by ICE and has been held in DHS custody ever since. Petitioner has a liberty interest of being released as she was not provided with notice and an individualized hearing before a neutral decisionmaker to assess danger or flight risk. *See generally Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest).

51. Furthermore, Petitioner has been subjected to prolonged detention and should be entitled relief under the Fifth Amendment's substantive due process clause. Courts have conducted a case-by-case analysis and applied a five-factor test to determine whether an immigration detainee is subject to prolonged detention. The test determines (1) the length of detention and whether it is excessive to its regulatory purpose; (2) the government's contribution to any delay; (3) the evidence supporting the determination that detention is warranted to prevent flight risk or community danger; (4) whether the government interests in ensuring appearance at future proceedings and protecting the community could be protected through alternatives to detention that are less harsh; and (5) the conditions of detention and how they compare to conditions under which pretrial criminal detainees or people convicted of crimes are held. *Doe v. Chestnut*, 810 F. Supp 3d 1169 (E.D. Cal. 2025).

52. **Length of Detention:** There is no bright-line rule on what Courts consider prolonged detention, but for every specific circumstance, due process does impose some limit. *United States v. Briggs*, 697 F.3d 98, 103 (2d Cir. 2012). Here, Petitioner has been detained since March 3, 2026. Petitioner is about five months pregnant and has only had

one ultrasound since being detained. Furthermore, Petitioner has a high-risk pregnancy with five previous C-sections and currently has one functioning lung. Based on her specific circumstances, Petitioner has been detained an excessive amount of time given the government's regulatory purpose.

53. **Government's Contribution to any delay:** Petitioner was detained on March 3, 2026 and had her first immigration court hearing on or about March 16, 2026. On April 7, 2026, she was transported from the Henderson Immigration Detention Facility to California City Detention Facility where she is currently being detained. She's had two more immigration court hearings on May 20, 2026 and June 16, 2026. On May 20, 2026, the immigration court conducted a judicial competency inquiry given her bipolar disorder diagnosis and continued the case to allow Petitioner to seek counsel. On June 16, 2026, Petitioner's Counsel requested additional attorney preparation time as she had just been retained by Petitioner. Various delays in Petitioner's immigration proceedings have contributed to the duration of her detention. Some of these delays are attributable to Petitioner, the government, and the fact that proceedings take time.

54. **Flight Risk and Dangerousness:** To comply with substantive due process, the government's deprivation of an individual's liberty must be justified by a sufficient purpose. Therefore, immigration detention, which is "civil, not criminal," and "nonpunitive in purpose and effect," must be justified by either (1) dangerousness or (2) flight risk. *Zadvydas*, 533 U.S. at 690; *see Hernandez*, 872 F.3d at 994 ("[T]he government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future immigration

proceedings can be reasonably ensured by a lesser bond or alternative conditions."). When these rationales are absent, immigration detention serves no legitimate government purpose and becomes impermissibly punitive, violating a person's substantive due process rights. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (detention must have a "reasonable relation" to the government's interests in preventing flight and danger); *see also Mahdawi v. Trump*, No. 2:25- CV-389, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2025) (ordering release from custody after finding petitioner may "succeed on his Fifth Amendment claim if he demonstrates either that the government acted with a punitive purpose or that it lacks any legitimate reason to detain him").

55. As to flight risk, the question is whether custody is reasonably necessary to secure a person's appearance at immigration court hearings and related check-ins. *See Hernandez*, 872 F.3d at 990-91. Here, Petitioner appeared at her immigration court hearings and has complied with all requirements of the Immigration Court. She was arrested on or about March 2, 2026 in Las Vegas then transferred to ICE custody. She has been in ICE detention ever since and has complied with any and all rules and requirements imposed on her since detention. Furthermore, she has substantial ties to the U.S. and has been a Lawful Permanent Resident for over 20 years. There is no reason to believe that she would not comply with appearance at immigration court hearings or related ICE check-ins.

56. As to dangerousness to society, Petitioner does have prior criminal history, but she has complied with all requirements imposed on her. She had no arrests from 2019 until 2026 and has no recent convictions. She has shown rehabilitation and has completed

several AA classes, even while in detention. Furthermore, Respondent suffers from bipolar disorder and has been the victim of sex trafficking by her U.S. Citizen husband.

57. Thus, Petitioner is not a flight risk or a danger to the community and her ongoing detention is unconstitutional, and substantive due process principles require her immediate release.

58. **Alternatives to Detention**: The government's interest in ensuring Petitioner's appearance at future hearings and protecting the community could be accomplished through alternatives to detention that are less harsh. For example, Petitioner is amenable to GPS monitoring through ICE Intensive Supervision Appearance Program (ISAP), a smartphone application, reporting by telephone, ICE check-ins, or any other requirement the Court deems necessary. Petitioner will live with her mother and U.S. Citizen children in Las Vegas, Nevada. Petitioner also has a high-risk pregnancy and has difficulty breathing due to having one functional lung. Petitioner will need bed rest so alternatives to detention are more appropriate for her case.

59. **Conditions of Detention**: Petitioner was first held at the Henderson Detention Center then transferred to California City Detention Facility where she is currently being detained. ICE's Directive 11032.4 restricts the use of restraints for pregnant women during transport, in detention facility, or at an outside medical facility. However, during her transfer to California City, Petitioner was restrained from both hands and feet.

60. Furthermore, Petitioner suffers from bipolar disorder and is approximately

five months pregnant with a high-risk pregnancy. Petitioner also has one functioning lung which causes her difficulty breathing as her pregnancy progresses. Petitioner requires adequate physical and mental health care that the detention facility cannot provide. Petitioner has only received one ultrasound since being detained by ICE. She has only seen the general facility doctor and not an OB/GYN. Several lawsuits have been filed against California City Detention Facility over inhumane conditions and inadequate medical care that deprives people of critical treatment. Petitioner declares that she is not receiving adequate medical treatment for her pregnancy given the high risk it poses.

COUNT THREE

Violation of Fifth Amendment Right to Due Process: U.S. Const. Amend. V. Procedural Due Process

61. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

62. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Supreme Court "usually has held that the Constitution requires some kind of a hearing before the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990).

63. Petitioner has a fundamental interest in liberty and being free from official restraint. Once a protected liberty interest has been established, such as here, courts in this circuit apply the *Mathews* test to determine what procedural protections are due. *See*

Johnson v. Ryan, 55 F.4th 1167, 1179-80 (9th Cir. 2022) (citing *Mathews v. Eldridge,* 424 U.S. 319, 335 (1976)). Under that test, the court weighs: (1) the private interest affected; (2) the risk of erroneous deprivation and probable value of procedural safeguards; and (3) the government's interest. *Id.*

64. First, when considering the private interest affected, courts look to "the degree of potential deprivation." *Nozzi v. Hous. Auth. Of City of Los Angeles*, 806 F.3d 1178, 1193 (9th Cir. 2015) (citing *Mathews*, 424 U.S. at 341). In this case, the degree of potential deprivation is profound because Petitioner has a high risk pregnancy. It also deprives her of her freedom as she was not given an opportunity to contest her re-detention before a neutral decision maker prior to being detained. Therefore, Petitioner has a substantial private interest in being out of custody and her detention denies her of that liberty. *Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that [the Due Process] Clause protects.").

65. Furthermore, because the private interest in freedom from immigration detention is substantial, due process also requires that in cases like this one, the government bears the burden of proving "by clear and convincing evidence that the [noncitizen] is a flight risk or danger to the community." *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011); *see Martinez v. Clark*, 124 F.4th 775, 785-86 (9th Cir. 2024)(holding that government properly bore burden by clear and convincing evidence in court-ordered bond hearing); *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 WL 691664, at *8 (E.D. Cal. Mar. 3, 2025)(ordering pre-deprivation bond hearing in which

government bears burden by clear and convincing evidence).

66. Second, the risk of an erroneous deprivation of liberty is high where, here, Petitioner is about five months pregnant and has not received adequate obstetrics care. Petitioner has a high risk pregnancy as this would be her sixth C-section, she only has one functioning lung, and she suffers from bipolar disorder. Her continued detention violates ICE's own directives to release immigrants known to be pregnant absent extraordinary circumstances. Therefore, the risk of erroneous deprivation of liberty is high in this case.

67. Third, the government's interest in detaining Petitioner without first providing notice and submitting a custody hearing is minimal given that she has been a Lawful Permanent Resident for over 22 years. Immigration courts routinely conduct custody hearings, which impose a "minimal" cost to the government. *See Doe,* 2025 WL 691664, at *6; *A.E.*, 2025 WL 1424382, at *5. Here, Petitioner was re-detained by ICE without notice and without a custody hearing before a neutral arbiter

68. The government's detention of Petitioner without notice or an opportunity to be heard before detention violates her right to due process. The government's detention of Petitioner without a custody redetermination hearing to determine whether she is a flight risk or danger to others violates her right to procedural due process.

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) Issue an Order prohibiting the Respondents from transferring Petitioner outside of the jurisdiction of the ICE Bakersfield Field Office and/or the Eastern District of California pending resolution of this case;

(4) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from DHS custody and enjoin Respondents from re-detaining her unless and until DHS proves to a neutral adjudicator by clear and convincing evidence that Petitioner is a danger or flight risk;

(5) In the alternative, grant any and all relief this Court deems just or proper.

(6) Award Petitioner's counsel reasonable attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law.

Dated: July 10, 2026,

Respectfully Submitted,

/s/ Tania D. Narciso

Tania D. Narciso (CA SBN #318280)
tania@hopelawpc.com
Hope Law Office of Tania Dominguez, PC
1650 Oregon St. Suite 104
Redding, CA 96001
Telephone: (530) 291-1787
Facsimile: (530) 206-5471

Attorney for Petitioner Mirlena Jasmin Figueroa

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

I, Tania D. Narciso, represent Petitioner *Mirlena Jasmin Figueroa* and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petitioner's Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Executed on July 10, 2026, in Redding, California.

/s/ Tania D. Narciso
Tania D. Narciso (CA SBN #318280)
tania@hopelawpc.com
Hope Law Office of Tania Dominguez, PC
1650 Oregon St. Suite 104
Redding, CA 96001
Telephone: (530) 291-1787
Facsimile: (530) 206-5471

Attorney for Petitioner Mirlena Jasmin Figueroa

CERTIFICATE OF SERVICE

I hereby certify that on July 10, 2026, I filed the foregoing Petition for Writ of Habeas Corpus electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

Dated: July 10, 2026

/s/ Tania D. Narciso
Tania D. Narciso (CA SBN #318280)
Attorney for Petitioner