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 ENFORCMENT *Defendants-Respondents.*	Case No. 1:25-cv-04826 **Oral Argument Requested**

PETITIONER'S REPLY IN SUPPORT OF HER EMERGENCY MOTION FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Regulations

PRELIMINARY STATEMENT AND FACTUAL BACKGROUND SINCE THE FILING OF PETITIONER'S OPENING BRIEF

Since Ms. Ramirez Lopez's initial detention, she spent four days in the holding cells of 26 Federal Plaza, but for briefly being ferried to New Jersey. Supplemental Declaration of David Wilkins ("Supp. Wilkins Decl."), ¶ 8. She was forced to sleep on the floor, given one or two meals per day, and irregularly given her blood pressure medication, causing her to faint. *Id.* ¶¶ 8–9.

Petitioner could not access counsel for a full seven days, and only after she was transferred to Houston Contract Detention Facility and after this Court's hearing on the instant motion. *Id.* ¶ 7. When she is now able to contact her counsel, the calls are frequently dropped or do not connect. *Id.* ¶¶ 11, 22. Despite repeated requests to speak with her attorney, Petitioner was presented with a Warrant of Removal without being able to consult with counsel and told she would be imminently removed, causing her to be near-hysterical with fear. *Id.* ¶ 18, Ex. E. She still does not show up in the ICE detainee locator. *Id.* ¶ 29.

Respondents have now made clear that the Government itself does not know why it detained her or why it intends to deport her. Respondents initially claimed they relied on a Notice of Intent/Decision to Reinstate Prior Order dated March 14, 2019—a document that Petitioner's counsel was presented with for the first time after this case was filed. *Id.* ¶ 13. Petitioner learned by way of Respondents' opposition papers that they had rescinded the 2019 reinstatement of her original 2005 removal order and now claimed that she was being removed based on the original 2005 order. Dkt. No. 22, Respondents' Memorandum of Law in Opposition to Emergency Motion for a Temporary Restraining Order and Preliminary Injunction, pp. 7–8 ("Opp."). Their basis to rescind is that the 2019 order indicates that Petitioner left the United States in September 2005, before the October 2005 removal order was issued, rendering it defective. *Id.* In fact, Petitioner left the United States *after* the 2005 removal order was issued. Supp. Wilkins Decl. ¶ 14.

The difference in these two potential rationales for her removal, whether it be relying on a reinstatement of a prior removal order or instead relying on the original removal order itself, are of enormous consequence, with some rights and defenses available only under one circumstance or another. If Respondents seek to remove her pursuant to the original removal order, she may seek to reopen that order and litigate its underlying basis. If, however, Respondents seek to remove her pursuant to a reinstatement order, then she would have other avenues of relief available, including seeking humanitarian relief pursuant to 8 C.F.R. § 1241.8(e) due to the deadly dangers posed to her safety from both her abusive husband and by gangs in Honduras. It is worth noting that the Reasonable Fear Interview she requested to invoke this relief since February of 2025 still has not been provided. *Id.* ¶ 6. Ultimately, because Respondents do not know on what grounds they seek to remove her, she cannot effectively mount a defense.

Moreover, the Government has not provided *any* reason for Ms. Ramirez Lopez's detention, or even why and under what circumstances her order of supervision was revoked. *Id.* ¶¶ 21, 28.

The Constitution does not permit the Government to detain people first and figure out the grounds later. As argued in further detail below, the Government's actions here warrant an order from this Court that: (1) Ms. Ramirez Lopez be released from detention; (2) that Respondents be ordered to provide Ms. Ramirez Lopez with a legal reason why they seek to remove her, if one exists, so she can mount a proper defense; and (3) that Respondents be prohibited from removing her from the United States pending the provision of (2), (3) and the outcome of the underlying Petition.

ARGUMENT

I. The Court Has Jurisdiction to Review the Unlawful Detention of Ms. Ramirez Lopez.

a. Habeas Proceedings Available

This Court has jurisdiction over this Petition. Indeed, the Supreme Court has been clear that "[28 U.S.C.] § 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention. *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001); *see also Jennings v. Rodriguez*, 683 U.S. 281, 294 (2018).

Respondents seek to muddy the waters, arguing that 8 U.S.C. § 1252(g) deprives this Court of subject matter jurisdiction to challenge a final order of removal. Opp., pp. 8–11. But Petitioner here seeks no such relief—she is challenging the constitutionality of her detention, seeking a stay of removal *pending the adjudication of this case,* and seeking to be released from custody. She does not seek to collaterally attack her removal order.

Courts in this Circuit have consistently found jurisdiction over similar claims. *See Öztürk v. Hyde*, 136 F.4th 382, 397 (2d Cir. 2025) (holding challenges to unlawful detention that are "independent of, or wholly collateral to, the removal process" do not "arise from" commencement of [removal] proceedings and therefore do not implicate § 1252(g)) (citation omitted); *Prado v. Perez*, 451 F. Supp. 3d 306, 312 (S.D.N.Y. 2020) (collecting cases).

Indeed, to allow 8 U.S.C. § 1252(g) to strip the Court of jurisdiction over this case may amount to an unconstitutional suspension of the writ of habeas corpus. *See, e.g.*, *Osorio-Martinez v. Att'y Gen.*, 893 F.3d 153, 166–67, 178 (3d Cir. 2018) (holding that 8 U.S.C. § 1252(e) violates the Suspension Clause where "the INA does not provide 'adequate substitute procedures'") (quoting *Boumediene v. Bush*, 553 U.S. 723, 771 (2008)); *Devitri v. Cronen*, 290 F. Supp. 3d 86,

90 (D. Mass. 2017) (staying removal so that petitioners, whose orders of supervision were revoked in an "abrupt" change of policy, could file motions to reopen their removal proceedings based on changed country conditions to avoid a § 1252(g) Suspension Clause issue); *Ibrahim v. Acosta*, No. 17-cv-24574-GAYLES, 2018 WL 582520, at *6 (S.D. Fla. Jan. 26, 2018).[1]

b. Request for a Temporary Stay of Removal

The fact that Petitioner seeks a stay of removal pending the resolution of this Petition, including a chance to understand the actual grounds for potential removal sufficient to mount a defense, does change the jurisdictional question here. All these issues ultimately stem from the Government's rushed and lawless actions. *See Öztürk*, 136 F.4th at 394 ("The district court undeniably has an "inherent authority to protect [its] proceedings") (quoting *Degen v. United States*, 517 U.S. 820, 823 (1996)). Moreover, the Courts have the power to issue all writs "necessary or appropriate in aid of their respective jurisdictions" where there is some threat to the integrity of ongoing proceedings, as would occur here if Petitioner were deported before the Government was required to explain why she had been detained. *See* 28 U.S.C. § 1651; *Klay v. United Healthgroup, Inc.*, 376 F.3d 1092, 1102 (11th Cir. 2004) (noting that the All Writs Act permits courts to enjoin conduct "which, left unchecked, would have . . . the practical effect of diminishing the court's power to bring the litigation to a natural conclusion.") (internal quotation marks and citation omitted).

Indeed, courts regularly order such relief in similar circumstances. *See Calderon v. Sessions*, 330 F. Supp. 3d 944, 958–59 (S.D.N.Y. 2018) (ordering petitioner's release from custody

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[1] *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020), does not dictate a contrary result as that decision holds only that a noncitizen "at the threshold of initial entry" with no ties to the United States and subject to expedited removal could not resort to habeas as a means of direct review of his humanitarian claims. No such facts are present here.

and enjoining removal until petitioner exhausts his right to seek a provisional waiver); *You v. Nielsen*, 321 F. Supp. 3d 451, 469 (S.D.N.Y. 2018) (staying removal and ordering immediate release of petitioner with an outstanding removal order who was recently detained at his adjustment of status interview); *Pangemanan v. Tsoukaris*, No. 18-cv-1510 (D.N.J. Feb. 2, 2018) (ECF No. 2) (ordering petitioner released and temporarily enjoining removal pending further briefing); *see also Öztürk*, 136 F.4th at 394.

II. Ms. Ramirez Lopez is Likely to Succeed on Her Unlawful Detention Claim.

The Government has provided no rationale for detaining Ms. Ramirez Lopez for days without access to her counsel, and now, in rushed attempt to construct a *post hoc* justification, the Government has shifted its explanation of the basis for its attempts to remove her, threatening to remove her without access to the Reasonable Fear Interview it previously indicated it would schedule. Without a basic understanding of the posture of her removal case, she cannot mount an adequate defense. All of this amounts to a clear violation of her constitutional right to due process.

Respondents argue unavailingly that she has not been arbitrarily detained for long enough to constitute a due process violation, citing to inapposite cases where prolonged detention was the petitioner's only claim. *See* Opp., p. 15 (citing, e.g., *Hoyte v. Holder*, No. 10 Civ. 3460 (PAC), 2011 WL 1143043, at *3 (S.D.N.Y. Mar. 25, 2011)). Indeed, "the overwhelming consensus . . . in [the Southern District of New York] is that [due process] requires the Government to bear the burden to justify continued detention of a noncitizen who is detained pursuant to § 1226(a), *even absent prolonged detention*." *Reyes v. King*, No. 19 Civ. 8674 (KPF), 2021 WL 3727614, at *7 n.7 (S.D.N.Y. Aug. 20, 2021) (citation omitted) (emphasis added); *see also Quintanilla v. Decker*, No. 21 Civ. 417 (GBD), 2021 WL 707062, at *3 (S.D.N.Y. Feb. 22, 2021); *see also Yefry Valdez v. Joyce*, Mem. Decision and Order, 1:25-cv-04627 (GBD) (June 18, 2025), at 7–8 (ordering petitioner's immediate release after only two weeks of detention, where the Government alleged

no change in circumstances to justify his unconstitutional detention without notice or a chance to be heard). Moreover, any presumption that shorter periods of detention are reasonable is premised on "the assumption that ICE followed the process prescribed by its regulations to ensure that continued detention was justified." *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 636 (D. Mass. 2018) (citing *Zadvydas*, 533 U.S. at 701). No such presumption is warranted here.

INA regulations themselves require process for the revocation of an order of suspension, including notification of the reasons and "an opportunity to respond to the reasons." 8 C.F.R. § 241.4(l)(1). In its rush to detain Petitioner, Respondents have not even afforded her that. Nor has the Government even alleged that any review of her circumstances was undertaken or an evaluation whether she presented any risk of flight or danger to the community. In fact, the Government offers no indication that her order of suspension was formally revoked at all, pursuant to § 241.4(l)(2) (specifying the specific individuals who may revoke an order of suspension).

While Respondents argue that § 241.4(l)(1) does not impose an obligation on the Government, courts have regularly disagreed. *See, e.g.*, *Ceesay v. Kurzdorfer*, No. 25-CV-267-LJV, 2025 WL 1284720, at *17–19 (W.D.N.Y. May 2, 2025) (rejecting the Government's argument that § 241.4(l) only guaranteed an interview to persons who had violated their order of supervision and need not take place for three months as absurd since it would provide less process to people who had abided by the terms of supervision); *M.Q. v. United States*, No. 1:22-cv-10680 (ALC) (KHP), 2025 WL 965810, at *5 n.1 (S.D.N.Y. Mar. 31, 2025); *see also Noem v. Abrego Garcia*, 145 S. Ct. 1017, 1019 (2025) (Sotomayor, J., statement respecting the Court's disposition of the application) (describing 8 C.F.R. § 241.4(l) as requiring the Government to "provide adequate notice and 'promptly' arrange an 'initial informal interview . . . to afford the [noncitizen] an opportunity to respond to the reasons for the revocation stated in the notification'").

Ultimately, the Government has taken a "shoot first and ask questions later" approach, cavalierly upending Petitioner's life—terrifying her teenage son and forcing her to sleep on crowded jail floors—and potentially endangering her by illegally removing her to Honduras. Ms. Ramirez Lopez has been detained for no reason after five years of compliance with her order of supervision. The Government has made no allegation, nor could it, that this mother and grandmother is either a flight risk or a danger to her community. In its attempt to construct a *post hoc* rationale for its unlawful conduct, the Government first alleges that it detained her "based on the reinstated prior order of removal," Dkt. No. 21, ¶ 15, only to turn around and seek to rescind that reinstatement, altering the defenses available to her. Moreover, in its rush, the Government has made its about-face based on a misunderstanding of fact. Throughout the process, she has been given limited access to her attorneys, who are in turn provided with limited information with which to mount a defense.

Such an extreme course of conduct does not comport with due process under the Constitution.

III. Ms. Ramirez Lopez Has Demonstrated Irreparable Harm.

A party seeking injunctive relief 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).

a. Harm from Unconstitutional Detention

Respondents' unconstitutional detention of Ms. Ramirez Lopez has had profound consequences that will continue to cause her irreparable harm without this Court's intervention. The circumstances surrounding Ms. Ramirez Lopez's detention were inherently harmful, but particularly for someone with her trauma history. She was called in for an appointment on a mere

24-hours' notice and with no reason to believe she would be detained, as none of her circumstances changed to justify revocation of her order of supervision. The sudden, unprovoked detention meant that she had no chance to prepare and no chance to arrange for care for her high school aged son, let alone a chance to say goodbye. If she is ultimately removed, then every preceding day that she could have spent with her family is even more precious, making deprivation even more harmful. *See, e.g.*, *Jimenez*, 317 F. Supp. 3d at 636.

Ms. Ramirez Lopez is also a survivor of years of domestic violence, was targeted with violence by a notorious gang in Honduras, and was sexually assaulted in recent years, making her eligible for a U-Visa. Pet., ¶¶ 34–43. As a result of these horrific experiences, she is under the care of a psychologist in New York to whom she has no access in detention. Supp. Wilkins Decl., ¶¶ 15–17. Not only is she experiencing stress from being arbitrarily detained, she is now being threatened with return to a country where she justifiably fears for her life.

As a result of this extreme stress, her mental and physical health has deteriorated. *Id.*, ¶¶ 25–26. She fainted from hypertension while in custody and her blood pressure remained elevated for ten days. *Id.*, ¶ 9. This ongoing trauma cannot be undone and, absent a temporary restraining order and preliminary injunction, she cannot simply be returned to the position she previously occupied. *See Brenntag Int'l Chems.*, 175 F.3d at 249.

Moreover, the unconstitutional and arbitrary nature of the deprivation Petitioner is suffering constitutes *per se* irreparable harm. *See, e.g.*, *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); *see also Conn. Dep't of Env'tl Prot. v. OSHA*, 356 F.3d 226, 231 (2d Cir. 2004). As discussed above, Petitioner's due process rights were violated when the Government

revoked her supervision without reason or notice, and now seeks to deport her on unclear grounds. This constitutional violation alone constitutes irreparable harm.

b. Harm from Rushed Process and Confusion

Due to the confusion around the posture of Ms. Ramirez Lopez's removal case, without this Court's intervention, she runs a high risk of being erroneously removed from the United States. She is at high risk of being deported without a Reasonable Fear Interview due to the Government's mistake of fact as to when she previously left (a threshold question in determining whether she is eligible for certain humanitarian relief). Simultaneously, she is at high risk of being removed without an opportunity to move to reopen the underlying order, a procedural mechanism the Supreme Court has noted is "an 'important safeguard' intended 'to ensure a proper and lawful disposition' of immigration proceedings." *Kucana v. Holder*, 558 U.S. 233, 242 (2010) (quoting *Dada v. Mukasey*, 554 U.S. 1, 18 (2008)); *see also Luna v. Holder*, 637 F.3d 85, 98 (2d Cir. 2011) (characterizing review of motions to reopen as "meaningful" and no less thorough than habeas review).[2] Such erroneous removal would constitute irreparable harm. *See, e.g.*, *Delgadillo v. Carmichael*, 332 U.S. 388, 391 (1947); *Padilla v. Kentucky*, 559 U.S. 356, 365 (2010). This is especially true because Ms. Ramirez Lopez is justifiably terrified of being returned and subjected

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[2] It is virtually impossible to successfully make such a motion after deportation—one has limited access to one's attorney, s*ee Compere v. Nielsen*, 358 F. Supp. 3d 170, 181–82 (D.N.H. 2019), and there is no reliable mechanism by which deported immigrants can return even if they are successful in reopening their deportation case. *See Nat'l Immigr. Project of Nat'l Laws. Guild v. U.S. Dep't of Homeland Sec.*, No. 11-cv-3235, 2014 WL 6850977, at *5 (S.D.N.Y. Dec. 3, 2014) (finding it "troubling" that the government refused to fund the return of indigent noncitizens because "the financial burden of removal may, as a practical matter, preclude effective relief."). Moreover, every day Ms. Ramirez Lopez would spend in Honduras after a deportation would jeopardize her life and her safety.

to violence or possible death by her husband or the gangs she sought to escape by coming to the United States in 2019.

Ultimately, a stay of removal would provide time to "ensure[] that ICE has properly complied with the laws and Constitution in seeking to remove" Petitioner. *Torres-Jurado v. Biden*, 2023 WL 7130898, at *5 (S.D.N.Y. Oct. 29, 2023). Respondents' actions to date warrant such assurances. A stay pending determination of the Government's grounds for Petitioner's removal and resolution of the underlying habeas petition also ensures that the Government has not exceeded its powers and violated Petitioner's constitutional rights. *See G.F.F. v. Trump*, No. 25 CIV. 2886 (AKH), 2025 WL 1301052, at *11 (S.D.N.Y. May 6, 2025) ("[T]he public has a strong interest in ensuring that the branches of our government do not exceed their powers and violate the rights of others in the process.") (citing *Planned Parenthood of N.Y.C., Inc. v. U.S. Dep't of Health & Human Servs.*, 337 F. Supp. 3d 308, 343 (S.D.N.Y. 2018)).

IV. The Public Interest Is Served in Releasing Ms. Ramirez Lopez from Detention and Staying Her Removal.

The final factors in determining whether to grant a preliminary injunction, balance of equities and public interest, "merge" when the government is the opposing party. *Nken v. Holder*, 556 U.S. 418, 435 (2009). There is no public interest in detaining a grandmother who poses no danger to others, is not a flight risk, and has undergone immense trauma in Honduras and the United States, especially since being detained. Pet., ¶¶ 8, 43, 98; *cf. Parra Rodriguez v. Noem*, No. 3:25-CV-616 (SRU), 2025 WL 1284722, at *10–11 (D. Conn. May 1, 2025) (requiring defendants to restore noncitizen's student status and enjoining her detention in part due to her lack of criminal convictions or threat to community). Moreover, courts in this District have recognized that "there is a public interest in maintaining families together and in avoiding extreme hardship" to a

noncitizen's family as is currently befalling Ms. Ramirez Lopez and her school-aged son. *You*, 321 F. Supp. 3d at 469.

The public interest also weighs in favor of insulating crime victims like Petitioner from detention and removal. The U-visa program is intended to "strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of [noncitizens], and other crimes . . . , while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States." Pub. L. 106-386 at § 1513(a)(2)(A); see also Pet., ¶¶ 19–30. Detaining or deporting crime victims after they come forward risks imposing a chilling effect on cooperation with law enforcement. *See D'Ambrosio v. Scott*, No. 2:25-CV-468, 2025 WL 1504312, at *4 (D. Vt. May 9, 2025) (granting temporary stay of removal for noncitizen applying for legal status under the Violence Against Women Act and noting that Congress "has recognized the significant public interest in enabling victims to report crimes without fear of negative immigration consequences.").

CONCLUSION

For the reasons set forth above, Petitioner respectfully requests that her motion be granted.

Dated: New York, NY
June 18, 2025

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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 3,492 words.

/s/ Carolyn M. Norton