

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CANDIDA RAMIREZ LOPEZ,

Plaintiff-Petitioner,

V.

DONALD J. TRUMP, in his official capacity as President of the United States; JUDITH ALMODOVAR, in her official capacity as Acting Field Office Director of New York, Immigration and Customs Enforcement; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement, KRISTI NOEM, in her official capacity as Secretary of the United States Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY, and U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

Defendants-Respondents.

Case No. 1:25-cv-04826

Oral Argument Requested

**PETITIONER’S MEMORANDUM OF LAW
IN SUPPORT OF HER EMERGENCY MOTION FOR A
TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

TABLE OF CONTENTS

Table of Contents	ii
Table of Authorities	iii
Preliminary Statement.....	1
Notice to Respondents-Defendants.....	4
Relevant Statement of Facts and Procedural History	4
Argument	9
I. Ms. Ramirez Lopez Is Likely to Succeed on the Merits of Her Claim that Her Detention Violates Due Process.	10
(i) Respondents Have Unconstitutionally Detained Ms. Ramirez Lopez.	10
(ii) Respondents Have Repeatedly Obstructed Ms. Ramirez Lopez’s Access to Counsel and Ability to Advocate for Her Rights.....	13
II. Respondents’ Actions Violate the INA and its Regulatory Scheme.....	14
III. Ms. Ramirez Lopez Will Suffer Irreparable Harm in the Absence of a Temporary Restraining Order and Preliminary Injunction.....	16
IV. A Temporary Restraining Order and Preliminary Injunction Would Not Severely Harm the Government or Public Interest.	17
Conclusion	18
Certification of Word-Count.....	18

TABLE OF AUTHORITIES

Cases

<i>Brenntag Int’l Chems., Inc. v. Bank of India</i> , 175 F.3d 245 (2d Cir. 1999)	16
<i>Ceesay v. Kurzdorfer</i> , No. 25-CV-267-LJV, 2025 WL 1284720 (W.D.N.Y. May 2, 2025)	10, 12, 14, 15
<i>Citigroup Glob. Mkts., Inc. v. VCG Special Opportunities Master Fund Ltd.</i> , 598 F.3d 30 (2d Cir. 2010)	9
<i>Conn. Dep’t of Env’tl Prot. v. O.S.H.A.</i> , 356 F.3d 226 (2d Cir. 2004)	16
<i>Faiveley Transp. Malmo AB v. Wabtec Corp.</i> , 559 F.3d 110 (2d Cir. 2009)	15
<i>Freedom Holdings, Inc. v. Spitzer</i> , 408 F.3d 112 (2d Cir. 2005)	16
<i>Genesee Brewing Co. v. Stroh Brewing Co.</i> , 124 F.3d 137 (2d Cir. 1997)	9
<i>Haoud v. Ashcroft</i> , 350 F.3d 201 (1st Cir. 2003)	15
<i>Jackson Dairy, Inc. v. H.P. Hood & Sons, Inc.</i> , 596 F.2d 70 (2d Cir. 1979)	9
<i>Jolly v. Coughlin</i> , 76 F.3d 468 (2d Cir. 1996)	16
<i>Mantena v. Johnson</i> , 809 F.3d 721 (2d Cir. 2015)	14
<i>Metro Taxicab Bd. of Trade v. City of New York</i> , 615 F.3d 152 (2d Cir. 2010)	9
<i>Nelson v. I.N.S.</i> , 232 F.3d 258 (1st Cir. 2000)	15
<i>Nken v. Holder</i> , 556 U.S. 418 (2009)	17
<i>Reno v. Flores</i> , 507 U.S. 292 (1993)	14
<i>S.N.C. v. Sessions</i> , 325 F. Supp. 401 (S.D.N.Y. 2018)	17
<i>Salinger v. Colting</i> , 607 F.3d 68 (2d Cir. 2010)	16

<i>Time Warner Cable, Inc. v. DIRECTV, Inc.</i> , 497 F.3d 144 (2d Cir. 2007)	9
<i>Torres-Jurado v. Biden</i> , No. 19 Civ. 3595 (AT), 2023 WL 7130898 (S.D.N.Y. Oct. 29, 2023)	11
<i>Trump v. J.G.G.</i> , 145 S. Ct. 1003 (2025).....	14, 16
<i>Ying Fong v. Ashcroft</i> , 317 F. Supp. 2d 398 (S.D.N.Y. 2004)	11
<i>Zadvydas v. Davis</i> , 533 U.S. 690 (2001).....	10, 11
Statutes	
5 U.S.C. § 704.....	14
5 U.S.C. § 706(2)	14
Regulations	
8 C.F.R. § 208.31(f)(3)	12
8 C.F.R. § 241.4(l)(1).....	15
8 C.F.R. § 292.5	15

PRELIMINARY STATEMENT

This case concerns Candida Ramirez Lopez (“Petitioner/Plaintiff” or “Ms. Ramirez Lopez”), a fifty-three-year-old grandmother and mother of a high-school aged child who has no criminal history, has a pending U-Visa application as a result of having been the victim of a sexual assault, and who has been in the United States on supervised release for over five years. Dkt. No. 1, Petition for Writ of Habeas Corpus (“Pet.”) ¶ 1.¹ On June 4, 2025, Ms. Ramirez Lopez was detained by Defendants-Respondents, the Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”) (“Government” or “Respondents”), without any notice or warning when she attended a required check-in at the ICE contractor who manages her supervised release. *Id.* ¶¶ 2–4.

As set forth more fully herein, in detaining Ms. Ramirez Lopez, Respondents have denied Ms. Ramirez Lopez the most basic due process, including by detaining her without providing her or her counsel of record any notice or chance to be heard as to why she was being detained (and why her previous order of supervision was being revoked) (Pet., ¶ 109), by denying her counsel access to her (Wilkins Decl., ¶¶ 16–19; Norton Decl., ¶¶ 7–13), repeatedly misleading her counsel about her whereabouts (Wilkins Decl., ¶ 33, Ex. M; Norton Decl., ¶ 7), and arbitrarily denying her counsel the ability to an application for a stay of removal on her behalf (Norton Decl., ¶ 7, 11). But for a single two-minute phone call with her daughter (Wilkins Decl., ¶ 35), Ms. Ramirez Lopez was completely incommunicado and her whereabouts remained unknown from June 4 through June 9, 2025, when her counsel finally learned from the Assistant U.S. Attorney’s office that Ms. Ramirez Lopez was being booked into a detention facility in Houston,

¹ At the behest of the Clerk, the caption title of Docket No. 1 was corrected to remove the word “Complaint” so the case could be assigned to a judge. *See* Dkt. No. 4.

Texas. Wilkins Decl., ¶ 39. Thereafter, counsel immediately sought to arrange a call with her and was told that she would not be made available to speak to her counsel until June 14, 2025, *ten days* after the last time she had contact with her counsel. *Id.* ¶ 42. Absent the relief requested herein of a temporary restraining order and a preliminary injunction, it is reasonable to believe that Respondents' alarming course of conduct will continue, and that Ms. Ramirez Lopez will suffer irreparable harm as a result.

Throughout this process and the many correspondences between Ms. Ramirez Lopez's counsel and the Government, counsel have been given no explanation as to why Ms. Ramirez Lopez—someone Respondents considered so little a flight risk that she has been on supervised release for five years—has suddenly been detained without access to her counsel. Pet., ¶¶ 1, 90–91. Indeed, the fact that the Government granted her supervised release five years ago necessarily means that it made the determination that she was neither a flight risk nor a danger to the community, and nothing has materially changed since then. If anything, her actions since that time have reinforced this finding, as she has attended all of her check ins, worn a monitoring bracelet, and otherwise abided by all the terms of her supervision order. *Id.* ¶ 1.

To the extent that she is being detained for the purpose of being removed from the country, Respondents similarly have provided no explanation as to why she, someone with a pending U-Visa application, is being removed. Nor has the Government provided her with a reasonable fear interview to assess her fear of returning to Honduras for months, despite requests by her and her counsel over the course of months. Wilkins Decl., ¶¶ 5–6, 11, Ex. A, Ex. B, Ex. D; Pet., ¶¶ 47–52. Moreover, the Government has actively impeded Ms. Ramirez Lopez's ability to connect with her counsel, misleading counsel as to her whereabouts, and now preventing her

from communicating with her attorneys until June 14th, a full *ten days* after she was detained. Wilkins Decl., ¶ 42.

The Government's conduct here violates Ms. Ramirez Lopez's right to due process and fails to satisfy Immigration and Naturalization Act ("INA") regulations. The Government has detained her and is potentially threatening to deport her to a country where she faces a serious risk of harm and possibly death (Pet., ¶¶ 37–38), all without prior notice and while consistently failing to give her any opportunity to defend herself, to consult with counsel, or even to understand why she was incarcerated and her supervised release revoked.

Therefore, Ms. Ramirez Lopez respectfully moves this Court for a temporary restraining order ("TRO") and a preliminary injunction pending the adjudication of the instant Petition. Ms. Ramirez Lopez is likely to succeed on her claims and will suffer significant irreparable harm if Respondents continue to deny her basic process. Petitioner respectfully requests specifically that this Court order Respondents to immediately:

- (a) Cease impeding Petitioner's access to her counsel;
- (b) Release Ms. Ramirez Lopez from custody; or in the alternative
 1. Transport her back to this Court's jurisdiction so that she may have reasonable and functional access to her attorneys; and
 2. Provide her with a hearing to determine whether she presents a flight risk or a risk to her community and, if she does not, immediately release her from custody; and
- (c) Refrain from removing her from the United States during the pendency of this petition and allowing her to fully exercise her rights under the reasonable fear determination process.

NOTICE TO RESPONDENTS-DEFENDANTS

Undersigned counsel Melissa Banks contacted the U.S. Attorney's Office for the Southern District of New York by email on Monday, June 9, 2025, provided a copy of the petition that was filed on June 6, 2025, and conveyed the undersigned office's intention to file the within temporary restraining order motion.

Undersigned counsel affirms she intends to send, via email, a copy of the petition, the motion for a TRO and Preliminary Injunction, this memorandum of law, and a proposed order for granting the TRO to the U.S. Attorney's Office for the Southern District of New York upon the filing of this motion.

RELEVANT STATEMENT OF FACTS AND PROCEDURAL HISTORY

Ms. Ramirez Lopez's Background

Ms. Ramirez Lopez first came to the United States in 2005, fleeing her abusive husband in Honduras. Pet., ¶ 34. After she entered the United States, she had contact with immigration authorities and was placed into removal proceedings. *Id.* Her husband, unfortunately, came to find her in the United States, and he continued to torment and abuse her. *Id.* Ms. Ramirez Lopez was ordered removed *in absentia* by the Harlingen Immigration Court on October 21, 2005. *Id.* ¶ 35.²

Fortunately, Ms. Ramirez Lopez's abusive husband returned to Honduras, and she believed she was safe. *Id.* ¶ 36. However, while Ms. Ramirez Lopez was pregnant with her youngest child, she received a call that her husband had attacked her eldest child back in

² Undersigned counsel has not been able to get in touch with Petitioner since she was detained on June 4, 2025. Thus, counsel has not been able to learn about the specifics of why Petitioner was removed *in absentia*. Petitioner reserves her right to reopen her underlying removal proceedings and removal order.

Honduras. *Id.* She flew back to Honduras, knowing that she had to protect her children from her husband. *Id.*

While living in Honduras, Ms. Ramirez Lopez ran a small restaurant out of her home. *Id.* ¶ 37. Gang members from MS-13 began threatening her, telling her that she needed to pay them a “war tax.” *Id.* She did not pay them, and they demanded that she start selling drugs for them. *Id.* After she refused to cooperate, they threatened to harm her and her family. *Id.* One night, a gang member came by her house and shot at Ms. Ramirez Lopez, killing one of her patrons. *Id.* ¶ 38. After the murder attempt, Ms. Ramirez Lopez was able to convince her abusive husband that she and her youngest child should seek safety in the United States. *Id.* ¶¶ 37–38.

Ms. Ramirez Lopez and her son Cristofer arrived in the United States on March 9, 2019. Cristofer was placed into removal proceedings and Ms. Ramirez Lopez was placed under an order of supervision. *Id.* ¶ 39. Cristofer applied for political asylum and also applied for Special Immigrant Juvenile Status (“SIJS”), based on abandonment by his father. *Id.* ¶ 40. His SIJS application was granted in December 2023. *Id.* Cristofer is currently a senior in high school in Staten Island, set to graduate in the coming weeks. *Id.* ¶¶ 39–40.

In May 2021, Ms. Ramirez Lopez was the victim of attempted rape and abusive sexual contact at her home in Staten Island. *Id.* ¶ 41. She made a complaint to the New York Police Department and cooperated with the investigation. *Id.* Based on this incident, Ms. Ramirez Lopez applied for a U-Visa and her application remains pending. *Id.* ¶ 42. This incident of sexual assault, in addition to the other traumatic incidents that Ms. Ramirez Lopez suffered in her life, have caused her to suffer adverse effects of trauma. *Id.* ¶ 43. She works with a psychologist to help process her experiences. *Id.* Ms. Ramirez Lopez also suffers from high blood pressure, for

which she takes 20 mg Lisinopril daily, and it is unclear whether she has access to her medication while incarcerated. *Id.* ¶ 44.

For several years, Ms. Ramirez Lopez has been under an order of supervision from both ICE and ICE contractors, through the Intensive Supervision Appearance Program (“ISAP”). *Id.* ¶ 45. As part of the terms of her supervised release, she has been wearing an electronic monitor on her wrist and was required to report in-person and virtually. *Id.* ¶ 53. She has consistently complied with the terms of her supervised release and has reported to her ICE check-ins consistently for over five years. *Id.* ¶¶ 45–46, 53.

Request for a Reasonable Fear Interview

On or about February 27, 2025, Ms. Ramirez Lopez submitted a request for a Reasonable Fear Interview (“RFI”) so that she could articulate her fear of returning to Honduras given the violence and abuse she endured from her husband and from the gang MS-13, and upon passing the interview, proceed on a “withholding of removal” claim before an Immigration Judge. Wilkins Decl., ¶ 6. The request for an RFI was submitted to the NYC ICE Outreach email mailbox and to the New York Asylum Office. Wilkins Decl., ¶ 5. At the March 6 check-in, Ms. Ramirez Lopez and her counsel submitted the original signed copy of Ms. Ramirez Lopez’s request for a Reasonable Fear Interview to ICE and told the deportation officer on duty about her pending U-Visa application. *Id.* ¶ 8, Ex. A. ICE scheduled her to return on June 17, 2025. Wilkins Decl., ¶ 9. Thereafter, she received a letter from the New York Asylum Office that they were not scheduling Reasonable Fear Interviews for immigrants who, like Ms. Ramirez Lopez, were not detained. *Id.* ¶ 11, Ex. D.

Ms. Ramirez Lopez's Detention

On Monday, June 2, 2025, Ms. Ramirez Lopez received an automated message that she was expected to check-in in person at the ISAP offices on either Tuesday June 3rd or Wednesday June 4th. On Wednesday, June 4th, Ms. Ramirez Lopez, accompanied by her attorney Mr. Wilkins, appeared at the ISAP facility at 7 Elk Street, New York, N.Y. Wilkins Decl., ¶15. Ms. Ramirez Lopez was escorted into the ISAP office, and staff indicated she was not allowed to have her attorney accompany her. *Id.* ¶ 16. After repeatedly inquiring about Ms. Ramirez Lopez's whereabouts, Mr. Wilkins was informed that she had likely been relocated to the ICE building across the street at 26 Federal Plaza. *Id.* ¶ 21. Mr. Wilkins then went to the 26 Federal Plaza building where he was informed that Ms. Ramirez Lopez had been detained and that she could be located using the ICE detainer locator website. *Id.* ¶ 22.

For the next two days, Ms. Ramirez Lopez's attorneys made multiple efforts to locate her by repeatedly contacting several ICE agents associated with her case, regularly checking the ICE detainer locator website and even contacting certain detention ICE facilities that were known to detain women. *Id.* ¶ 24–32. During this time, Ms. Ramirez Lopez's family, including her son who is a senior in high school, had no idea where she was and were not able to contact her. Pet., ¶¶ 4, 78.

On Friday, June 6 at 4:48 p.m., ICE Officer Pujol notified Mr. Wilkins in response to his inquiry that Ms. Ramirez Lopez “remains in transit to their final detention housing.” Wilkins Decl., ¶ 33, Ex. M. Yet, the morning of Saturday, June 7, 2025, Ms. Ramirez Lopez's relative advised counsel that at about 8:00 p.m. on Friday evening, she received a brief one-to-two-minute phone call from Ms. Ramirez Lopez from a “212” area code number, suggesting that

instead, she was still in New York City at the time ICE sent the email claiming Ms. Ramirez Lopez was in transit.³ *Id.* ¶ 35.

Indeed, it appears Ms. Ramirez Lopez was still in New York City on Friday, June 6th at approximately 3:00 p.m. when, after being unable to locate Ms. Ramirez Lopez for more than forty-eight hours, another of Ms. Ramirez Lopez's attorneys from Legal Services NYC, Carolyn Norton, went to the ICE Field Office located at 26 Federal Plaza to submit an Application for a Stay of Deportation or Removal, ICE Form I-246 ("Stay Application") on Ms. Ramirez Lopez's behalf. Norton Decl., ¶ 3. Ms. Norton attempted to submit the Stay Application at the window and approximately thirty minutes later, an ICE employee returned the Stay Application to Ms. Norton, stating ICE could not accept the application because Ms. Ramirez Lopez was "in transit" and therefore out of the jurisdiction. *Id.* ¶¶ 6–7. Ms. Norton inquired as to where Ms. Ramirez Lopez was being transited to and was told that information would not be disclosed for "security reasons." *Id.* ¶ 8. Ms. Norton was instructed to check the ICE online detainee locator system to determine Ms. Ramirez Lopez's whereabouts. *Id.* ¶ 9. Ms. Norton explained that her office had been repeatedly checking the detainer locator system and that there was no information available about Ms. Ramirez Lopez in the system. *Id.* ¶ 10. Ms. Norton was then instructed to check the system in a few days and to then resubmit the Stay Application at the Enforcement and Removal Operations Field Office closest to where Ms. Ramirez Lopez was detained after "transit." *Id.* ¶ 11. Ms. Norton requested again that the New York Field Office accept the Stay Application as that was the last known location where Ms. Ramirez Lopez was detained and therefore the location that had jurisdiction. *Id.* ¶ 12. The ICE agent once again refused to accept the Stay

³ Counsel only became aware of this phone call after the instant Petition was filed, Wilkins Decl., ¶ 35 and intends to correct and/or amend the petition shortly.

Application, leaving Ms. Ramirez Lopez with no recourse to request relief from the Government. *Id.* ¶ 13.

In fact, on Monday, June 9th Ms. Ramirez Lopez's counsel learned that Ms. Ramirez Lopez had not been transported out of New York City to Houston until the morning of Sunday June 8th. Wilkins Decl., ¶ 39. Upon finally learning of Ms. Ramirez Lopez's whereabouts, her counsel immediately sought to arrange a call with her to provide her counsel and representation but has so far been told that the *earliest* they can contact her is Saturday June 14th. *Id.* ¶ 42, Ex. Q. Ms. Ramirez Lopez's counsel also emailed the Housing Asylum Office on June 9th notifying USCIS again that Petitioner has a fear of returning to Honduran and once again requesting a Reasonable Fear Interview. Wilkins Decl., ¶ 39, Ex. O. Upon information and belief, Ms. Ramirez Lopez has yet to be scheduled for a Reasonable Fear Interview. Thus, between the Government's repeated misleading statements as to her whereabouts and the extreme delays in scheduling calls at the Houston detention center where she is housed, she will have been detained without access to counsel for *ten days* by the time she is finally able to connect with her counsel.

ARGUMENT

The standards for granting a temporary restraining order and a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure are identical. To succeed on an application for a temporary restraining order or a motion for preliminary injunction, the plaintiff must show (a) either (i) a likelihood of success on the merits of the underlying claims; or (ii) sufficiently serious questions going to the merits to make them a fair ground for litigation and a balancing of the hardships weighing decidedly in its factor; and (b) irreparable harm to the moving party if the relief is not granted. *See e.g., Citigroup Glob. Mkts., Inc. v. VCG Special Opportunities Master Fund Ltd.*, 598 F.3d 30, 35 (2d Cir. 2010); *Metro Taxicab Bd. of Trade v.*

City of New York, 615 F.3d 152, 156 (2d Cir. 2010). *See also Time Warner Cable, Inc. v. DIRECTV, Inc.*, 497 F.3d 144, 152–53 (2d Cir. 2007); *Genesee Brewing Co. v. Stroh Brewing Co.*, 124 F.3d 137, 142 (2d Cir. 1997); *Jackson Dairy, Inc. v. H.P. Hood & Sons, Inc.*, 596 F.2d 70, 72 (2d Cir. 1979).

I. MS. RAMIREZ LOPEZ IS LIKELY TO SUCCEED ON THE MERITS OF HER CLAIM THAT HER DETENTION VIOLATES DUE PROCESS.

(i) Respondents Have Unconstitutionally Detained Ms. Ramirez Lopez.

The Due Process Clause constrains governmental actions that deprive individuals of their liberty. At a minimum, individuals must be given some notice of why they are being detained and some opportunity to contest the alleged grounds for that detention. Indeed, ICE operates under regulations that establish basic procedural requirements that were violated here. Moreover, the Supreme Court has been clear that the Government may detain non-citizen immigrants in a non-criminal setting only in narrow circumstances, where the detention bears a reasonable to: (1) ensuring the appearance of noncitizens at future hearings; and (2) preventing danger to the community. *See Zadvydas v. Davis*, 533 U.S. 690, 690–91 (2001).

Ms. Ramirez Lopez’s detention without any notice or opportunity to contest it violates the basic tenets of Due Process. In *Cesay v. Kurzdorfer*, the U.S. District Court for the Western District of New York held unequivocally and “forcefully” that noncitizens subject to a final order of removal and released on an order of supervision are entitled to Constitutional due process regarding any proposed governmental action to revoke their release and detain them. No. 25-CV-267-LJV, 2025 WL 1284720, at *1 (W.D.N.Y. May 2, 2025). The court noted that the petitioner in that case, a thirty-year resident of the Bronx, posed no danger or flight risk, had significant medical issues, and had reported for ICE check-ins without incident for years. *Id.* at *3–4, 23. The court ordered him released, holding that he must be afforded an opportunity for an orderly

departure, and observing that the Agency's failure to afford him even the minimal process of notice and an informal interview violated the Constitution as well as the Government's own procedures, which reflect such Constitutional minimums. *Id.* at *20–21, 24–25.

Similarly, in *Rombot v. Souza*, the Massachusetts District Court held that ICE violated basic Constitutional due process guarantees when it revoked supervised release for an immigrant who did not pose a danger or flight risk and, further, that the Government had “failed to follow its own regulations, procedures and prior written commitments.” 296 F. Supp. 3d 383, 388 (D. Mass. 2017). In *Torres-Jurado v. Biden*, a case regarding the alleged improper revocation of a stay of removal order, this Court held that the Government “cannot remove Plaintiff in any manner they please” if it violates the Constitution. No. 19 Civ. 3595 (AT), 2023 WL 7130898, at *2 (S.D.N.Y. Oct. 29, 2023). The Court noted the plaintiff's eighteen-year residence in the United States, the lack of danger and flight risk, and fact that the Government's actions conflicted with the terms of the stay order itself.

Ms. Ramirez Lopez was detained without any notice or explanation. For the past six days since she has been detained, she has been deprived of the opportunity to engage with her counsel to raise crucial issues surrounding her removal. Given that Ms. Ramirez Lopez had a June 16, 2025 scheduled check in with ICE which was scheduled months earlier, she and her counsel had no reason to believe that her June 4, 2025 “ISAP” meeting would result in her detention. Ms. Ramirez Lopez has been in full and complete compliance with the terms of her OSUP, including continuously wearing a monitoring bracelet, and has no criminal record. Pet. ¶¶ 1, 90, 97. Because Ms. Ramirez Lopez has been deprived of even the most minimal procedural protections, her continued detention is unlawful. *See Torres-Jurado*, 2023 WL 7130898, at *4 (citing *Ying Fong v. Ashcroft*, 317 F. Supp. 2d 398, 403 (S.D.N.Y. 2004)).

Indeed, the fact that Ms. Ramirez Lopez was granted supervised release necessarily means that the Government determined that she was neither a flight risk nor a danger to the community, and thus that there were no grounds to detain her, someone accused of no crime, under *Zadvydas*, 533 U.S. at 690–91. The Government has provided no explanation for what it believes has changed in Ms. Ramirez Lopez’s circumstances to justify detaining her now, after five years of faithfully submitting to the terms of her release. To the extent the Government does allege some change in circumstances, it has failed to give Ms. Ramirez Lopez an opportunity to contest those allegations and has actively impeded her counsel’s ability to assist her in defending herself from any such allegations. This conduct violates Ms. Ramirez Lopez’s basic right to Due Process. *See Rombot*, 296 F. Supp. 3d at 388–89 (citing *Zadvydas*, 533 U.S. at 700) (finding that “[t]he Supreme Court has recognized that an ‘alien may no doubt be returned to custody upon a violation of [supervision] conditions,’ but it has never given ICE a carte blanche to re-incarcerate someone without basic due process protection.”).

Finally, Ms. Ramirez Lopez is far from being ready to be removed from the United States, as maybe the plaintiff in *Cesay v. Kurzdorfer* was. 2025 WL 1284720, at *3. She has expressed fear of returning to her home country of Honduras and she has not been provided a Reasonable Fear Interview to determine whether her fear amounts to triggering a full withholding of removal hearing in front of an immigration judge. Until she receives her Reasonable Fear Interview, she cannot be removed legally. Further, even if Ms. Ramirez Lopez’s Reasonable Fear Interview is unsuccessful, she may request review of that determination before an immigration judge. *See* 8 C.F.R. § 208.31(f)(3) (“If the USCIS asylum officer finds that the alien does not have a reasonable fear of persecution or torture, the alien may request that an

Immigration Judge review this finding”). In conclusion, Ms. Ramirez Lopez should be subject to removal in the near future and thus her detention is unjustified.

(ii) Respondents Have Repeatedly Obstructed Ms. Ramirez Lopez’s Access to Counsel and Ability to Advocate for Her Rights.

At every turn, the Government has obstructed Ms. Ramirez Lopez’s access to her attorneys and interfered with her attorneys’ ability to advocate on her behalf. From the moment of her ISAP check-in appointment on June 4th, Respondents refused to allow Ms. Ramirez Lopez’s attorney to accompany her and indeed refused to even recognize that her attorney had duly filed appearance in her case. Wilkins Decl., ¶¶ 17–19. Once detained, Ms. Ramirez Lopez *never* appeared on the ICE detainee locator and repeated desperate attempts to locate her by her counsel were unavailing.

Thereafter, multiple of Respondents’ employees actively misled her attorneys into believing she was “in transit” out of this Court’s jurisdiction—going so far as to refuse to allow her attorneys to file a basic I-246 administrative Stay of Removal application at 26 Federal Plaza on her behalf, on the grounds that the ICE office could not accept such an application for someone who was no longer in the jurisdiction. Norton Decl., ¶ 7; Wilkins Decl., ¶ 33, Ex. M. Yet, upon information and belief, Ms. Ramirez Lopez was still in New York City—very likely still *in the very same building*, at 26 Federal Plaza, at the time and remained so for at least the next two days. Wilkins Decl., ¶¶ 35, 39, Ex. N. Moreover, on June 9th, counsel learned that they could not be in contact with Ms. Ramirez Lopez until June 14th, a full ten days after she was detained. Wilkins Decl., ¶ 42.

Ms. Ramirez Lopez also faced substantial obstacles in requesting her Reasonable Fear Interview. Where a person is subject to an order of removal or reinstated order of removal, the Government must provide them with a Reasonable Fear Interview to determine whether they

have a reasonable fear of being tortured or persecuted if removed to their home country. Yet, Respondents rejected Ms. Ramirez Lopez's attempt to secure a Reasonable Fear Interview prior to her detention, claiming that Respondents were not scheduling interviews for non-detained individuals. Thereafter, once Ms. Ramirez Lopez *was* detained, Respondents have repeatedly refused to respond to counsel's numerous follow-up requests concerning the need to schedule her for a Reasonable Fear Interview. Moreover, on June 9th, Ms. Ramirez Lopez's counsel emailed the Houston Asylum Office email mailboxes, reiterating Ms. Ramirez Lopez's fear of returning to Honduras and requesting again that she be scheduled for a Reasonable Fear Interview. To date, upon information and belief, she has not yet had a reasonable fear interview and, given the extreme difficulty counsel have faced trying to contact their client, it is unclear whether counsel will be able to advise her about this crucial process and provide her representation during the interview.

By denying Ms. Ramirez Lopez notice of the reason for her detention, a chance to be heard, and access to her counsel, the Government has violated her right to due process in the most basic sense. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (“It is well established that the Fifth Amendment entitles [noncitizens] to due process of law’ in the context of removal proceedings.”) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).

II. RESPONDENTS’ ACTIONS VIOLATE THE INA AND ITS REGULATORY SCHEME.

Under the Administrative Procedures Act (“APA”), a “final agency action for which there is no other adequate remedy in a court [is] subject to judicial review.” 5 U.S.C. § 704. The reviewing court “shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” or “unsupported by substantial evidence[.]” 5 U.S.C. §§ 706(2)(A), (E).

Respondents here failed to follow their own procedures as required prior to detaining a non-criminal alien and revoking their order of supervision. *See* 5 U.S.C. §§ 706(2)(A), (E); *Rombot*, 296 F. Supp. 3d at 388; *Ceesay*, 2025 WL 1284720, at *13. The Second Circuit recognizes the federal court’s subject matter jurisdiction with respect to APA actions challenging ICE’s failure to comply with its own procedures. *See Mantena v. Johnson*, 809 F.3d 721, 729 (2d Cir. 2015) (finding USCIS’s failure to abide by procedural requirements in revoking a visa not shielded from review under 8 U.S.C. § 1252). At a minimum, ICE “has the duty to follow its own federal regulations.” *Haoud v. Ashcroft*, 350 F.3d 201, 205 (1st Cir. 2003) (quoting *Nelson v. I.N.S.*, 232 F.3d 258, 262 (1st Cir. 2000)). It has failed to do so here.

Federal regulations require that, before the Government may revoke someone’s order of supervision, they must provide notice of the reason for the revocation, followed by an interview with the individual sought to be detained. *See* 8 C.F.R. § 241.4(l)(1) (“[T]he alien will be notified of the reasons for the revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.”). Moreover, 8 C.F.R. § 292.5 indicates that paperwork served on a noncitizen must also be served on his or her counsel. This stands in stark contrast with the facts at hand, particularly given the Government’s actions here in impeding Ms. Ramirez Lopez’s access to counsel.

Other courts have found that the failure to provide this basic process—notice and a chance to be heard as to why one is being detained and supervised release is revoked—to be a violation of the APA and due process sufficient to warrant releasing the individual from detention entirely. *See Ceesay*, 2025 WL 1284720 at *28 n.20 (“*Ceesay* is entitled to the relief he seeks because his detention violates ICE’s regulations and due process.”).

III. MS. RAMIREZ LOPEZ WILL SUFFER IRREPARABLE HARM IN THE ABSENCE OF A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION.

Under the four-factor test, “[a] showing of irreparable harm is the single most important prerequisite for the issuance of a preliminary injunction.” *Faiveley Transp. Malmö AB v. Wabtec Corp.*, 559 F.3d 110, 118 (2d Cir. 2009) (internal citation and quotation marks omitted). Under this prong, a party seeking such injunction must show that “but for the grant of equitable relief, there is a substantial chance that upon final resolution of the action the parties cannot be returned to the position they previously occupied.” *Brenntag Int’l Chems., Inc. v. Bank of India*, 175 F.3d 245, 249 (2d Cir. 1999); *see also Salinger v. Colting*, 607 F.3d 68, 81–82 (2d Cir. 2010). In addition, the harm must be “neither remote nor speculative, but actual and imminent[.]” *Freedom Holdings, Inc. v. Spitzer*, 408 F.3d 112, 114 (2d Cir. 2005) (citation omitted).

Here, the threats Ms. Ramirez Lopez is facing satisfy the irreparable harm prong. The deprivation of her constitutional rights permit a *per se* finding of irreparable harm. *See, e.g., Conn. Dep’t of Env’tl Prot. v. O.S.H.A.*, 356 F.3d 226, 231 (2d Cir. 2004) (“[W]e have held that the alleged violation of a constitutional right triggers a finding of irreparable injury.”) (internal citations and quotation marks omitted); *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996) (“[An] alleged violation of a constitutional right . . . triggers a finding of irreparable harm.”) (emphasis in original).

Given Respondents’ actions to date, there is every reason to believe that, absent a temporary restraining order, Ms. Ramirez Lopez will continue to be obstructed from communicating with her counsel and potentially either moved to another facility, requiring another wild goose chase by her counsel, or removed from the country entirely without constitutionally and statutorily adequate process. *See J.G.G.*, 145 S. Ct. at 1016 (Sotomayor, J., dissenting) (noting the risk of “severe and irreparable harm” for detained immigrants who may

be moved around the country at a moment's notice and forced to find new counsel). The risks here are particularly grave given that the Government began obstructing counsel's access to Ms. Ramirez Lopez days before she was moved. Without an order requiring that she be either immediately released or returned to this Court's jurisdiction for the remainder of these proceedings, Ms. Ramirez Lopez will continue to run the risk of being denied access to counsel. *See id.* (Sotomayor, J., dissenting) (noting that the threat of irreparable injury is "especially" present "because the Government can transfer detainees to particular locations in an attempt to secure a more hospitable judicial forum.").

IV. A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION WOULD NOT SEVERELY HARM THE GOVERNMENT OR PUBLIC INTEREST.

Finally, a temporary restraining order and preliminary injunction would not significantly impede the Government or public interest. In inquiries concerning the Government's efforts to remove a noncitizen, the Government and public interest factors merge as the Government is both the opposing litigant and public interest representative. *See Nken v. Holder*, 556 U.S. 418, 435 (2009).

Here, Ms. Ramirez Lopez is only requesting a return to the status quo *ante*—either release Ms. Ramirez Lopez (on supervised release or otherwise) or immediately return her to the physical jurisdiction of this Court, and refrain from removing her out of the country until the instant proceedings are completed. This relief is temporary and narrowly tailored. Indeed, the Government has already found that Ms. Ramirez Lopez is eligible for supervised release and is not a danger to the public. To date, she has given no reason to challenge that finding. Moreover, transferring her back to New York City will provide her with important procedural safeguards, without any harm to the Government or the public. Finally, ordering her not to be removed until

this petition is decided simply allows for these proceedings to go forward “without the time pressure of a looming removal date.” *S.N.C. v. Sessions*, 325 F. Supp. 401, 412 (S.D.N.Y. 2018).

CONCLUSION

Ms. Ramirez Lopez respectfully requests that the Court grant her motion for a temporary restraining order and preliminary injunction releasing her from custody, or in the alternative, preventing her removal from the United States, allowing her access to counsel, and ordering her transfer back to this Court’s jurisdiction pending this Court’s determination of the underlying merits of her Petition.

Dated: New York, NY
June 10, 2025

/s/ Carolyn M. Norton
Carolyn M. Norton
Melissa Banks
Christine Clarke
Legal Services NYC
40 Worth Street, Suite 606
New York, New York 10013
cnorton@lsnyc.org
Tel.: (646) 442-3586
Attorneys for Petitioner

CERTIFICATION OF WORD-COUNT

I, Carolyn M. Norton, hereby certify pursuant to Local Rule 7.1(c) that the portions of this document that must be included in the word count contain 5,592 words.

/s/ Carolyn M. Norton