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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CLAUDIA MARIA DE JESUS MONTEJO SANTIAGO,

Petitioner,

vs.

CHRISTOPHER J. LAROSE, Senior Warden of Otay Mesa Detention Center, GREGORY J. ARCHAMBEAULT, Field Officer Director for the San Diego Immigration and Customs Enforcement Office; TODD LYONS, Acting Director of United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of the United States Department of Homeland Security, TODD BLANCHE, Acting Attorney General of the United States, acting in their official capacities,

Respondents.

Case No. '26CV4541 CAB BJW

PETITION FOR WRIT OF HABEAS CORPUS

Challenge to Unlawful Incarceration; Request for Declaratory and Injunctive Relief

ORAL ARGUMENT REQUESTED

PREFACE

This case concerns Ms. Montejo Santiago's ("Petitioner") May 24, 2026, arrest and continued detention by Immigration and Customs Enforcement ("ICE") after her release from ICE custody and admission on about December 25, 2023. Petitioner requests immediate release, and several courts in this district have ruled in favor of similarly situated petitioners on this issue recently, finding detention unlawful, and ordering their immediate release from custody. *See, e.g., de la Cruz v. Christopher LaRose, et al Sayed Naser Noori v. Christopher LaRose, et al.*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *14 (S.D. Cal. Oct. 1, 2025) (holding that revocation of petitioner's parole with no notification or individualized determination violated the APA and denied petitioner his due process rights); *N.A. v. Christopher J. LaRose, et. Al.*, 25-CV-2384-RSH-BLM; 2025 WL --- (S.D. Cal. Oct. 07, 2025). (explaining that the petitioner, who had entered and been granted parole eight months prior, was not subject to mandatory detention as an arriving alien (citing 8 U.S.C. § 1225(b)(1)); *Aquino de la Cruz v. Christopher LaRose, et al.*, No. 25-CV-3770-LL-MSB, at 4 (S.D. Cal. Jan. 9, 2026) (ordering immediate release and holding that petitioner was entitled to notice of the revocation of her parole and a hearing before a neutral decision maker can determine detention); *Parra Mozo v. Jeremy Casey, et. al.*, No. 26-CV-01251-BAS-BLM, at 3 (S.D. Cal. Mar. 16, 2026) (holding petitioner's re-detention without notice and without noticeably changed circumstances violated petitioner's due process rights).

This Court should also rule in favor of Petitioner and order her immediate release.

INTRODUCTION

1. Petitioner Claudia Maria De Jesus Montejo Santiago is a noncitizen who was previously released from immigration custody but then was abruptly re-detained and jailed for no legitimate reason. When they previously released Petitioner from her custody in late December 2025, Respondents necessarily determined that Petitioner was neither a flight risk nor a danger to the community. However, on May 24, 2026, U.S. Immigration and Customs Enforcement (ICE) officials re-detained Petitioner on a military base in National City when Petitioner and her companion made a wrong turn onto the base.

2. Petitioner does not pose a danger to the community, nor does she pose a flight risk; Petitioner has appeared for ongoing removal proceedings and complied with ICE's supervision requirements. However, ICE continues to unlawfully detain Petitioner, separating Petitioner from family and community.

3. ICE provided Petitioner with no pre-deprivation hearing prior to her re-detention in San Diego to determine whether material changes in Petitioner's circumstances warrant her re-detention based on danger to the community or risk of flight.

4. Petitioner's detention violates her right to procedural and substantive Due Process, as it is not justified by a legitimate government purpose. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), Petitioner's fundamental liberty interest far outweighs the government's interest in detaining him, and the risk of error is great where there has been no pre-deprivation process to determine whether Petitioner's loss of liberty is justified. For similar reasons, Petitioner's detention also contravenes the Administrative Procedure Act (APA). Finally, because Respondents failed to contemporaneously provide a justification for Petitioner's re-

detention, Petitioner's re-detention is arbitrary and capricious in violation of the APA.

5. Petitioner's arrest by ICE/ERO occurred on or around May 24, 2026, at the entrance to a military base in National City, San Diego County.

6. After Petitioner's arrest, ICE transferred Petitioner to the Otay Mesa Detention Center in south San Diego, where, to date, she has been in custody for approximately 80 days.

7. Accordingly, Petitioner seeks her release and challenges her detention as a violation of the Due Process Clause of the Fifth Amendment and the APA.

8. Petitioner respectfully requests that this Court issue the Writ of Habeas Corpus commanding Respondents to immediately release her from custody and enjoining Respondents from re-detaining Petitioner without a pre-deprivation hearing before a neutral decision-maker at which Respondents must prove material changes in circumstances justify re-detention. Petitioner seeks that relief under the federal habeas statute, 28 U.S.C. § 2241, which is the proper vehicle for challenging civil immigration detention. *See Doe v. Garland*, 109 F.4th 1188, 1194 (9th Cir. 2024) (noting that a noncitizen's challenge to his present confinement falls within the "core of habeas").

9. As she remains in Respondents' physical and legal custody, Respondents now seek to keep Petitioner detained indefinitely. *See* 8 U.S.C. § 1225. As explained below, Respondents do so based not on her personal or changed circumstances since Respondents released her on her own recognizance, or any individualized facts. Petitioner has complied with all terms of her release by attending court hearings, timely filing for asylum, and remaining law abiding. Her asylum case is pending as she appealed.

10. The United States Constitution protects Petitioner—and every other person

present in this country—from arbitrary deprivations of her liberty and guarantees her 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). Petitioner therefore respectfully seeks a writ of habeas corpus ordering the government to immediately release her from her ongoing, unlawful detention.

11. Additionally, Petitioner seeks declaratory and injunctive relief to declare her detention unlawful at Otay Mesa Detention Center, where she has been held by the Department of Homeland Security (DHS) since being unlawfully detained on May 24, 2026, without first being provided a due process hearing to determine whether her incarceration is justified.

JURISDICTION

12. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

VENUE

13. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner Montejo is physically detained within this district. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims

occurred in this District, where she is now in Respondents' custody. 28 U.S.C. § 1391(e).

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

14. 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 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.*

15. 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).

16. Petitioner is "in custody" for the purpose of § 2241 because she is arrested and is detained by Respondents.

PARTIES

17. Petitioner Claudia Maria De Jesus Montejo Santiago is a resident of San Diego California and citizen of Guatemala. She has no criminal history and is pursing asylum based on a fear of persecution in Guatemala based on her gender and political opinion, which if approved, would give her lawful permanent residency, and eventually, U.S. citizenship. She is presently in the physical custody of Immigration and Customs Enforcement (ICE) at the Otay Mesa Detention Center, 7488 Calzada de la Fuente, San Diego, CA 92154.

18. Respondent Christopher J. LaRose is the Senior Warden of the Otay Mesa Detention Center. He is the physical custodian of Petitioner. In this capacity, he is responsible for overseeing the operations of Otay Mesa Detention Center,

including the detention of Petitioner. Respondent LaRose is sued in his official capacity.

19. Respondent Gregory J. Archambeault is the Field Office Director of the San Diego ICE Field Office. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's San Diego Area of Responsibility, including the detention of Petitioner. Respondent Archambeault maintains an office and regularly conducts business in this district. Respondent Archambeault is sued in his official capacity.

20. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States, routinely transacts business in this District, and is legally responsible for pursuing any effort to detain and remove Petitioner. Respondent Lyons is sued in his official capacity.

21. Respondent Markwayne Mullin is the Secretary of Homeland Security and has ultimate authority over DHS. In that capacity and through his agents, Respondent Mullin has broad authority over and responsibility for the operation and enforcement of the immigration laws, routinely transacts business in this District, and is legally responsible for pursuing any effort to detain and remove Petitioner. Respondent Mullin is sued in his official capacity.

22. Respondent Todd Blanche is the Acting Attorney General of the United States and the most senior official at the Department of Justice. In that capacity and through his agents, he is responsible for overseeing the implementation and enforcement of the federal immigration laws. The Attorney General delegates this responsibility to the Executive Office for Immigration

Review, which administers the immigration courts and the BIA. Respondent Blanche is sued in his official capacity.

LEGAL BACKGROUND

A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and Detention.

23. This case concerns the unlawful re-arrest of Petitioner without notice or review. "Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." *Mathews v. Eldridge,* 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest).

24. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. at 693.

25. Petitioner was arrested by ICE agents after the vehicle in which she was a passenger made a wrong turn and ended up entering a military base. The military officer at the gate called ICE, who immediately came and arrested Petitioner without any notice, review or opportunity to object.

26. Petitioner has a vital interest in her liberty, which is a legally protected interest. *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..."). Indeed, once they are present in the United States, noncitizens have a "weighty"

liberty interest in remaining, as they "stand[] to lose the right to stay and live and work in this land of freedom," and "may lose the right to rejoin [their] immediate family, a right that ranks high among the interests of the individual." *Landon v. Plasencia*, 459 U.S. 21, 34 (1982).

B. Respondent's Arbitrary and Illegal Revocation of Parole and Arrest of Petitioner Violate the Administrative Procedure Act 5 U.S.C. § 706(2)

27. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

28. Respondents' revocation of Petitioner's parole and continued detention of Petitioner is arbitrary and capricious and violates the INA as well as the Fifth Amendment. Respondents do not have statutory authority under 1225(b)(2) or any other statute to detain Petitioner. Petitioner was not provided the opportunity to respond or object to the revocation of her release. Petitioner's detention is arbitrary, capricious, an abuse of discretion, violative of the Constitution, and without statutory authority in violation of 5 U.S.C. § 706(2).

FACTUAL BACKGROUND

29. Petitioner Montejo Santiago is a twenty-five-year-old citizen of Guatemala. Petitioner left Guatemala fleeing [redacted]

30. On December 20, 2023, Petitioner arrived in the United States through Texas, and voluntarily surrendered herself to United States Border Patrol. After

detaining her for approximately five days, Respondents granted her release on the individualized facts in her case, under 8 U.S.C. § 1182(d)(5).

31. Petitioner hired counsel and timely filed an I-589, application for asylum and for withholding of removal.

32. Petitioner has appeared at all court appearances and other appointments and continues being represented by her attorney George Siddell.

33. Petitioner has been detained since May 24, 2026. Petitioner was arbitrarily detained by ICE officers after a military officer at the gate of a military base in National City, CA made contact with Petitioner's vehicle (Petitioner was the passenger). The officer requested identifications, and upon seeing Petitioner's foreign identification, he called ICE to the scene. Upon arrival, ICE officers immediately detained Petitioner, despite the fact that she is in ongoing removal proceedings and has not violated any condition of her initial release in 2023.

34. Petitioner never received written notification that she was being re-arrested prior to her detention on May 24, 2026. Additionally, since her detention, she has not received any written communication regarding the reasons she was detained, any written communication indicating an individualized determination was made, nor has she been provided with an opportunity to refute any purported reasons for revoking her release and detaining her.

35. Petitioner remains in DHS custody at Otay Mesa Detention Center.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Petitioner's Detention is in Violation of the Fifth Amendment's Procedural Due Process Protections

36. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

37. 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.

38. What due process protections apply depend on the situation and accounts for 1) the private interest at issue, 2) the risk of erroneous deprivation of that interest through the procedures used, and 3) the Government's interest. *Mathews v. Eldridge, supra,* 424 U.S. at 334-35.

39. Detention constitutes "a loss of liberty that is . . . irreparable." *Moreno Galvez v. Cuccinelli,* 492 F. Supp. 3d 1169,1181 (W.D. Wash. 2020) *(Moreno II), aff'd in part, vacated in part on other grounds, remanded sub nom. Moreno Galvez v. Jaddou,* 52 F.4th, 821 (9th Cir. 2022). It "is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury." *Melendres v. Arpaio,* 695 F.3d 990,1002 (9th Cir. 2012) (citation modified); *Warsoldier v. Woodford,* 418 F.3d 989,1001-02 (9th Cir. 2005). *See also Hernandez v. Sessions,* 872 F.3d 976,994-95 (9th Cir. 2017) ("Thus, it follows inexorably from our conclusion that the government's current policies [which fail to consider financial ability to pay immigration bonds] are likely unconstitutional-and thus that members of the plaintiff class will likely be deprived of their physical liberty unconstitutionally in the absence of the injunction-that Plaintiffs have also carried their burden as to irreparable harm."); *Maldonado Bautista v. Santacruz,* No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28,2025), Order Granting Temporary Restraining Order,Dkt.14 at 9 ("[T]he Court finds that the potential for Petitioners' continued detention without an initial bond hearing would cause immediate and irreparable injury, as this violates statutory rights afforded under§ 1226(a).")

40. Petitioner has a private interest in remaining free. She has almost three years of presence in the United States, with friends and community here. Petitioner was detained amid her appellate removal proceedings, without any opportunity to be heard prior to being arrested and detained.

SECOND CLAIM FOR RELIEF

Petitioner's Detention Violates her Fifth Amendment Right to Substantive Due Process

41. Petitioner incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

42. 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. "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,* 533 U.S. at 690.

43. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

44. As already stated, 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...").

45. Petitioner, prior to her detention, complied with all aspects of her parole. Further, she obtained work authorization, developed community ties, and built a life for herself in South Carolina.

46. Prior to releasing her, Respondents considered Petitioner's facts and circumstances and determined she was not a flight risk or a danger to the community. There have been no changes to the facts that justify a revocation of her conditions of release.

THIRD CLAIM FOR RELIEF

Petitioners' Detention Violates the Administrative Procedure Act, 5 U.S.C. § 706(2)

47. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

48. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

49. Petitioner's detention is arbitrary, capricious, an abuse of discretion, violative of the Constitution, and without statutory authority in violation of 5 U.S.C. § 706(2).

FOURTH CLAIM FOR RELIEF

Respondent's Arrest of Petitioner Violates Her Fourth Amendment to Be Free from Unreasonable Seizures (Unlawful Arrest)

74. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

75. The Fourth Amendment protects the right of persons present in the United

States to be free from unreasonable seizures by government officials.

76. As a corollary to that right, the Fourth Amendment prohibits government officials from conducting repeated arrests on the same grounds. In the immigration context, this prohibition means that a person who immigration authorities released from initial custody cannot be re-arrested "solely on the ground that he is subject to removal proceedings" and without some new, intervening cause. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff'd sub nom.*, *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

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. Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
4. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody forthwith;
5. Issue an Order prohibiting the Respondents from transferring Petitioner from this district without the Court's approval;
6. Award Petitioner's counsel reasonable attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law;

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7. Grant such further relief as the Court deems just, equitable, and Appropriate.

Date: August 6, 2026

Respectfully Submitted,
*/s/Janice Deaton*_____
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