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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
PHOENIX, ARIZONA

Sara Mariela Gutierrez Lopez

Petitioner,

v.

Markwayne Mullin, Secretary, U.S. Department of Homeland Security; Todd Blanche, Attorney General of the United States, Executive Office for Immigration Review (EOIR); Corina Almeida, Chief Counsel, Immigration and Customs Enforcement (ICE), Office of Principal Legal Advisor, Eloy; Christopher McGregor, Field Office Director, ICE Enforcement and Removal Operations, Phoenix; Eric Rokowsky, Warden, Eloy Detention Center,

Respondents.

Case No._____

Immigration Number: [redacted]

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

I. INTRODUCTION

1. Petitioner, Sara Mariela Gutierrez Lopez ([redacted]5), by and through undersigned counsel, challenges her unlawful re-detention by Respondents. Ms. Sara Mariela Gutierrez Lopez entered the United States on October 28, 2022 to seek asylum. Following her entry, on the same day, the Department of Homeland Security ("DHS") conducted a custody determination Respondent DHS paroled Petitioner from its custody into the United States pursuant to 8 U.S.C. § 1182(d)(5), with her parole valid until October

27, 2023. Almost four years later, ICE abruptly re-detained Petitioner, giving rise to this action.

2. Petitioner is currently in the physical custody of Respondents at the Eloy Detention Center ("EDC") in Eloy, Arizona.

3. Petitioner consistently complied with the terms of her release, including appearing for required ICE check-ins. She has no known criminal history in the United States or anywhere else in the world. While released, Petitioner lawfully worked, resided with family, pursued her immigration proceedings, and remained available to immigration authorities. Nevertheless, on or about May 13, 2026, DHS abruptly re-detained her.

4. The circumstances surrounding Petitioner's re-detention are particularly troubling. Upon information and belief, at the time of her arrest, Petitioner was actively attempting to obtain custody of and reunify with her minor son, who is presently in the custody of the Office of Refugee Resettlement ("ORR"). As part of that reunification process, Petitioner received a telephone call directing her to appear for an appointment. Petitioner understood that the purpose of the appointment was to verify her identity and/or complete requirements necessary for ORR to release her minor son into her custody.

5. Petitioner appeared for that appointment as directed, believing that she was taking the steps required of her to reunify with her child. Instead, Petitioner was taken into ICE custody. She was not reunited with her son. She remains detained by ICE, while her minor child remains separately detained in ORR custody.

6. The consequences of Respondents' actions extend directly to Petitioner's minor child. Upon information and belief, undersigned counsel has been informed that the

child is scheduled to appear before the Immigration Court on September 22, 2026. Counsel has further been informed that, because Petitioner remains detained and therefore cannot complete the process necessary to take custody of her son, the minor child is being pressured to accept removal from the United States as a means of facilitating reunification with his mother in their home country- a country which they fear return. Thus, Petitioner's detention has not merely deprived her of her own liberty; it has prevented the reunification she was affirmatively attempting to accomplish when she appeared for the appointment that resulted in her arrest and has placed her minor child in the untenable position of facing immigration proceedings without his mother available to obtain custody of him.

7. The circumstances therefore raise particularly serious due-process concerns. Petitioner presented herself to government authorities in connection with what she understood to be the process for obtaining custody of her minor child. Rather than resulting in reunification with her son, Petitioner's compliance with that process culminated in her re-arrest, without prior notice, a hearing, or any identified change in circumstances demonstrating that she had become a danger or flight risk. Her detention, in turn, has prevented the very parent-child reunification that prompted her appearance in the first place.

8. Petitioner's re-detention has also directly interfered with her pending removal proceedings. Following her detention, the Immigration Court accelerated those proceedings. While Petitioner was confined in ICE custody, an immigration judge in the Phoenix Immigration Court ordered her removed. The circumstances surrounding that order, including its legal and factual basis, are not currently known to undersigned counsel. The

proceedings were recently reopened and transferred to the Immigration Court located at the Eloy Detention Center.

9. These events demonstrate the immediate and concrete prejudice resulting from Respondents' re-detention. Petitioner complied with the Government's directives, appeared as instructed, and remained available to immigration authorities. Yet her compliance resulted in the loss of her liberty, prevented her from obtaining custody of her minor son, prolonged the separation of mother and child, and interfered with her ability to participate meaningfully in her Immigration Court proceedings. While confined in ICE custody, Petitioner was ordered removed under circumstances that remain unclear to undersigned counsel. Although those proceedings have since been reopened, the removal order and resulting disruption further demonstrate the concrete prejudice caused by her re-detention.

10. Prior to her re-detention, Petitioner had fulfilled the conditions of her release, including reuniting with family members in the community, working diligently, and pursuing her immigration case. She filed her asylum application with the Immigration Court and, prior to being taken into ICE custody, attended her required immigration hearings.

11. Prior to re-detaining Petitioner, Respondents did not provide any written notice explaining the basis for the revocation of her release. Likewise, Respondents did not assess whether Petitioner presented a flight risk or danger to the community prior to her re-arrest. Nor did Respondents provide a hearing before a neutral decisionmaker at which ICE was required to justify the basis for re-detention or demonstrate why Petitioner's continued detention was warranted.

12. Various District Courts have held that due process demands a hearing *prior* to the government's decision to terminate a person's liberty. *See, e.g., E.A. T.-B v Wamsley,* --- F. Supp. 3d --- No. C25-1192-KKE 2025 WL 2402130, at *2-6 (W.D. Wash. Aug. 19, 2025), *Ramirez Tesara v. Wamsley,* --- F. Supp. 3d ---, No. 2:25-CV-01723-MJP=TLF, 2025 WL 2637663, at *2-4 (W.D. Wash. Sept. 12, 2025); *Ledesma Gonalez v. Bostock,* No. 2:25-CV-01404-JNW-GJL, 2025 WL 2841574, at *7-9 (W.D. Wash. Oct. 7, 2025); *Kumar v. Wamsley,* No. 2:25-CV-01772-JHC-BAT, 2025 WL 2677089, at *2-4 (W.D. Wash. Sept. 17, 2025); Report & Recommendation, *Lopez Reyes v. Wamsley,* No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13; *Y.M.M. v. Wamsley*, No. 2:25-CV-02075-TMC, 2025 WL 3101782, at *2 (W.D. Wash. Nov. 6, 2025). Many other courts have recently held the same.

13. By failing to provide such a hearing, Respondents have violated Petitioner's constitutional rights to due process.

14. Respondents continue to detain Petitioner. Petitioner challenges the procedural and constitutional legality of her detention, including violations of due process and applicable statutory and regulatory requirements. Absent an order from this Court, Petitioner will continue to be unlawfully detained without a meaningful opportunity for release.

15. Accordingly, this Court should grant the instant petition for writ of habeas corpus and order Petitioner's immediate release. *See E.A. T. -B,* 2025 WL 2402130, at *6 (ordering immediate release because "a post-deprivation hearing cannot serve as an adequate procedural safeguard because it is after the fact and cannot prevent an erroneous

deprivation of liberty"). In the alternative, order the scheduling of a bond hearing before an immigration judge to afford Petitioner the protections as required by law.

16. Petitioner will suffer irreparable and immediate injury from continued unlawful detention unless the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 is granted and Petitioner is immediately released. Her detention has prevented her from obtaining custody of her minor child, prolonged their separation, and caused the child to remain in ORR custody without the care and support of a parent who has actively sought reunification.

II. JURISDICTION

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

18. This Court has jurisdiction over petitions for Habeas Corpus pursuant to 28 U.S.C. § 2241. The Petitioner is in the custody of the United States.

19. This Court has jurisdiction over civil actions brought under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States. This Court has jurisdiction pursuant to 28 U.S.C. § 1361 which authorizes actions in district court, "to compel an officer or employee of the United States or agency thereof to perform a duty owed to the Petitioner."

20. The aid of the Court is invoked under 28 U.S.C. § 2201 and 2202, authorizing a declaratory judgment.

21. This Court has jurisdiction pursuant to the Administrative Procedure Act (APA) to set aside agency action not in accordance with law and order the agency to perform

a duty owed to Petitioner under 5 U.S.C. § 706.

III. VENUE

22. Venue is proper because Petitioner is in the custody of the Immigration and Customs Enforcement in Eloy, Arizona, which is within the jurisdiction of this District.

23. Venue is asserted pursuant to 28 U.S.C. § 1391(e) because the Petitioner is being detained in Eloy, Arizona. Respondents are the U.S. Government, and no real property is involved in the action.

IV. EXHAUSTION

24. Exhaustion is a prudential rather than a jurisdictional requirement. *Singh v. Holder*, 638 F.3d 1196, 1203 n. 3 (9th Cir. 2011). Waiver of exhaustion is appropriate "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) (citation and quotation marks omitted).

25. The failure to exhaust administrative remedies does not bar these claims unless "Congress specifically mandates" exhaustion. *McCarthy v. Madigan,* 503 U.S. 140, 144 (1992). "But where Congress has not clearly required exhaustion, sound judicial discretion governs." *Id.*

26. The Court should not require exhaustion here where further administrative review of ICE's initial custody determination would be futile. *See Carr v. Saul*, 593 U.S. 83, 93 (2021) ("[T]his Court has consistently recognized a futility exception to exhaustion requirements.").

27. Finally, because Petitioner "raise[s] substantial constitutional question[s]," administrative exhaustion is excused. *See Postels v. Peters*, No. 99-cv2369, 2000 U.S. Dist. LEXIS 3356, at *17 (E.D. La. Mar. 15, 2000) (*citing Von Hoffburg v. Alexander*, 615 F.2d 633, 638 (5th Cir. 1980).

28. In the instant case, Petitioner is not required to exhaust administrative remedies before seeking habeas relief under 28 U.S.C. § 2241 where no adequate or available administrative process exists to address the constitutional and statutory violations at issue. Here, Petitioner challenges the legality of her ongoing detention and the government's refusal to release her, relief that cannot be meaningfully obtained through any administrative mechanism. Petitioner has no other means of challenging her ongoing prolonged detention in violation of law.

V. REQUIREMENTS OF 28 U.S.C. § 2243 AND APPLICATION FOR AN ORDER OF SHOW CAUSE

29. 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).

30. 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).

31. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that the Court issue an order to all Respondents requiring them to show cause why the Petitioner's Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief pursuant to 28 U.S.C. § 2241; 28 U.S.C. § 1331; Article I, § 9, cl. 2 of the United States Constitution; the All Writs Act, 28 U.S.C. § 1651; the Administrative Procedure Act, 5 U.S.C. § 701; and the Declaratory Judgment Act, 28 U.S.C. § 2201 should not be granted and why Respondents should not be ordered to release Petitioner from detention.

32. Pending adjudication of these claims, Petitioner asks for an order enjoining Respondents from transferring Petitioner from the jurisdiction of the Phoenix Field Office of the Immigration & Customs Enforcement ("ICE") Office of Enforcement and Removal Operations ("ERO") and this District.

VI. PARTIES

33. Petitioner, Sara Mariela Gutierrez Lopez is a native and citizen of Honduras, and is currently detained by ICE in Eloy, Arizona. She is not subject to expedited removal under 8 U.S.C. § 1225(b)(1).

34. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS), responsible for overseeing and directing Immigration and Customs Enforcement. DHS directed the policy to argue Petitioner is subject to mandatory detention.

35. Respondent Todd Blanche is the Attorney General of the United States. Respondent is the head of the United States Department of Justice and responsible for the entire department, which includes the Executive Office for Immigration Review ("EOIR"),

including the BIA.

36. Respondent Corina Almeida, Chief Counsel of the ICE Office of Principal Legal Advisor oversees the ICE attorneys in Eloy, Arizona.

37. Respondent Christopher McGregor, Field Office Director Office Enforcement and Removal Operations in Phoenix, Arizona is responsible for Petitioner's custody in Eloy, Arizona. Respondent Christopher McGregor is also responsible for the acceptance and processing of the payment of bond and release of ICE detainees in Eloy, Arizona.

38. Respondent Eric Rokowsky is the Warden at the ICE contract facility Eloy Detention Center, operated by CoreCivic. Respondent Eric Rokowsky is responsible for Petitioner's physical custody.

VII. FACTUAL ALLEGATIONS

39. Petitioner Sara Mariela Gutierrez Lopez, is a citizen and national of Honduras who entered the United States on October 28, 2022, seeking asylum.

40. Shortly after her entry on October 28, 2022, Respondent DHS paroled Petitioner from its custody into the United States pursuant to 8 U.S.C. § 1182(d)(5), with her parole issued as valid until October 27, 2023.

41. Following her release, Petitioner reunited with family members in the community, obtained employment authorization, worked lawfully in the United States, and began building a life in the United States.

42. Petitioner timely filed her application for asylum and has continued to pursue her application for relief before the Immigration Court. Petitioner has appeared for all required immigration court hearings during the almost four (4) years she has resided in the

United States.

43. During the almost four (4) years since her release, Petitioner, to the best of her knowledge, has fully complied with all conditions and reporting requirements imposed by ICE, including appearing for her required ICE check-ins.

44. Petitioner has no known criminal history in the United States or anywhere else in the world. During the almost four years that Respondents permitted Petitioner to reside in the community, she has not been arrested or convicted of any criminal offense and has not engaged in any conduct demonstrating that she presents a danger to the community.

45. Petitioner's minor child is presently in the custody of the U.S. Department of Health and Human Services, Office of Refugee Resettlement ("ORR"). Petitioner has actively pursued reunification with her child and has complied with the Government's requirements in an effort to obtain custody. As part of that process, Petitioner was instructed to appear so that the Government could verify her identity—a step she understood was necessary to secure her child's release. Petitioner appeared as directed. Rather than facilitating reunification or completing the represented identity-verification process, ICE officers detained her.

46. Petitioner's experience is consistent with a broader practice reported in other cases nationwide in which information provided by prospective sponsors during the ORR reunification process is shared with ICE and used to locate and arrest parents and other relatives seeking custody of children in federal shelters. Recent reporting documents similar cases nationwide, including parents arrested after coming forward, providing identifying information, or appearing for purported identity verification or DNA testing. This practice

prolongs the confinement of children in federal shelters, deters qualified sponsors from participating in the reunification process, and separates children from the very family members attempting to secure their release[1].

47. Even assuming *arguendo* that Respondents classify Petitioner under 8 U.S.C. § 1225(b), that classification does not eliminate her constitutionally protected liberty interest nor the requirement that the government provide due process prior to re-detention. Courts have recognized that individuals who were released into the United States and lived in the community for a significant period retain a protected interest in their continued liberty. Accordingly, the government cannot re-detain Petitioner without first providing notice and a meaningful opportunity to be heard before a neutral decisionmaker. Thus, the dispositive issue is not how Respondents label Petitioner's detention, but whether they complied with the Fifth Amendment before depriving her of liberty—they did not.

48. Moreover, Respondents cannot "switch tracks" by treating Petitioner as subject to mandatory detention under § 1225(b) after permitting her to live in the United States for almost four years while complying with all conditions of release. Having allowed Petitioner to reside in the community, work, and pursue relief, the government cannot now retroactively impose a mandatory detention framework without affording constitutionally

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1. [1] See Uriel J. García, Alex Nguyen & Apurva Mahajan, *ICE Is Arresting Relatives Who Come Forward to Take Custody of Migrant Children in Federal Shelters*, The Texas Tribune (July 21, 2026), https://www.texastribune.org/2026/07/21/texas-immigrant-children-sponsor-ice-detention-orr-shelters/.

required procedural protections.

49. Notwithstanding Petitioner's demonstrated compliance and lack of criminal history, DHS abruptly re-detained her on or about May 13, 2026, after she came forward and complied with the Government's instructions as part of her effort to obtain custody of her minor child, who remains in ORR custody. Petitioner had been told that verifying her identity was a necessary step in the reunification process. Instead of facilitating that process, ICE used Petitioner's compliance as an opportunity to detain her, thereby preventing her from obtaining custody of her child and prolonging their separation.

50. Prior to Petitioner's re-detention on or about May 13, 2026, Respondents did not provide Petitioner with written notice that her prior release would be revoked or otherwise provide her with notice of the basis upon which Respondents intended to deprive her of her liberty.

51. Prior to Petitioner's re-detention, Respondents did not provide Petitioner with a meaningful opportunity to respond or conduct any individualized assessment as to whether Petitioner presented a flight risk or danger to the community.

52. Prior to Petitioner's re-detention, Petitioner did not receive a hearing before a neutral decisionmaker to determine whether revocation of her release and renewed detention was justified.

53. Petitioner has remained detained since May 13, 2026— a period exceeding four months. Her continued detention is particularly severe given her individual circumstances. Petitioner remains separated from her minor child, who continues to be held in ORR custody and cannot be released to Petitioner while she remains detained.

Respondents' continued detention of Petitioner therefore not only deprives her of liberty but also prevents reunification between parent and child and directly prolongs her child's confinement in federal custody.

54. Thus, Petitioner's continued detention is not merely a theoretical deprivation of liberty. It has prevented her from obtaining custody of her minor child, prolonged their separation, and caused her child to remain confined in ORR custody without the care and support of a parent who has actively sought reunification. Petitioner's detention therefore inflicts ongoing and concrete harm on both Petitioner and her child.

55. Prior to Petitioner's re-arrest, and continuing through the present period of detention, Respondents have not articulated any concrete plan to remove Petitioner to Honduras, and her removal proceedings remain ongoing.

56. Petitioner is currently in the custody of ICE, as she is detained at the Eloy Detention Center in Eloy, Arizona.

VIII. LEGAL FRAMEWORK

57. Respondents may contend that Petitioner remains subject to the mandatory detention framework under 8 U.S.C. § 1225(b). Even assuming arguendo that Respondents' statutory classification is correct, that classification does not resolve the constitutional question presented here: whether the Government may re-detain a person whom it previously paroled into the United States, after more than four years of compliant liberty, without notice or a pre-deprivation hearing.

58. However, once released, due process requires that a person like Ms. Gutierrez Lopez, an individual who was paroled into the United States pursuant to 8 U.S.C. §

1182(d)(5) and remained at liberty for over four (4) years without incident after her release, receive a hearing before a neutral decisionmaker to determine whether any re-detention is justified, and whether the person is a flight risk or danger to the community. Having released Petitioner into the United States, the Government cannot 'switch tracks' and reimpose mandatory detention under § 1225(b) after permitting her to live in the community for years. Allowing the Government to reimpose mandatory detention after release would eviscerate the procedural protections guaranteed by the Due Process Clause.

59. "Freedom from imprisonment- from government custody, detention, or other forms of physical restraint- lies in the heart of the liberty protected by the Due Process Clause." *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001). As one District Court recently recognized, this is the "most elemental of liberty interests." *E.A. T. -B*, 2025 WL 2402130, at *3 (citation modified).

60. Consistent with this principle, individuals released from custody on conditional release have a liberty interest in their "continued liberty." *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

61. Such liberty is protected by the Fifth Amendment because, "although indeterminate, [it] includes many of the core values of unqualified liberty," such as the ability to be gainfully employed and live with family, "and its termination inflicts a 'grievous loss' on the [released individual] and often on others." *Id.*

62. The Supreme Court has consistently held that procedural due process requires: (a) Notice of action being taken; (b) an opportunity to be heard at a meaningful time and in a meaningful manner; and (c) an individualized assessment of risk before deprivation of

liberty. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

63. In the immigration context, this principle applies to both initial detention and revocation of release. Arbitrary or prolonged detention without a hearing violates the Fifth Amendment.

64. To protect against arbitrary re-detention and to ensure the right to liberty, due process requires "adequate procedural protections" that test whether the government's asserted justification for a noncitizens' physical confinement "outweighs the individuals' constitutionally protected interested in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (citation modified).

65. Due process thus guarantees notice and an individualized hearing before a neutral decisionmaker to assess danger or flight risk before the revocation of an individual's release. *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); *see also, e.g. Morrissey*, 408 U.S. at 485 (requiring "preliminary hearing to determine whether there is probable cause or reasonable ground to believe that the arrested parolee has committed … a violation of parole conditions" and that such determination be made "by someone not directly involved in the case" (citation modified)).

66. Courts within the District of Arizona have likewise granted habeas relief under materially indistinguishable circumstances. For example, in *Velasquez Ramos v. Noem*, No. CV-26-00948-PHX-DJH (D. Ariz. Apr. 24, 2026), the court held that even where a noncitizen remained classified under 8 U.S.C. § 1225(b)(2), due process required a pre-

deprivation hearing prior to re-detention following release on parole. The court emphasized that a noncitizen released into the United States retains a protected liberty interest that "does not expire along with his parole," and that re-detention without a hearing violates the Fifth Amendment. The court ordered immediate release, finding that the Mathews factors weighed in favor of the petitioner.

67. The same reasoning applies here. Like the petitioner in *Velasquez Ramos*, Petitioner was released into the United States, complied with all conditions, and was re-detained without notice or a hearing before a neutral decisionmaker. Under constitutional principles recognized by courts within this District, such re-detention is unlawful. Petitioner must be immediately released. This Court should reach the same conclusion here.

68. Several other courts have recognized that these principles apply with respect to the re-detention of the many non-citizens that DHS has arbitrarily begun taking back into custody, often after such persons have been released for months and years.

69. For example, in *E.A. T.-B*, the court applied the *Mathews v. Eldridge*, 424 U.S. 319 (1976), framework to hold that even in a case where the government asserted that mandatory detention initially applied, a person's re-detention could not occur absent a hearing. The Court did the same in *Ramirez Tesara, Kumar,* and *Ledesma Gonzalez. See Ramirez Tesara,* 2025 WL 2637663, at *2-3; *Kumar*, 2025 WL 2677089, at *2-3; *Ledesma Gonzalez,* 2025 WL 2841574, at *7-8.

70. In applying the three *Mathews* factors, the E.A. T.-B court held that the petitioner had "undoubtedly [been] deprive[d] … of an established interest in his liberty," 2025 WL 2402130, at *3, which, as noted, "is the most elemental of liberty interests," *id.*

(citation modified). The Court further explained that even if detention was mandatory, the risk of erroneous deprivation of liberty without a hearing was high because a hearing serves to ensure that purposes of detention- the prevention of danger and flight risk- are properly served. *Id. at *4-5.* Finally, the Court explained that "the Government's interest in re-detaining non-citizens previously released without a hearing is low: although it would have required the expenditure of finite resources (money and time) to provide Petitioner notice and a hearing on [ISAP] violations before arresting and re-detaining him, those costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue." *Id.* at *5. As a result, the Court ordered the petitioner's immediate release. *Id.* at *6.

71. The Court's decisions in *E.A. T.-B., Ramirez Tesara, Kumar,* and *Ledesma Gonzalez* are consistent with many other district court decisions addressing similar situations. *See, e.g., Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18, 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Garro Pinchi v. Noem,* --- F. Supp. 3d ---, No. 5:25-CV-056-PCP, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAV, 2025 WL 2299376 (E.D. Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews,* No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (similar).

72. The same framework and principles apply here and compel Petitioner's immediate release.

73. DHS and ICE guidance consistently direct enforcement discretion toward individuals who pose threats to public safety or national security.

74. Petitioner, who has no criminal record, has worked lawfully, complied with

her immigration obligations, and maintained family ties in the United States, poses no danger and is not a flight risk.

75. Due process does not permit the government to re-detain Petitioner and strip her of her liberty without written notice and a pre-deprivation hearing before a neutral decisionmaker to determine whether re-detention is warranted based on danger or flight risk. *See Morrissey,* 408 U.S. at 487-88. Such written notice and a hearing must occur *prior* to any re-detention.

76. Respondents revoked Petitioner's release and deprived her of liberty without providing written notice and a meaningful opportunity to be heard by a neutral decisionmaker prior to her re-detention. Respondents' re-detention violates the Due Process Clause of the Fifth Amendment.

IX. CLAIMS FOR RELIEF.

77. Petitioner realleges and incorporates by reference paragraphs 1 through 76 herein as fully set forth.

78. Petitioner's continued detention is a violation of Due Process rights under the Fifth Amendment, which provides that no person shall "be deprived of life, liberty, or property without due process of law" along with the U.S. Constitution and not in accordance with the INA.

79. "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Moreover, "[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." *Id.* at 693.

80. Pursuant to the APA, the Respondents' refusal to release Petitioner is arbitrary, capricious, and not in accordance with the law.

81. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

82. Respondents revoked Petitioner's prior release on parole and detained her without providing notice, an opportunity to be heard, or any individualized assessment of danger or flight risk. Petitioner has continuously resided in this country for nearly four years, has no criminal history, and has consistently complied with all immigration requirements. She is neither a danger to the community nor a flight risk.

83. This Court has jurisdiction to review the Respondents' action and order Petitioner's immediate release.

84. Respondents' mandatory detention of Petitioner without consideration for release or access to a bond hearing violates her due process rights.

85. Petitioner is eligible for payment of attorney's fees, related expenses, and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

PRAYER FOR RELIEF.

WHEREFORE, Petitioner prays that the Court grant the following relief:

1) Assume jurisdiction over this cause pursuant to 28 U.S.C. § 2241;

2) Issue an Order to Show Cause ordering Respondents to show cause within three days

as to why this Petition should not be granted as required by 28 U.S.C. § 2243;

3) Order Respondents that they not transfer Petitioner out of this district during the pendency of the court's adjudication of this petition, or alternatively, provide Petitioner and her habeas counsel with advance notice of any transfer or removal;

4) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody and permanently enjoining her re-detention absent compliance with due process, including written notice and a hearing prior to re-detention where Respondents must prove by clear and convincing evidence that Petitioner is a flight risk or danger to the community and that no alternatives to detention would mitigate those risks; and, in the alternative, provide an individualized bond hearing within five (5) days of this Court's order;

5) Declare that Petitioner's detention without first providing an individualized determination before a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment as well as the relevant statute and regulations governing detention of noncitizens; and

6) That the Court grant further relief as this Court deems just and proper under the circumstances.

RESPECTFULLY SUBMITTED this 22nd day of September 2026.

By: s/ *Jessica Anleu, Esq.*

Jessica Anleu, Esq.
Attorney for Petitioner

LIST OF ATTACHED EXHIBITS

Exhibit	Description
A	Petitioner's Form I-94 Record of Admission/Parole
B	Notice to Appear Issued to Petitioner on October 28, 2022
C	Uriel J. García and Alex Nguyen, "ICE Is Arresting Relatives Who Come Forward to Take Custody of Migrant Children in Federal Shelters," The Texas Tribune (July 21, 2026)

CERTIFICATE OF SERVICE

On the 22nd day of September 2026, I, Jessica Anleu, the undersigned, served via certified U.S. Mail, the attached **Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241**, on each person/entity listed below addressed as follows:

Civil Clerk
United States Attorney's Office
District of Arizona
Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, AZ 85004-4408

Eric Rokowsky
Eloy Detention Center
1705 E Hanna Rd
Eloy, Arizona 85131

Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW
Mail Stop 0485 Washington, DC 20528

s/ *Jessica Anleu, Esq.*