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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Juan Sanchez-Hernandez

Petitioner,

v.

Christopher Howard,[1] et al.

Respondents.

No. 2:25-cv-02351-PHX- DWL-MTM

SECOND AMENDED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Challenge to Unlawful Incarceration Under Color of Immigration Detention Statutes; Request for Declaratory and Injunctive Relief

[1] Per FRCP 25(d), Petitioner replaces Respondent Fred Figueroa with Respondent Christopher Howard, who has assumed Respondent Figueroa's position.

INTRODUCTION

1. Petitioner Juan Angel Sanchez-Hernandez ("Ms. Sanchez"), a 42-year-old citizen of Honduras, was issued a removal order to Honduras through an Administrative Deportation Form I-851 on November 5, 2007. *See* ECF 51-1 (Form I-213 pp. 2). She did not challenge that removal order and it became final the same day. On August 12, 2022, she voiced a reasonable fear of persecution or torture in Honduras, and on December 15, 2022 in withholding-only proceedings, an immigration judge granted her protection from deportation to Honduras in the form of deferral of removal under the Convention Against Torture ("CAT"). *Id.*

2. She was released from Immigration and Customs Enforcement ("ICE") custody on an order of supervision ("OSUP") about a month later, on January 19, 2023. ECF 14-1 (Declaration of Brandy Berghouse ¶21). Ms. Sanchez lived and worked in the Phoenix community and complied with her OSUP order, which required that she check in with the ICE office once a year. ECF 51-2 (Declaration of Angel Sanchez-Hernandez ¶ 2). During her period of supervised release, Ms. Sanchez had complied with all legal requirements, including attending scheduled ICE check-ins and not committing any crimes. *Id.* at ¶ 2. After being released on that order for over two years, ICE arrested Ms. Sanchez without explanation at a routine ICE check-in in Phoenix in June 2025, eventually transferring her to the Eloy Detention Center ("Eloy"). *Id.* ¶ 3.

3. On July 7, 2025, Ms. Sanchez filed a petition for habeas corpus before this Court, *see* ECF 1 (Petition for Writ of Habeas Corpus), and later filed a First Amended Petition on July 23, 2025, *see* ECF 21. Among other counts, she alleged that ICE's

revocation of her OSUP order violated applicable regulations and due process. This Court agreed, and ordered her released from ICE detention on August 5, 2025 subject to the conditions of release that existed prior to her unlawful detention. ECF 33.

4. However, the government never fully complied with the Court's order. They required Ms. Sanchez to wear an ankle monitor, a condition never previously imposed. ECF 51-2 (Declaration of Angel Sanchez-Hernandez at ¶ 9). After Ms. Sanchez objected, ICE removed the ankle monitor, but then required her to download an application that would track her location weekly. *Id.* at ¶ 9. ICE also required her to check-ins once a week, whereas previous check-ins were on an annual basis. And when Ms. Sanchez went back for yet another check-in on October 10, 2025, ICE again revoked her OSUP and detained her even though they acknowledged in their new OSUP revocation that they could not "move forward with removal" at this time. ECF 51-6 (October OSUP Revocation).

5. On the Form I-213, ICE explained that Ms. Sanchez's OSUP was revoked due to her "criminal history," and that she would be held in detention until her first master calendar hearing "a Master hearing has been scheduled." *See* ECF 51-1 (Form I-213 pp. 2). ICE cited no new criminal history or charges in the I-213 and merely restated Ms. Sanchez's prior criminal history that existed before her two prior releases on an order of supervision. *Id.*

6. When Ms. Sanchez was initially re-detained in June 2025, ICE stated that they planned to remove her to Mexico. Ms. Sanchez voiced a fear of persecution or torture in Mexico and passed a fear screening to that country. ECF 51-3 (Reasonable Fear

Interview). A DHS officer found that she could be "physically harmed and threatened" because of her identity." *Id.* at pp. 2. ICE moved to reopen her withholding-only proceeding before an immigration judge to designate Mexico as an alternative country of removal. On November 18, 2025, an immigration judge denied Ms. Sanchez's request for protection under the Convention Against Torture to Mexico, finding that while she did have a risk of serious harm in that country, it did not rise to the level of torture. ECF 51-4 (Immigration Judge Decision). Ms. Sanchez timely appealed that decision to the BIA. ECF 51-4 (Notice of Appeal).

7. Ms. Sanchez is detained pursuant to 8 U.S.C. § 1231, which governs the detention of noncitizens with a final order of removal. Ms. Sanchez's continued detention violates 8 U.S.C. § 1231(a) because her removal is not reasonably foreseeable. *See Zadvydas v. Davis*, 533 U.S. 678 (2001). She cannot be deported to her home country – Honduras – because she was granted CAT protection by an immigration judge (IJ). 8 C.F.R. § 1208.17. To the extent that ICE is pursuing Ms. Sanchez's removal to Mexico or another third country, it has failed to demonstrate that such removal is reasonably foreseeable. There has been no indication that Mexico or another country would accept her, and, in any case, Ms. Sanchez is in the process of appealing the IJ's denial of CAT protection in Mexico. Accordingly, Ms. Sanchez is entitled to immediate release from ICE custody.

8. Ms. Sanchez's re-detention further violated ICE's own regulations and her Fifth Amendment due process rights. ICE re-detained her despite her strict compliance with the terms of her OSUP during the time she was out of detention, including attending

her most recent ICE check-in on October 10, 2025. ICE cited no change in circumstance and in fact has conceded that Ms. Sanchez-Hernandez's removal is not reasonably foreseeable. ICE has failed to comply with its own regulations for revocation of release and review of detention, in violation of the Administrative Procedure Act ("APA") and due process, pursuant to *Accardi v. Shaughnessy*, 347 U.S. 260 (1954). Independent of such violations, Ms. Sanchez's re-detention without notice and an opportunity to be heard runs afoul of her Fifth Amendment due process rights under the test in *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). ICE offers no potential end date to detention while Ms. Sanchez is detained needlessly and separated from her partner, her gainful employment, and the stability that she has worked hard to obtain. For these procedural violations, Ms. Sanchez requests that she be placed back on the terms of supervision with which she had been consistently complying: an annual ICE check-in, with no ankle monitor or any other monitoring technology permitted.

JURISDICTION AND VENUE

9. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1331, since this Petition arises under the Constitution and laws of the United States, namely the detention provisions of the Immigration and Nationality Act, 8 U.S.C. § 1231; the accompanying regulations codified at 8 C.F.R. § 241.4, *et seq*; the habeas corpus statute, 28 U.S.C. § 2241; and the Due Process Clause of the Fifth Amendment.

10. This Court may grant relief pursuant to the Habeas Corpus Act, 28 U.S.C. § 2241, *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*; the All Writs Act, 28 U.S.C. § 1651; and the Court's inherent equitable powers.

11. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *Zadvydas*, 533 U.S. at 687.

12. Federal courts also have federal-question jurisdiction, through the APA, to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). APA claims are cognizable via habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus"). The APA affords a right of review to a person who is "adversely affected or aggrieved by agency action." 5 U.S.C. § 702. ICE's continued detention of Ms. Sanchez has adversely and severely affected her liberty.

13. Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because at the time of filing Petitioner is detained in the Eloy Detention Center in Eloy, Arizona, within the jurisdiction of this Court; a substantial part of the events and omissions giving rise to the claim occurred in this district; Respondent Howard resides in this district; and Respondents are officers of the United States acting in their official capacity.

14. Exhaustion of administrative remedies is not required because it would be futile.

PARTIES

15. Ms. Sanchez is a 43-year-old citizen of Honduras who is being detained by Respondents at the Eloy Detention Center in Eloy, Arizona. She has a final removal order

from 2007 and was granted deferral of removal under CAT on in 2022 in withholding-only proceedings based on her risk of torture in Honduras.

16. Respondent Christopher Howard is the Acting Facility Administrator of the Eloy Detention Center, which detains individuals suspected of civil immigration violations pursuant to a contract with Immigration and Customs Enforcement (ICE). Respondent Howard is the immediate physical custodian responsible for the detention of Petitioner. He is named in his official capacity.

17. Respondent Christopher McGregor[2] is the acting director of ICE's Phoenix Field Office, which is responsible for ICE activities in Arizona and is responsible for the Eloy Detention Center. Respondent McGregor's place of business is in the District of Arizona, and he is an immediate legal custodian responsible for Petitioner's detention. He is named in his official capacity.

18. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for ICE's polices, practices, and procedures, including those relating to detention of immigrants during the removal process. Respondent Lyons is a legal custodian of Petitioner. He is named in his official capacity.

19. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security. She is named in her official capacity. In that capacity, Respondent Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103.

[2] Per FRCP 25(d), Christopher McGregor replaced Respondent John Cantu when he assumed Respondent Cantu's position.

20. Respondent Pamela J. Bondi is the Attorney General of the United States. She is named in her official capacity.

FACTUAL BACKGROUND

21. Petitioner, Juan Angel Sanchez-Hernandez, is a citizen of Honduras and no other country. She is a transgender woman who suffered past persecution in Honduras on account of her gender identity. ECF 51-2 (Declaration of Angel Sanchez-Hernandez at ¶ 1,6).

22. Ms. Sanchez has been subject to a final order of removal since 2007. *See* ECF 51-1 (Form I-213, pp. 2). She is detained under 8 U.S.C. § 1231, which governs detention of individuals with final removal orders

23. On December 15, 2022, Petitioner, while in withholding-only proceedings before an immigration judge, was granted deferral of removal under the Convention Against Torture under 8 C.F.R. § 1208.17(a) after the immigration judge agreed that she had established it was more likely than not that she would be tortured in Honduras. *Id.*

24. ICE released the Petitioner on an order of supervision on January 19, 2023. ECF 14-1 (Declaration of Brandy Berghouse ¶21). Since that time, Petitioner has not been convicted of any crimes, nor has the Petitioner violated the terms of her order of supervision with ICE.

25. On June 19, 2025, Petitioner was called into her probation office. Without warning and without any explanation for the legal or factual basis of her

detention, Petitioner was detained by ICE. ECF 51-2 (Declaration of Angel Sanchez-Hernandez at ¶ 3). For approximately one week, she was denied her hormone treatment, essential medication not only to maintain her transgender identity, but also a delicate medication without which her hormonal levels began to fluctuate. Petitioner, a transgender woman, was housed with male noncitizens at the Eloy Detention Center. *See* ECF 51-2 (Declaration of Angel Sanchez Hernandez at ¶ 4).

26. Prior to her unlawful detention, Petitioner was dutifully attending scheduled check-ins with ICE pursuant to her release on supervision. She now remains in detention at Eloy Detention Center at the time of filing this habeas corpus petition. *Id.*

27. ICE has informed Petitioner that they would like to remove her to Mexico. But since Petitioner has no claim to legal immigration status in Mexico, she fears that Mexico will promptly send her to Honduras, where it has already been determined that she will face torture. This chain refoulment would violate the treaty obligations under the CAT and its implanting regulations just as surely as if Respondents carried out the removal directly to Honduras. In addition, the Petitioner has a fear of Mexico based on her transgender identity because she suffered past [redacted] *Id.* at ¶ 6.

28. On July 18, 2025, two ICE officers provided the Petitioner with an "informal interview" required to officially revoke her OSUP at which she described her compliance with all reporting requirement, two years of employment, and connection with family and a romantic partner in the Phoenix community. Asked

whether ICE would release the Respondent since Mexico's change in policy, the officers replied that Mexico was always "changing its mind" and that a request for the Petitioner's release from custody was pending decision from headquarters. *Id.* ¶ 7.

29. Petitioner included five counts in her Amended Petition filed on July 23, 2025. The first three argued that ICE failed to follow proper procedures when revoking her OSUP order. Count Four argued that her detention was unconstitutionally prolonged under *Zadvydas,* and the Fifth Court requested that the Court require that Respondents provide notice and an opportunity to raise a fear claim before Respondents could remove Ms. Sanchez to a third country. *See* ECF 21, (First Amended Petition pp. 31-36).

30. On August 1, 2025, Ms. Sanchez passed a fear screening to Mexico and a DHS officer indicated that she had established a credible fear of torture or persecution in Mexico. *See* ECF 51-3 (Reasonable Fear Decision). The DHS officer noted that Ms. Sanchez Hernandez had suffered previously in Mexico on account of her gender identity. *Id.* Specifically, [redacted] *Id.* at pp. 8. [redacted] *Id.*

31. On August 5, 2025, this Court granted Counts One, Two, and Three of the Amended Petition, and ordered Ms. Sanchez released from custody, subject to the conditions of release that applied before the challenged revocation decision. ECF

33. The Court dismissed Ms. Sanchez's claim in Count Four as moot in light of her release from custody and denied the request for third-country procedural protections in Count Five. *Id.*

32. Respondents again released Petitioner on an OSUP order the following day. ECF 51-2 (Declaration of Angel Sanchez Hernandez).

33. On September 12, 2025, the Department of Homeland Security moved to reopen Ms. Sanchez's withholding only proceedings to attempt to designate Mexico as an alternative country of removal. *See* ECF 51-1 (Form I-213, pp. 2). She was set for a master calendar hearing on the Phoenix immigration court docket on December 3, 2025. *Id.*

34. Throughout August and September, ICE required that she wear an ankle monitor, though when counsel raised the issue as non-complaint with this Court's August 5 order to restore the previous terms of her OSUP order that did not require an ankle monitor, ICE removed the ankle monitor on September 26, 2025. *See* ECF 51-2 (Declaration of Angel Sanchez-Hernandez ¶ 9-10). However, they then required that she download an application to permit electronic monitoring of her location and check in with ICE once per week, both conditions not previously imposed. *Id.*

35. At her check-in on Friday, October 10, 2025, ICE again detained Ms. Sanchez and revoked her OSUP order. *See* ECF 51-2 (Declaration of Angel Sanchez Hernandez ¶ 11). She was again sent to the Eloy Detention Center. *Id.* at ¶ 13. The OSUP revocation concedes that "due to your pending case, ICE is unable to move

forward with your removal from the United States at this time. Pending a ruling on your case, you are to remain in ICE custody, and as ICE is unable to conclude that the factors set forth in 8 C.F.R. § 241.4(e) have been satisfied." ECG 51-6 (October OSUP revocation). It contains no allegation that Ms. Sanchez committed a crime or violated any other term of her OSUP order. *Id.* The OSUP revocation was signed by "Samuel M. Evans," who is the "Unit Chief of the HQ RIO." *Id.*

36. The Form I-213 states that Ms. Sanchez's OSUP was revoked "due to the Subject's criminal history" and that she would be held in custody until an initial hearing was set in immigration court. *See* ECF 51-1, Form I-213 pp. 2. The I-213 cites no new criminal convictions or arrests.

37. ICE did not provide her with a prompt informal interview at the time of the revocation: Ms. Sanchez had to wait nearly a week until October 16, 2025. *See* ECF 51-2 (Declaration of Angel Sanchez-Hernandez ¶ 12); *see also* ECF 51-7 (Informal Interview Record). At the interview, Ms. Sanchez detailed her compliance with the past OSUP order. *Id.*

38. On November 11, 2025, Ms. Sanchez filed a petition for review with the Ninth Circuit Court of Appeals pursuant to *Riley v. Bondi,* 23-1270 (2025) in order to preserve her right to seek review of any adverse decision in withholding-only proceedings. She did not seek a stay of removal.

39. On November 18, 2025, an immigration judge denied Ms. Sanchez's application for protection under the Convention Against Torture (CAT) with respect to

Mexico. The judge found that although she faces a risk of serious harm in Mexico, that harm does not rise to the level of torture. *See* ECF 51-4 (IJ Decision).

40. Ms. Sanchez timely appealed that decision to the Board of Immigration Appeals on December 5, 2025. *See* ECF 51-5 (Notice of Appeal).

41. Ms. Sanchez remains housed with men at the Eloy Detention Center and has sporadic interruptions to her prescribed hormonal medication. *See* ECF 51-2 (Declaration of Angel Sanchez-Hernandez ¶ 13-14). Her unlawful re-detention has separated her from her partner and the stability she was able to build after her release in 2023. *Id.* "I cannot work, support myself, or feel safe. Being held with men and missing my medication has taken a serious toll on my mental and physical well-being." *Id.*

LEGAL BACKGROUND

Ms. Sanchez Has Been Subject to a Final Order of Removal Since 2007.

42. 8 U.S.C. § 1231(a)(1)(B) provides that the removal period begins on the latest of the following:

(i) The date the order of removal becomes administratively final.

(ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order.

(iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

43. Here, the removal period began in 2007 when Ms. Sanchez's order of removal became final.

44. The reopening of her withholding-only proceedings has no effect on the finality of her order; when a person with a reinstated order seeks protection through

withholding of removal, immigration courts only consider whether the individual can be removed to a particular country, not whether they can be removed at all. *Johnson v. Guzman Chavez*, 594 U.S. 523, 524 (2021). "The removal order remains in full force, and DHS retains the authority to remove the alien to any other authorized country." *Id.* Because the validity of removal orders is not affected by the grant of withholding-only relief, the initiation of withholding-only proceedings does not render non-final an otherwise "administratively final" reinstated order of removal. *Johnson v. Guzman Chavez,* 594 U.S. at 540. Thus the reopening of Ms. Sanchez's removal proceedings has no effect on the finality of her removal order. And, with a final removal order, "the statutory text makes clear that § 1231, not § 1226, governs [her] detention." *Id.* at 542. *Zadvydas* already held that indefinite detention under § 1231 is not permitted under the statute. 533 U.S. at 701 (2001).

45. ICE had sufficient time to attempt to find third countries to which to remove Ms. Sanchez. While the time periods differ, courts have analyzed the reasonableness of post-removal order detention based on the date of the final removal order triggering the removal period rather than the date of detention. *See S.F. v. Bostock*, 2025 WL 2841022 (D. Or. Oct. 7, 2025), at *4 (noting that "federal courts have refrained from applying the presumption of reasonableness under *Zadvydas* in re-detention cases" and pointing out that "Respondents concede that Petitioner's detention should be measured cumulatively; it is 'past the presumptive 180-day threshold of presumptive reasonableness.'"); *Nguyen v. Scott*, 2025 WL 2419288 (W.D. Wash. Aug. 21, 2025), at *13 ("[T]he six-month period does not reset when the government detains

[a noncitizen] …, releases him from detention, and then re-detains him again."); *Dong Van Nguyen v. Hyde*, 2025 WL 1725791 (D. Mass. June 20, 2025), at *3; *Escalante v. Noem*, 2025 WL 2206113 (E.D. Tex. Aug. 2, 2025), at *3; *Zavvar v. Scott*, 2025 WL 2592543 (D. Md. Sept. 8, 2025), at *6; *Tadros v. Noem*, 2025 WL 1678501 (D N.J. June 13, 2025), at *3 (ruling that for petitioner re-detained years after his final removal order, his "final order of removal [had] triggered the six-month detention period under *Zadyvdas*").

46. Accordingly, since Ms. Sanchez's order of removal has been final since 2007, the Government bears the burden of demonstrating that there is a "significant likelihood of removal in the reasonably foreseeable future," a showing it cannot make. *See Zadvydas*, 533 U.S. at 701.

Deferral of Removal under the Convention Against Torture

47. To be granted "deferral of removal" under CAT, a noncitizen must show that "it is more likely than not that he or she would be tortured if removed to the proposed country of removal." 8 C.F.R. § 1208.16(c); *see also* 8 C.F.R. § 1208.17(a). When an IJ grants a noncitizen deferral under CAT, the IJ issues a removal order and simultaneously defers removal with respect to the country or countries for which the noncitizen demonstrated a sufficient risk of torture. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 531-32 (2021).

48. When noncitizens have a final CAT grant, they cannot be removed to the country or countries for which they demonstrated a sufficient likelihood of persecution or

torture. *See* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1208.17(b)(2). While ICE is authorized to remove noncitizens who were granted CAT to alternative countries, *see* 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f), the removal statute specifies restrictive criteria for identifying appropriate countries. Noncitizens can be removed, for instance, to the country "of which the [noncitizen] is a citizen, subject, or national," the country "in which the [noncitizen] was born," or the country "in which the [noncitizen] resided" immediately before entering the United States. 8 U.S C. § 1231(b)(2)(D)-(E).

49. If ICE identifies an appropriate alternative country of removal, the noncitizen must have notice and an opportunity to seek relief from removal to that country. *See Jama v. ICE*, 543 U.S. 335, 348 (2005) ("If [noncitizens] would face persecution or other mistreatment in the country designated under § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A); [and] relief under an international agreement prohibiting torture, see 8 C.F.R. §§ 208.16(c)(4), 208.17(a)."); *Andriasian v INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (finding that "last minute" designation of alternative country without meaningful opportunity to apply for protection "violate[s] a basic tenet of constitutional due process"); *Romero v Evans*, 280 F. Supp. 3d 835, 848 n.24 (E.D. Va. 2017) ("DHS could not immediately remove petitioners to a third country, as DHS would first need to give petitioners notice and the opportunity to raise any reasonable fear claims"), *rev'd on other grounds, Guzman Chavez*, 594 U.S. 523.

50. The Government itself has repeatedly acknowledged this right to notice and an opportunity to seek relief, including recently before the U.S. Supreme Court.

Transcript of Oral Argument at 33, *Riley v. Bondi*, 23-1270 (2025) ("We would have to give the person notice of the third country and give them the opportunity to raise a reasonable fear of torture or persecution in that third country."); *see also* Transcript of Oral Argument at 20-21, *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021). Specifically, if ICE were to attempt to remove a noncitizen to a country not designated on their removal order and the noncitizen demonstrated a reasonable fear of torture or persecution in that country, the noncitizen's removal proceedings would have to be reopened for the IJ to designate the alternative country of removal and for the noncitizen to apply for any fear-based relief in withholding-only proceedings. *See Aden v. Nielsen*, 409 F. Supp. 3d 998, 1006-10 (W.D. Wash. 2019); accord 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1240.10(f); 8 C.F.R § 1240.11(c)(1).

Third-Country Removal Procedures

51. As a result of the aforementioned restrictions and procedures, "only 1.6% of noncitizens granted withholding-only relief were actually removed to an alternative country" in FY 2017. *Guzman Chavez*, 141 S. Ct. at 2295 (Breyer, J., dissenting). And from FY 2020 to FY 2023, according to publicly available data, ICE removed a total of only *five* noncitizens granted withholding or CAT relief to alternative countries. *Munoz Saucedo v. Pittman*, -- F. Supp. 3d --, 2025 WL 1750346 (D.N.J. June 24, 2025), at *7.

52. When a noncitizen in ICE custody obtains a final grant of CAT, the noncitizen's assigned Deportation Officer ("DO") typically sends requests for removal to a random collection of three or more alternative countries. The request typically consists of an email to the country's embassy, with an attached form entitled ICE Form I-241,

"Request for Acceptance of Alien." In nearly every case, the embassies either do not respond or they decline the request. *See, e.g., Zhuzhiashvili v. Carter*, -- F. Supp. 3d --, 2025 WL 2837716 (D. Kan. Oct. 7, 2025), at *2 (citing statements from immigration officials showing these "acceptance requests ... are never successful"). Indeed, ICE previously released Ms. Sanchez a year after her final grant of CAT protection in December 2022, ostensibly because it could not remove her to a third country and did not deem her a danger or flight risk.

Detention of Noncitizens Granted CAT Protection

A. Statutory Framework

53. 8 U.S.C. § 1231 governs the detention of noncitizens "during" and "beyond" the "removal period." 8 U.S.C. § 1231(a)(2)-(6). The "removal period" begins once a noncitizen's removal order "becomes administratively final" 8 U.S.C. § 1231(a)(1)(B). The removal period lasts for 90 days, during which ICE "shall remove the [noncitizen] from the United States" and "shall detain the [noncitizen]" as it carries out the removal. 8 U.S.C. § 1231(a)(1)-(2). If ICE does not remove the noncitizen within the 90-day removal period, the noncitizen "*may* be detained beyond the removal period" if she meets certain criteria, such as being inadmissible or deportable under specified statutory categories. 8 U S.C. § 1231(a)(6) (emphasis added). Further, the 90-day removal period is extended where the noncitizen interferes with her removal in bad faith. *Id.* § 1231(a)(1)(C). If the removal period is not extended under § 1231(a)(1)(C) or 8 U.S.C. § 1231(a)(6), the noncitizen is released on an OSUP, subject to conditions of release. 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.5(a)-(b).

54. To avoid "indefinite detention" that would raise "serious constitutional concerns," the Supreme Court in *Zadvydas* construed § 1231 to contain an implicit time limit. 533 U.S. at 682. *Zadvydas* dealt with two noncitizens with final removal orders who could not be removed to their home country or country of citizenship due to bureaucratic and diplomatic barriers. The Court held that § 1231 authorizes detention only for "a period reasonably necessary to bring about the [noncitizen]'s removal from the United States." *Id.* at 689. Six months of post-removal order detention is considered "presumptively reasonable." *Id.* at 701. After that point, when the noncitizen "provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.*

B. Regulations on Post-Removal Order Detention

55. DHS regulations provide that, by the end of the 90-day removal period, the local ICE field office with jurisdiction over the noncitizen's detention must conduct a custody review to determine whether the noncitizen should remain detained. See 8 C F.R. § 241.4(c)(1), (k)(1)(i) ("Prior to the expiration of the removal period, the district director . . . shall conduct a custody review"). ICE is required to provide the noncitizen and, if applicable, their counsel with approximately 30 days' notice prior to such custody reviews, to allow an opportunity to submit evidence in support of release. *Id.* § 241.4(d)(3), (h)(2). The regulations further require that custody decisions be provided to counsel. *Id.* § 241.4(d)(3).

56. The Field Office Director, or their delegate, makes the final custody decision based on recommendations offered by lower-level officers. In making this

custody determination, ICE considers several factors, including the availability of travel documents for removal. *Id.* § 241.4(e). The removal period can be extended, and the noncitizen may remain in detention during such extended period if he fails or refuses to make timely application in good faith for travel or other documents necessary for departure. 8 U.S.C. § 1231(a)(1)(C); 8 C.F.R. § 241.5. If the factors in § 241.4 are met, ICE releases the noncitizen on an OSUP. 8 C.F.R. § 241.4(j)(2).

57. To comply with *Zadvydas*, DHS issued additional regulations in 2001 that established "special review procedures" to determine whether detained noncitizens with final removal orders are likely to be removed in the reasonably foreseeable future. *See* Continued Detention of Aliens Subject to Final Orders of Removal, 66 Fed. Reg. 56,967 (Nov. 14, 2001). While 8 C.F.R. § 241.4's custody review process remained largely intact, subsection (i)(7) was added to include a supplemental review procedure that ICE HQ must initiate when "the [noncitizen] submits, or the record contains, information providing a substantial reason to believe that removal of a detained [noncitizen] is not significantly likely in the reasonably foreseeable future." *Id.* § 241.4(i)(7).

58. Under this procedure, ICE HQ evaluates the foreseeability of removal by analyzing factors such as the history of ICE's removal efforts to the countries in question. *See id.* § 241.13(f). If ICE HQ determines that removal is not reasonably foreseeable but nonetheless seeks to continue detention based on "special circumstances," it must justify the detention based on narrow grounds such as national security or public health concerns, *id.* § 241.14(b)-(d), or by demonstrating by clear and convincing evidence before an IJ that the noncitizen is "specially dangerous." *Id.* § 241.14(f).

C. Regulations on Revocation of Release

59. ICE may revoke the release of certain noncitizens released on an OSUP under two categories of circumstances. First, a noncitizen's release can be revoked if they violate the conditions of release. 8 C.F.R. § 241.4(l)(1). Alternately, the Executive Associate Commissioner (or a District Director) can revoke release on conditions and re-detain a noncitizen when (1) the purposes of release have been served, (2) the noncitizen violated any condition of release, (3) "it is appropriate to enforce a removal order or to commence removal proceedings," or (4) "release would no longer be appropriate" due to the noncitizen's conduct. 8 C.F.R. § 241.4(l)(2).

60. In either case, the noncitizen is entitled to receive notice of the reasons for revocation and a "prompt" informal interview to respond to the reasons for revocation. If the noncitizen demonstrates that they did not violate the conditions of release, they can be released following the interview. 8 C.F.R § 241.4(l)(3).

61. ICE's authority to revoke an Order of Supervision is strictly limited by 8 C.F.R. §§ 241.4 and 241.13. Under § 241.4(l)(2), ICE may re-detain a supervised individual only upon specific, narrowly defined grounds: a demonstrated violation of OSUP conditions, a reasoned determination that the person is no longer likely to comply, or genuinely new information showing flight risk or danger. These are not broad discretionary factors—they are mandatory thresholds that ICE must satisfy before taking the extraordinary step of re-detention. The regulations further require ICE to provide written notice explaining the factual basis for revocation and to document those reasons in the record. After re-detention, ICE must conduct prompt and periodic custody

reviews and meaningfully consider the individual's evidence, compliance history, and the foreseeability of removal under § 241.13 and *Zadvydas*. When ICE disregards these procedural safeguards—as it did here—revocation is unlawful, violating both the Administrative Procedure Act and due process under *Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

ARGUMENT

62. Ms. Sanchez's continued detention violates § 1231(a)(6) as interpreted by *Zadvydas* because her removal is not reasonably foreseeable given her grant of CAT protection and the unlikelihood of removal to a third country. Under *Zadvydas* and the regulations implementing it, this Court should order her immediate release under conditions of supervision.

63. Alternatively, ICE's failure to comply with its regulations on re-detention and post-removal-order detention violated Ms. Sanchez's Fifth Amendment due process rights and the APA, pursuant to *Accardi*. Ms. Sanchez's re-detention without proper procedures violated her due process rights in light of ICE's prior decision to release her for more than a year and a half, her compliance while on release, ICE's lack of any compelling reason for her re-detention.

64. Finally, Ms. Sanchez is at grave risk of removal to a third country without notice and an opportunity to voice a fear of torture or persecution in that country. She asks that this Court enter an order requiring the most basic of due process protections: notice and an opportunity to respond to any proposed third country of removal.

I. Ms. Sanchez's Detention Violates § 1231(a)(6) under *Zadvydas* and She Is Entitled to Immediate Release.

65. Ms. Sanchez's continued detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, 533 U.S. 678. Her removal order has been final since 2007 and her removal is not reasonably foreseeable given her CAT grant to Honduras and her current appeal of the IJ's denial of CAT protection to Mexico.

66. 8 U.S.C. § 1231(a), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for "a period reasonably necessary to bring about the [noncitizen's] removal from the United States." 533 U.S. at 689. Ms. Sanchez cannot be deported to Honduras, the only country of which she is a citizen, because she has a final grant of protection from removal there. Although the IJ recently denied CAT protection to Mexico, Respondents have not provided any indication that Mexico would accept Ms. Sanchez—and in fact, Mexico previously declined to accept her—and she has also appealed the IJ's decision to the BIA. Based on the data mentioned *supra*, there is less than a 2% chance of deportation to a third country for a noncitizen like Ms. Sanchez, who was granted CAT relief. Even if ICE does identify yet another third country, ICE would be legally obligated to inform Ms. Sanchez and her counsel of the identified country. Ms. Sanchez would then be given the opportunity to seek fear-based relief from removal to that country, further prolonging her proceedings and detention. *See Munoz-Saucedo*, 2025 WL 1750346, at *7 (noting that third country removals have "been historically rare" and that petitioner was entitled to further proceedings to seek fear-based relief, even if a third country for removal were to be found).

67. Accordingly, Ms. Sanchez will not be removed from the United States in the "reasonably foreseeable future" because (1) she cannot be deported to her home country due to her CAT relief grant; (2) she has appealed the IJ's denial of CAT protection to Mexico before the Board of Immigration Appeals (3) ICE has historically managed to remove only a tiny fraction of noncitizens granted withholding or CAT to alternative countries; (4) to her knowledge, ICE has not been able to secure travel documents to a third country currently or during Ms. Sanchez's initial removal period; and (5) removing Ms. Sanchez to any alternative country would require additional, lengthy proceedings. As such, Ms. Sanchez's continued detention violates 8 U.S.C. § 1231(a).

68. Although Ms. Sanchez has currently been re-detained about two months, it has been 18 years since her removal order was rendered final. ICE had that entire duration to attempt to find third countries to which to remove Ms. Sanchez. While the time periods differ, courts have analyzed the reasonableness of post-removal order detention based on the date of the final removal order triggering the removal period rather than the date of (re)detention. *See S.F. v. Bostock*, 2025 WL 2841022 (D. Or. Oct. 7, 2025), at *4 (noting that "federal courts have refrained from applying the presumption of reasonableness under *Zadvydas* in re-detention cases" and pointing out that "Respondents concede that Petitioner's detention should be measured cumulatively; it is 'past the presumptive 180-day threshold of presumptive reasonableness.'"); *Nguyen v. Scott*, 2025 WL 2419288 (W.D. Wash. Aug. 21, 2025), at *13 ("[T]he six-month period does not reset when the government detains [a noncitizen] ..., releases him from detention, and then re-detains him again."); *Dong Van Nguyen v. Hyde*, 2025 WL 1725791 (D. Mass. June 20, 2025), at

*3; *Escalante v. Noem*, 2025 WL 2206113 (E.D. Tex. Aug. 2, 2025), at *3; *Zavvar v. Scott*, 2025 WL 2592543 (D. Md. Sept. 8, 2025), at *6; *Tadros v. Noem*, 2025 WL 1678501 (D N.J. June 13, 2025), at *3 (ruling that for petitioner re-detained years after his final removal order, his "final order of removal [had] triggered the six-month detention period under *Zadyvdas*").

69. Accordingly, since Ms. Sanchez's order of removal has been final for 18 years, the Government bears the burden of demonstrating that there is a "significant likelihood of removal in the reasonably foreseeable future," a showing it cannot make. *See Zadvydas*, 533 U.S. at 701.

70. Even if this Court were to conclude that Ms. Sanchez bears the initial burden of showing that her removal is not reasonably foreseeable, she would still prevail. While six months of post-removal order detention is considered "presumptively reasonable," see *Zadvydas*, 533 U.S. at 701, Ms. Sanchez has rebutted that presumption by demonstrating that her detention is unreasonable due to her grant of CAT protection and the unlikelihood of imminent third-country removal. *See Munoz-Saucedo*, 2025 WL 1750346, at *7-8 (holding that petitioner with final withholding of removal grant had shown that his under six-month detention was unreasonable because his removal was not reasonably foreseeable); *Manago v. Carter*, 2025 WL 2841209 (D. Kan. Oct. 7, 2025), at *2 (noncitizen met his burden by showing "he cannot be removed to his home country under the withholding order, officials must find a third country that is willing to accept him, and petitioner has no ties to any other country"). Her case for release is even stronger

than the petitioners in *Zadvydas*, who had a final removal order and no immigration relief. *See Zadvydas* at 684, 710.

71. Release is the most common and appropriate remedy for a *Zadvydas* violation. *See, e.g., Munoz-Saucedo*, 2025 WL 1750346, at *9 (ordering release under appropriate conditions where re-detained noncitizen's removal was not reasonably foreseeable); *Iakubov v. Figueroa*, 2025 WL 2731355 (D. Ariz. Sept. 25, 2025) (ordering release where ICE could not show progress in removal to any third country); *Manago v. Carter*, 2025 WL 2841209, at *3 (same); *Zhuzhiashvili*, 2025 WL 2837716, at *3 (ordering release of detained Georgian who had withholding of removal to Georgia); *Ali v. DHS*, 451 F. Supp. 3d 703, 710 (S.D. Tex. 2020) (ordering release under appropriate conditions pursuant to *Zadvydas*). To order Ms. Sanchez's immediate release, this Court need only determine that her removal is not reasonably foreseeable under *Zadvydas*. It need not analyze whether Ms. Sanchez is a danger to the community or a flight risk. *Zadvydas*, 533 U.S. at 699-700 ("[I]f removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute."); *Munoz-Saucedo*, 2025 WL 1750346, at *8 ("[N]othing supports the argument that danger to the community is a relevant factor to consider in conducting a *Zadvydas* analysis.").

72. To the extent that this Court considers the risk of danger or flight, Ms. Sanchez does not pose either risk as she has a final grant of relief; familial and community support; demonstrated rehabilitation efforts, including perfect compliance with ICE check-ins; and steady employment. ICE further chose to release after her grant of protection in 2022. *See Munoz-Saucedo*, 2025 WL 1750346, at *8 (Government's

argument that continued detention was warranted because of petitioner's endangering welfare of child conviction and dangerousness "lacks credibility considering that ICE voluntarily released Petitioner in 2023 ... when it had no obligation to do so"); *Ulysse v. DHS*, 291 F. Supp. 2d 1318, 1326, n. 13 (M.D. Fla. 2003) ("Obviously Respondents have no concern that Ulysse is a flight risk or a danger to society because they made no effort to remove or detain her sooner."). In any case, Ms. Sanchez's "release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances." *Zadvydas*, 533 U.S. at 700.

II. ICE's Re-Detention and Continued Detention of Ms. Sanchez Without Sufficient Process Violates the Due Process Clause and the APA.

73. Further, the lack of procedures afforded to Ms. Sanchez to challenge her re-detention after years of freedom and compliance with all the terms of her supervised release violates the Due Process Clause of the Fifth Amendment and the APA.

A. ICE's Failure to Comply with Its Own Regulations Violates the Due Process Clause and the APA Pursuant to *Accardi*.

74. First, pursuant to *Accardi v Shaughnessy*, 347 U.S. 260 (1954), ICE's failure to follow its regulations on revocation of release at 8 C.F.R. § 241.4(l) violates the APA and the Due Process Clause of the Fifth Amendment.

75. Under the *Accardi* doctrine, which originated in the context of an immigration case and has been developed through subsequent immigration case law, agencies are bound to follow their own policies that affect the fundamental rights of individuals, including self-imposed policies and processes that limit otherwise discretionary decisions. *See Accardi*, 347 U.S. at 267 (holding that BIA must follow its

own regulations in its exercise of discretion); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures … even where the internal procedures are possibly more rigorous than otherwise would be required.").

76. When agencies fail to adhere to their own policies as required by *Accardi*, courts frame the violation as a due process violation or as arbitrary, capricious, and contrary to law under the APA. *See Sameena, Inc. v. United States Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998) ("An agency's failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual's constitutional right to due process.") (internal quotations omitted); *Damus v. Nielsen*, 313 F. Supp. 3d 317, 337 (D.D.C. 2018) ("It is clear, moreover, that [*Accardi*] claims may arise under the APA").

77. Prejudice is generally presumed when an agency violates its own policy. *See Leslie v. Att'y Gen. of U.S.*, 611 F.3d 171, 180 (3d Cir. 2010) ("For the sake of emphasis, we repeat: we hold that when an agency promulgates a regulation protecting fundamental statutory or constitutional rights of parties appearing before it, the agency must comply with that regulation. Failure to comply will merit invalidation of the challenged agency action."); *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991) ("We hold that an alien claiming the INS has failed to adhere to its own regulations . . . is not required to make a showing of prejudice before he is entitled to relief. All that need be shown is that the subject regulations were for the alien's benefit and that the INS failed to adhere to them.")

78. To remedy an *Accardi* violation, a court may direct the agency to properly apply its policy, or a court may apply the policy itself and order relief consistent with the policy. *Damus v. Nielsen*, 313 F. Supp. 3d 317, 343 (D.D.C. 2018) ("[T]his Court is simply ordering that Defendants do what they already admit is required."); *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 657 (D. Mass. 2018) (scheduling bail hearing to review petitioners' custody under ICE's standards because "it would be particularly unfair to require that petitioners remain detained . . . while ICE attempts to remedy its failure.").

79. Here, ICE revoked Ms. Sanchez's release pursuant to 8 C.F.R. § 241.4(l)(2), based on a determination of an "Executive Associate Commissioner" or "district director," Ms. Sanchez has not received any written notice that her release was in fact revoked by an individual with the authority to do so. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 160 (W.D.N.Y. 2025) (noting that the "Executive Associate Commissioner [of] INS is equivalent to the Executive Associate Director [of] ICE."). Failure to provide notice of revocation that is signed by an individual with authority to do so means that the "release was not lawfully revoked, and . . . [Petitioner] is entitled to release on that basis alone." *Id.* at 162.

80. Further, under 8 C.F.R. § 241.4(l)(2), ICE may revoke an Order of Supervision only if it can show a violation of OSUP conditions, an unlikelihood of future compliance, or new information establishing danger or flight risk. None of those circumstances exist here. ICE has already conceded that Ms. Sanchez's removal is not reasonably foreseeable at this time, eliminating any lawful basis for re-detention under the post-order custody framework and triggering the protections of *Zadvydas* and §

241.13. ICE has identified no violations of her OSUP order, and her record of consistent compliance—including attending her most recent check-in—demonstrates the exact opposite. Likewise, ICE has pointed to no new evidence suggesting that Ms. Sanchez poses danger or flight risk; indeed, her prior period of release without incident confirms the agency's original assessment that she is safe to supervise in the community. Because none of the regulatory predicates for revocation are met, ICE's decision to re-detain her is not only unsupported by the record, but directly contrary to the mandatory limits of § 241.4(l)(2), rendering the action arbitrary, unlawful under the APA, and in violation of due process.

81. Accordingly, this Court should order Ms. Sanchez's release on the same conditions with which she was previously complying. *See Jimenez*, 317 F. Supp. 3d at 657 (ordering petitioners' release because "it would not be appropriate to allow ICE to decide again whether [petitioners'] detention should continue" and "[i]t would be particularly unfair to require that petitioners remain detained for another 30 days while ICE attempts to remedy its failure to follow its regulations and to provide each of them due process").

B. ICE's Re-Detention of Ms. Sanchez Without Sufficient Process After Over 30 Months of Compliance with Her Order of Supervision Independently Violates Her Due Process Rights.

82. Regardless of whether ICE complied with its regulations, the lack of process afforded Ms. Sanchez to challenge her re-detention violates her procedural due process rights under the test in *Mathews v. Eldridge*, 424 U.S 319. 333 (1976); *see also*

Morrissey v. Brewer, 408 U.S. 471, 480-82 (1972) (holding that revocation of parole involves significant values within the protection of Due Process and termination of that liberty requires, among other protections, written notice of the claimed violations and an informal hearing to ensure that revocation is based on verified facts).

83. Here, application of the three-part *Mathews* test shows that Ms. Sanchez's re-detention without any meaningful review is unconstitutional. With regard to the first prong of the test, the private interest that will be affected by the government action, "Ms. Sanchez satisfies the first [prong] because the Government has restricted [her] liberty by imprisoning [her], and '[f]reedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty [the Due Process Clause] protects.'" *Ledesma Gonzalez v. Bostock*, 2025 WL 2841574 (W.D. Wash. Oct. 7, 2025), at *7 (citing *Zadvydas*, 533 U.S. at 690). "The first factor – the private interest affected by the official action – is [Ms. Sanchez's] liberty interest … this is a fundamental interest that must be accorded significant weight." *Id.*

84. The second *Mathews* factor, the risk of erroneous deprivation and value of additional safeguards, also heavily favors Ms. Sanchez. As discussed above, ICE failed to comply with its already minimal requirements for re-detention under the regulations. Ms. Sanchez's OSUP revocation order was signed by a person without the authority under the regulation to do so. Further, she was not provided with a prompt and contemporaneous interview explaining the reasons for the revocation of her OSUP order—it was a pro forma meeting not provided until almost a week later, after Ms. Sanchez had been redetained. Courts applying the *Mathews* test in analogous cases have found that a hearing

is required *before* a person is deprived of her liberty by revocation of an OSUP. *See, e.g., R v. Kaiser*, 2025 WL 2855193 (E.D. Cal. Oct. 8, 2025), at *6-7; *Ledesma Gonzalez*, 2025 WL 2841574, at *8-9; *see also Sanchez-Hernandez v. Figueroa*, 2:25-cv-2351, Dkt. 33 (D. Ariz. Aug. 5, 2025) (Lanza, J.) (petitioner "ordered released from custody, subject to the conditions of release that applied before the challenged revocation decision").

85. The fact that Ms. Sanchez was twice released after she obtained CAT protection in December 2022, during which time she did not engage in criminal activity and complied with all OSUP requirements, even as they became more onerous in August and September 2025, makes her re-detention particularly problematic. Indeed, there have been no material changes to Ms. Sanchez's situation since ICE previously released her shortly after her grant of CAT protection, other than ICE's reopening of withholding-only proceedings to try and designate Mexico as a third country. *See Munoz-Saucedo*, 2025 WL 1750346, at *8 (Government's argument that petitioner was dangerous "lacks credibility considering that ICE voluntarily released Petitioner in 2023 … when it had no obligation to do so.").

86. Third, the Government's interest and the administrative burden of additional procedures further favors Ms. Sanchez. The procedures set forth in the relevant regulations regarding revocation of release are minimal and impose a negligible burden on the Government. And while the Government may have a legitimate interest in ensuring Ms. Sanchez's appearance for any additional third-country removal proceedings and protecting the community from danger, it "has not articulated an interest in the prolonged detention of noncitizens who are neither dangerous nor a risk of flight." *Black v. Decker*,

103 F.4th 133, 154 (2d Cir. 2024). Here, where ICE has not articulated any danger or flight risk, and where no neutral adjudicator has determined that Ms. Sanchez is either a danger or flight risk, any interest the Government may allege for continuing to detain her is insufficient.

CLAIMS FOR RELIEF

COUNT I – VIOLATION OF 8 U.S.C. § 1231(a)(6)

87. Ms. Sanchez realleges and incorporates by reference the paragraphs above as though fully set forth herein.

88. 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for "a period reasonably necessary to bring about the alien's removal from the United States." 533 U.S. at 689, 701.

89. The 90-day removal period and the six-month presumptively reasonably period from *Zadvydas* have long since expired, and Ms. Sanchez's removal is still not reasonably foreseeable given her CAT grant and the appeal of her denial of CAT protection to Mexico. Therefore, her continued detention violates 8 U.S.C. § 1231(a)(6) and requires her immediate release.

COUNT II – VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

90. Ms. Sanchez realleges and incorporates by reference the paragraphs above as though fully set forth herein.

91. Respondents have violated their own binding regulations at 8 C.F.R. § 241.4 and § 241.13 regarding the procedures for revocation of release by failing to

notify her of the reasons for revocation, provide her with notice of revocation signed by anyone with authority to revoke her release, and promptly provide her with an interview.

92. The Due Process Clause of the Fifth Amendment forbids the Government from depriving any person of liberty without due process of law. U.S Const. Amend. V. Respondents were required to provide Ms. Sanchez with notice and a meaningful opportunity to be heard prior to revoking her OSUP or detaining her, which they failed to do.

COUNT III – ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)

93. Ms. Sanchez realleges and incorporates by reference the paragraphs above as though fully set forth herein.

94. Courts must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

95. As discussed above, Respondents have violated their own binding regulations regarding the procedures for revocation of release. This is arbitrary, capricious, and contrary to law in violation of the APA.

ALTERNATIVE COUNT IV – PROCEDURAL DUE PROCESS – UNCONSTITUTIONALLY INADEQUATE PROCEDURES REGARDING THIRD COUNTRY REMOVAL U.S. CONST. AMEND. V

96. Ms. Sanchez realleges and incorporates by reference the paragraphs above as though fully set forth herein.

97. The Due Process Clause of the Fifth Amendment requires sufficient notice and an opportunity to be heard prior to the deprivation of any protected rights. U.S. Const. amend. V; *see also Louisiana Pacific Corp. v. Beazer Materials & Services, Inc.*, 842 F.Supp. 1243, 1252 (E.D. Cal. 1994) ("[D]ue process requires that government action falling within the clause's mandate may only be taken where there is notice and an opportunity for hearing.").

98. Petitioner has a protected interest in her life. Thus, prior to any third country removal, Petitioner must be provided with constitutionally-compliant notice and an opportunity to respond and contest that removal if he has a fear of persecution or torture in that country.

99. For these reasons, Petitioner's removal to any third country without adequate notice and an opportunity to apply for relief under the Convention Against Torture would violate her due process rights. The only remedy of this violation is for this Court to maintain its order not to let Petitioner be summarily removed to any third country unless and until she is provided constitutionally adequate procedures.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(a) Assume jurisdiction over this matter;

(b) Grant a writ of habeas corpus pursuant to 28 U.S.C. § 2241;

(c) Order that Petitioner's detention is unlawful in violation of *Zadvydas* because her removal is not reasonably foreseeable;

(d) Order that Petitioner's detention is unlawful in violation of 8 C.F.R. § 241.4(l)(2) because the proper official did not make a determination regarding changed circumstances showing that there is a significant likelihood that she may be removed in the reasonably foreseeable future;

(e) Order that Petitioner's detention is unlawful in violation of 8 C.F.R. § 241.13(i)(2) because there are no changed circumstances showing that there is a significant likelihood that she may be removed in the reasonably foreseeable future;

(f) Order that Petitioner's detention is unlawful in violation of 8 C.F.R. § 241.13(i)(3) because an initial interview should be conducted promptly upon revocation and it was not conducted in Petitioner's case for six days;

(g) Order the immediate release of Petitioner from custody because her detention is not reasonably foreseeable in violation of *Zadvydas*;

(h) Order the immediate release of Petitioner from custody because her detention is unlawful in violation of 8 C.F.R. § 241.4(l)(2);

(i) Order the immediate release of Petitioner from custody because her detention is unlawful in violation of 8 C.F.R. § 241.13(i)(2);

(j) Order the immediate release of Petitioner from custody on any other basis that this Court finds proper;

(k) Order that, prior to any future re-detention, Petitioner is provided a hearing before an independent adjudicator where DHS bears the burden of justifying Petitioner's re-detention, and that the adjudicator must further consider

whether, in lieu of detention, alternatives to detention exist to mitigate any risk that DHS may establish;

(l) Order her immediate release, subject to the same conditions ordered before her October 2025 detention and require only an annual check-in with ICE with no ankle or other electronic monitoring permitted;

(m) Declare that Respondents' failure to follow the procedural requirements of 8 C.F.R. § 241.4 and § 241.13 violates the Administrative Procedure Act, 5 U.S.C. § 706 and/or the Due Process Clause of the Fifth Amendment;

(n) Prohibit Respondents from revoking Ms. Sanchez's OSUP or re-detaining her in the future without complying with 8 C.F.R. § 241.4 and other applicable regulations;

(o) Order Respondents to return her to the location at which they arrested her in Phoenix at Respondents' expense;

(p) In the alternative to an order of release, order that Petitioner cannot be removed to any third country without first being provided constitutionally-compliant procedures, including:

a. Written notice to Petitioner and counsel of the third country to which she may be removed, in a language that Petitioner can understand, provided at least 21 days before any such removal;

b. A meaningful opportunity for Petitioner to raise a fear of return for eligibility for protection under the Convention Against Torture, including a reasonable fear interview before a DHS officer;

(q) Award Petitioner her reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act or other applicable law; and

(r) Grant any other relief that this Court deems just and proper.

Dated: December 8, 2025

Respectfully submitted,

/s/Laura Belous

Counsel for Petitioner

VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: December 8, 2025

Respectfully submitted,

/s/Laura Belous