

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Instructions

1. **Who Should Use This Form.** You should use this form if
 - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
 - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
 - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
 - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
 - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
 - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**

All questions must be answered clearly and concisely in the space on the form. If needed, you may attach additional pages or file a memorandum in support of the petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. Note that some courts have page limitations. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
4. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
5. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
6. **Submitting Documents to the Court.** Mail your petition and ____ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
7. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
Western District of Texas

Adriana Maria Quiroz-Zapata

Petitioner

v.

Mary Anda-Ybarra

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. 3:25-cv-00376
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Adriana Maria Quiroz-Zapata
(b) Other names you have used: N/A
2. Place of confinement:
(a) Name of institution: El Paso Processing Center
(b) Address: 8915 Montana Ave., El Paso TX 79925
(c) Your identification number: A [REDACTED]
3. Are you currently being held on orders by:
☐ Federal authorities ☐ State authorities ☒ Other - explain:
U.S. Immigration and Customs Enforcement
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
☐ Being held on an immigration charge
☒ Other (explain): Unlawfully held by U.S. Immigration and Customs Enforcement at El Paso Processing Center, after I was granted Withholding of Removal under the U.N. Convention Againsts Torture by an Immigration Judge, without lawful reinstatement of prior order, and with one unlawful attempt to deport me.

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

Decision or Action You Are Challenging

5. What are you challenging in this petition:

- ☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)
- ☐ Pretrial detention
- ☒ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (explain): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: U.S. Immigration and Customs Enforcement
11541 Montana Ave., Suite E, El Paso, TX 79936

(b) Docket number, case number, or opinion number: A# 

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

I am being unlawfully held by U.S. Immigration and Customs Enforcement at El Paso Processing
Center after I was granted Withholding of Removal under the U.N. Convention Againsts Torture
on February 21, 2025, by an Immigration Judge.

(d) Date of the decision or action: 02/21/2025

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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(b) If you answered "No," explain why you did not appeal: _____

Petitioner relief was granted and the government did not appeal the IJ decision.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes

☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

Petitioner does not have grounds for any second appeal.

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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(b) If you answered "No," explain why you did not file a third appeal:
Petitioner does not have grounds for any third appeal.

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: N/A; Petitioner is not challenging a criminal conviction or sentence.

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes ☒ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____
(b) Date of the removal or reinstatement order: _____
(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☒ No

If "Yes," provide:

- (1) Date of filing: _____
(2) Case number: _____
(3) Result: _____
(4) Date of result: _____
(5) Issues raised: _____

- (d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☒ No

If "Yes," provide:

- (1) Name of court: _____
(2) Date of filing: _____
(3) Case number: _____

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(4) Result: _____
(5) Date of result: _____
(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: I am being unlawfully held by U.S. Immigration and Customs Enforcement at El Paso
Processing Center after I was granted a Withholding of Removal under the U.N. Convention Againsts
Torture on February 21, 2025, by an Immigration Judge.

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(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Please see attached

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☒ No

GROUND TWO: I was unlawfully attempted to be deported to my country after

I was granted Withholding of Removal under the U.N. Convention Againsts Torture by an Immigration Judge.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Please see attached

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

GROUND THREE: N/A

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

N/A

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

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GROUND FOUR: N/A

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

N/A

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: N/A

Request for Relief

15. State exactly what you want the court to do: Petitioner respectfully requests this Court to grant this petition and order my immediate release from detention.

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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

N/A; Petitioner is in federal custody

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 09/09/2025

Signature of Petitioner

/s/Lauren O'Neal

Signature of Attorney or other authorized person, if any

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

Adriana Quiroz-Zapata,

Petitioner

AGENCY FILE No. A 
Case No. 3:25-cv-00376

v.

MARY ANDA-YBARRA, Field Office
Director, El Paso Field Office, Immigration
and Customs Enforcement, MARTIN
SARELLANO JR., Assistant Field Office
Director, El Paso Field Office, Immigration
and Customs Enforcement, TODD M.
LYONS, Acting Director, U.S. Immigration
and Customs Enforcement, KRISTI NOEM,
Secretary, U.S. Department of Homeland
Security, PAMELA JO BONDI, Attorney
General of the United States, *in their official
capacities.*

Respondents.

PETITION FOR HABEAS CORPUS RELIEF

Petitioner, by and through counsel, alleges and complains of Respondents as follows:

I. INTRODUCTION

1. Petitioner, Adriana Quiroz Zapata ("Ms. Zapata" or "Petitioner"), a citizen of Colombia, was granted Withholding of Removal under the Convention Against Torture by Immigration Judge Stephen Ruhle on February 21, 2025, through a detailed written decision spanning nineteen pages. Ms. Zapata is set to reside in North Bergen, New Jersey, with her family upon her release. She is currently detained at the El Paso ICE Detention Facility, located at 8915 Montana Ave., El Paso, TX 79925, where she has been unlawfully held since August 28, 2024, following her arrival in the United States to seek asylum protections. Assertions by Defendants that Respondent poses a future risk of non-compliance or flight following her release, appear factually inaccurate where several of her family members living in North Bergen New Jersey, along with New Jersey Congressman Rob Menendez's office, have provided written assurances of their willing assistance with Petitioner's future ICE-Check-In compliance at the Newark New Jersey ICE facility (where she would report post-release)
2. Ms. Zapata's continued detention for more than six-months post-CAT grant, is unlawful, as the prior removal order was never formally reinstated by Respondents as required by 8 C.F.R. § 241.8(b) and the 30-day deadline for reinstatement per 8 C.F.R. § 241.8(e) already passed on March 23, 2025. See 8 C.F.R. § 241.8(b)&(e). Therefore, she remains in custody despite Judge Ruhle's grant of withholding of removal under the U.N. Convention Against Torture. This detention persists even though ICE El Paso has no evidence of any foreseeable plan for her transfer to a third country and has

II. JURISDICTION AND VENUE

4. This Court has jurisdiction to entertain this habeas petition under 28 U.S.C. 1331; 28 U.S.C. 2241, the Due Process Clause of the Fifth Amendment, U.S. Const. amend. V, and the Suspension Clause, U.S. Const. art. I, § 9.
5. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article 1, § 9, cl. 2 of the United States Constitution. This court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.
6. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e)(3) and *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004), because Petitioner is detained in this district, Petitioner's immediate physical custodian is located within this district, the events giving rise to the claims in this petition occurred in this district, and at least one Respondent resides, works, operates, or conducts business within this district.

III. PARTIES

7. Petitioner, Adriana Quiroz Zapata (hereinafter, "Ms. Zapata" or "Petitioner") is a citizen of Colombia who was granted relief from removal through Withholding of Removal under the U.N. Convention Against Torture (CAT), which entitles her to protection from removal to Colombia under 8 CFR § 1208.16.¹ Petitioner has not engaged in, nor has she been charged with, any criminal activity in the United States. She is currently detained at the El Paso ICE Facility, located at 8915

¹ Withholding of Removal under the Convention Against Torture is only available to Immigrants with prior removal orders who have no significant criminal history and do not pose any national security risks to the U.S.

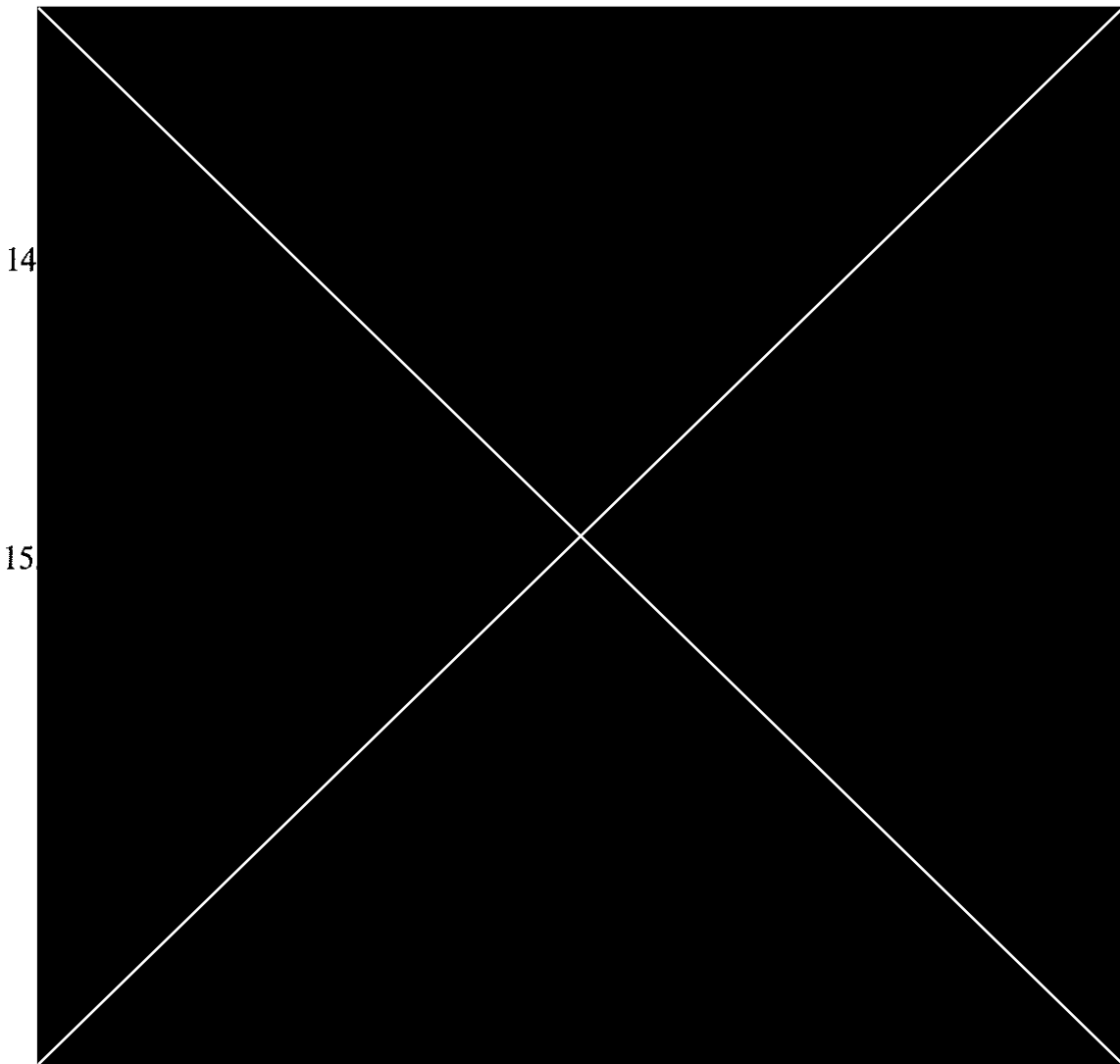
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Montana Ave., El Paso, TX 79925, and is in the custody and direct control of the Respondents and their agents. Petitioner is deeply fearful for her well-being, and her health is rapidly deteriorating due to the prolonged nature of her detention. Most recently, her prediabetes developed into full diabetes this past month, August 2025.

8. Respondent, MARY ANDA YBARRA, is the Field Office Director of the El Paso ICE Field Office for U.S. Immigration and Customs Enforcement's Enforcement and Removal Operations in El Paso. Respondent Ybarra is the legal custodian of Petitioner and holds the authority to effectuate her release. She is sued in her official capacity.
9. Respondent, MARTIN SARELLANO JR, is the Assistant Field Office Director of the El Paso, Texas Detention Facility. He is the responsible for directing and maintaining physical control over Petitioner pursuant to U.S. Immigration and Customs Enforcement's authority to detain noncitizens. Respondent Sarellano is both the physical and legal custodian of Petitioner and has the authority to request her release from Director Mary Anda Ybarra. He is sued in his official capacity.
10. Respondent, TODD M. LYONS, is the Acting Director of U.S. Immigration and Customs Enforcement. He is the legal custodian of Petitioner and possesses the authority to effectuate her release. He is sued in his official capacity.
11. Respondent, KRISTI NOEM, is the Secretary of the Department of Homeland Security (DHS), under whose authority and oversight the U.S. Immigration and Customs Enforcement (ICE) agency operates. As Secretary, Noem is responsible for delegating authority to and overseeing the operations of ICE, ensuring that the agency functions in compliances with the Constitution, U.S. laws, and regulations. Petitioner is detained as a result of Respondent Noem's unlawful orders, inadequate oversight, and failure to ensure that ICE and its employees operate in accordance with constitutional and legal requirements. Respondent Noem is the legal custodian of Petitioner and has the authority to effectuate her release. She is sued in her official capacity.

12. Respondent, PAMELA JO BONDI, is the Attorney General of the United States. As the chief legal officer of the federal government, she is a legal custodian of Petitioner with ultimate supervisory authority over the enforcement of federal immigration laws. She is sued in her official capacity.

IV. STATEMENT OF FACTS

13. Petitioner, a 53-year-old national of Colombia, entered the United States in August of 2021





After enduring prolonged and severe abuse and having made multiple unsuccessful attempts to evade her persecutors within Colombia, Petitioner fled the country. On August 28, 2024, she re-entered the United States in search of protection and to reunite with her only remaining family members residing outside Colombia.

16. Following her re-entry into the United States in August 2024, Ms. Zapata was determined to have established a credible claim of persecution and passed her Reasonable Fear Interview. Due to her prior removal and subsequent re-entry, she was statutorily ineligible for release on bond and remained in the custody of U.S. Immigration and Customs Enforcement (ICE) in El Paso, Texas, pending adjudication of her case. On February 18, 2025, she appeared for a final hearing on the merits of her protection claim before Judge Stephen Ruhle (IJ Ruhle) at the El Paso Detained Immigration Court. On February 21, 2025, IJ Ruhle issued a nineteen-page written decision granting Ms. Zapata relief in the form of withholding of removal under the Convention Against Torture (CAT).
17. As a result of her prior removal order, Ms. Zapata was subject to the mandatory 90-day post-removal detention period pursuant to INA § 241(a)(1), during which the Department of Homeland Security (DHS) may attempt to effectuate removal to the designated country or, where appropriate, a third country. Upon expiration of this 90-day period, DHS is required to release the individual under an order of supervision unless the person is found to be inadmissible, removable for having overstayed a nonimmigrant visa, removable based on a qualifying criminal conviction, or removable on national security and related grounds. Importantly, the 2021 removal order is not enforceable, due to the government's failure to comply with reinstatement within the required statutory timeframe: per 8 C.F.R. § 241.8(b), by serving Petitioner and her counsel by the 30-day deadline for reinstatement per 8 C.F.R. § 241.8(e), a date which has already passed on March 23, 2025. See 8 C.F.R. § 241.8(b)&(e)

18. As a matter of law, her detention is not permissible without a properly

Grantees during the 90-day removal period, in the absence of exceptional circumstances—such as serious criminal convictions or national security concerns—ICE policy generally favors release. Further, under the Supreme Court’s decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001), the government’s authority to detain individuals beyond the removal period is constitutionally constrained. Specifically, DHS must demonstrate that removal is significantly likely to occur in the reasonably foreseeable future to justify continued detention.

19. Following the grant of relief under the Convention Against Torture, counsel for Ms. Zapata promptly transmitted the Immigration Judge’s decision to ICE Enforcement and Removal Operations (ERO) and formally requested her release under an Order of Supervision, with the intention that she be allowed to reside with her family in New Jersey. Subsequently, ICE personnel contacted Petitioner’s niece, Monica VanHousen, to verify the residential address where Ms. Zapata would be released.
20. On or about March 5, 2025, Ms. Quiroz Zapata contacted both her family and counsel in a state of distress, reporting that ICE officials had informed her she would be removed to Mexico later that evening.
21. In response to the urgent and unclear nature of the threatened removal action, counsel for Petitioner promptly filed an addendum to Ms. Zapata’s asylum application before the El Paso Detained Immigration Court. The filing included documentary evidence of worsening country conditions and Ms. Zapata’s well-founded fear of being removed to Mexico. Simultaneously, counsel submitted a Motion to Reopen Petitioner’s 2021 removal order pursuant to 8 C.F.R. §§ 1003.23(b)(4)(C) and (b)(4)(iii)(A). Under governing law, the submission of these filings operated to stay removal. ICE formally acknowledged this bar to removal in written correspondence dated March 24, 2025.

22. Following numerous attempts to contact ICE El Paso by both email and telephone—and after receiving multiple calls from Ms. Zapata reporting that ICE agents continued to threaten her with imminent removal on a nightly basis—counsel for Ms. Zapata, accompanied by Petitioner’s sister and niece, met in person with Assistant Field Office Director (AFOD) Martin Sarellano Jr. at the El Paso Detention Facility on March 24, 2025. The nightly threats and fear of removal caused Petitioner to suffer from ongoing bouts of diarrhea and vomiting.
23. During the in-person meeting on March 24, 2025, with Assistant Field Office Director Martin Sarellano Jr., counsel for Petitioner formally requested confirmation that Ms. Quiroz Zapata would not be removed to Mexico while her Asylum Addendum and Motion to Reopen remained pending before the Immigration Court. Counsel further requested that AFOD Sarellano produce any documentation in ICE’s possession reflecting formal acceptance of Ms. Zapata by the Government of Mexico, as required under applicable law and removal protocols.
24. During the March 24, 2025 meeting, AFOD Sarellano expressly confirmed that Ms. Zapata would not be removed while her I-589 Asylum Addendum concerning removal to Mexico and her Motion to Reopen remained pending before the Immigration Court. He further stated that, notwithstanding these pending matters, ICE retained discretionary authority to effectuate removal pursuant to INA § 241(b)(1)(C)(iv), a provision he identified in writing and provided to counsel in the presence of both family members. Counsel acknowledged that this statutory provision requires formal acceptance by the receiving country—in this case, Mexico—prior to any removal.

25. When counsel advised AFOD Sarellano that INA § 241(b)(1)(C)(iv), codified at 8 U.S.C. § 1231(b)(1)(C)(iv), requires evidence of a receiving country's formal acceptance prior to removal—as well as proof of the noncitizen's ties to that third country pursuant to the Asylum statute—AFOD Sarellano responded that Mexico had, in fact, accepted Ms. Zapata. He remarked, with a dismissive tone and a chuckle, “Of course they say she doesn't have family anywhere else but here,” and subsequently suggested that counsel raise these statutory concerns in a renewed parole request submitted to the ICE SDDO El Paso email address.
26. At that time, counsel formally requested documentation from AFOD Sarellano substantiating Mexico's purported acceptance of Ms. Zapata. AFOD Sarellano responded that the only confirmation he possessed was an email from a colleague indicating that INAMI (Instituto Nacional de Migración) had accepted the Petitioner. He further acknowledged that, despite having requested such documentation, he had not received a completed Form I-241 or a formal letter of acceptance from ICE Office of the Principal Legal Advisor (OPLA).
27. Counsel requested that AFOD Sarellano provide a copy of the email he claimed to have received evidencing Mexico's acceptance of Ms. Zapata; AFOD Sarellano declined to do so. Counsel then inquired whether providing affirmative evidence of Mexico's denial could rebut ICE El Paso's asserted basis for continued detention. In response, AFOD Sarellano stated that any such evidence would need to originate directly from Mexico's immigration authority, INAMI. When asked to provide a point of contact within that division, AFOD Sarellano again refused. That same day, Counsel for Petitioner contacted the Office of U.S. Representative Marc Veasey (TX-33), which subsequently initiated correspondence with ICE and copied counsel on the exchange. In ICE's written response to Rep. Veasey's office, the agency stated that it could not provide confirmation of Mexico's acceptance until

both the I-589 Asylum Addendum and the Motion to Reopen pending before Immigration Judge Ruhle had been finally adjudicated.

28. Two days later, on March 26, 2025, Counsel for Petitioner, together with Petitioner's niece, Monica VanHousen, and with the support of the Office of U.S. Representative Rob Menendez (NJ-8), contacted the Mexican immigration authority, INAMI. During a recorded telephone conversation with INAMI officials, counsel formally inquired whether Mexican immigration had any record of accepting a Colombian national and U.S. Convention Against Torture (CAT) grantee by the name of Adriana Quiroz Zapata, which was also commemorated via email. After placing the call on a brief hold to review their records, INAMI officials confirmed that they had no documentation or record indicating that Ms. Zapata had been accepted for removal or transfer into Mexico and confirmed via e-mail.
29. Given the circumstances of the discovery and Ms. Zapata's continued reports that ICE agents were threatening her with imminent removal to Mexico daily, on March 26, 2025, Counsel for Ms. Zapata filed a Motion to Compel with the El Paso Detained Immigration Court. The motion requested that ICE El Paso be ordered to produce any documentary evidence of Mexico's alleged acceptance of Ms. Zapata for removal. The filing cited both the lack of confirmation from INAMI and the availability of the e-mail/recorded call with Mexican immigration officials.
30. Despite the ongoing proceedings of her Mexican asylum addendum before the Immigration Court, and the facts outlined above, in the late evening hours of March 27, 2025, extending into the early morning hours of March 28, 2025, ICE El Paso instructed Ms. Zapata to accompany them as she was being transferred. When Ms. Zapata inquired about her destination, ICE employees refused to provide any information. She was then transported by bus, along with several other detainees, to Mexico. Upon arrival, ICE authorities coerced Ms. Zapata into signing an agreement not to reenter the United States for 20 years under the threat of physical

force. Following this, they attempted to abandon her in Mexico, without returning her Colombian passport or providing her with essential medications for her hyperlipidemia and hypothyroidism.

31. Ms. Zapata, fearing for her safety, signed the document under duress, while loudly crying and pleading for the return of her identification. She repeatedly questioned ICE officials as to why she was being removed when she had been granted protection under the U.S. Convention Against Torture. Her distress and objections were overheard by Mexican authorities, one of whom made a series of phone calls. Ms. Zapata then overheard the official request that ICE El Paso return to retrieve her. Shortly thereafter, ICE officials returned and took her back into custody.
32. Accordingly, within hours of ICE El Paso's attempt to abandon Petitioner in Mexico on March 28, 2025, Mexican authorities—citing the absence of any formal acceptance of Petitioner—required ICE to return and retrieve Ms. Zapata from Mexican territory. This action was consistent with Ms. Zapata's status as a CAT grantee and was compelled under the Safe Third Country Procedures of the Asylum Act, as referenced in Article 3, paragraph 20(1)(d), as well as under U.S. law pursuant to INA § 241(b)(1)(C)(iv), the very provision cited by AFOD Sarellano.
33. Since her return to the El Paso facility by ICE personnel on March 28, 2025, Petitioner, Ms. Zapata, has remained in ICE custody without release.
34. Repeated inquiries regarding any prospective third-country placement for Petitioner and/or the status of her release—particularly considering the Temporary Restraining Order issued on March 28, 2025, addressing precisely this type of conduct by ICE—went largely unanswered for several days by ICE Enforcement and Removal Operations (ERO) in El Paso.
35. On April 2, 2025, Counsel for Ms. Zapata contacted AFOD Sarellano to request an update regarding Petitioner's release. AFOD Sarellano responded that the

release request was currently under review by ICE Legal, who was evaluating the case to determine next steps. When Counsel inquired about this procedural deviation—specifically, that release requests are customarily elevated from the AFOD to the Field Office Director or AD1 for final determination—AFOD Sarellano confirmed that, in this instance, the decision had been delegated to ICE Legal.

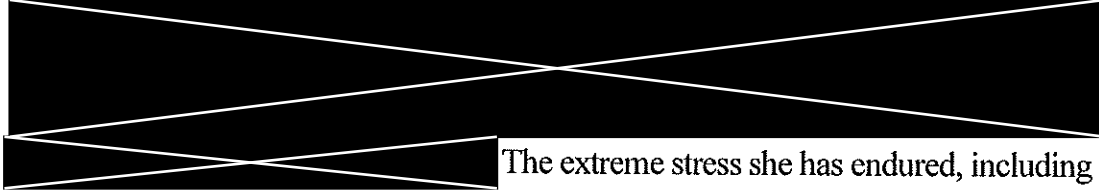
36. On April 4, 2025, El Paso ICE Legal, via email, confirmed that it had provided guidance to ICE El Paso regarding the meaning and significance of the Temporary Restraining Order (TRO), and clarified that release determinations are “purely operational matters within ERO,” in which ICE Legal does not participate. Subsequent requests for a direct update from Mr. Sarellano and his staff regarding the status of Ms. Zapata’s release or any prospective third-country placement have gone unanswered.
37. Prior to the attempted unlawful removal of Petitioner to Mexico, on January 7, 2025, Ms. Zapata reported to the Office of the Immigration Detention Ombudsman (OIDO) the conduct of ICE El Paso officials on December 10, 2024. The reported conduct included actions by Deportation Officer Randy Najera, who pre-filled forms pertaining to Ms. Zapata’s parole release determination during the pendency of her asylum proceedings and sought her signature without providing a Spanish-language translation, while assuring her that the document was “nothing bad.” When Ms. Zapata expressed hesitation and requested a copy of the form, D.O. Najera falsely informed her that it had already been sent to her attorney. After Ms. Zapata reiterated that she wanted the form for her personal records, D.O. Najera provided her with a copy on December 12, 2024, which Ms. Zapata then mailed to her attorney, Mrs. O’Neal. Upon reviewing the document, counsel advised Ms. Zapata that she had been induced to sign a form waiving her right to a formal parole interview with the presence of counsel. Based on this discovery, a complaint was

submitted to OIDO against ICE El Paso. The complaint was successful and ultimately resulted in the release of approximately 70 other detainees.

38. On January 7, 2025, the day the Office of the Immigration Detention Ombudsman (OIDO) arrived at the facility and commenced its investigation, Deportation Officer Randy Najera personally threatened Petitioner, stating that he had his own methods of ensuring she would remain detained for as long as possible.
39. Counsel for Petitioner reported these threats to OIDO; however, no corrective action was taken. Deportation Officer Najera continued to oversee Ms. Zapata's custody and refused to grant her parole prior to her final hearing.
40. During the week of Ms. Zapata's final hearing, scheduled for February 18, 2025, Counsel for Ms. Zapata observed that her speech was slurred, and her responsiveness had significantly slowed. Upon inquiring about the cause, Ms. Zapata explained that a few days prior, ICE had begun administering her prescribed sleeping medication during the day rather than at night. In response, Counsel filed another complaint with OIDO and notified the Immigration Court through an Administrative Notice.
41. Subsequently, on February 21, 2025, Ms. Zapata prevailed in her case, with the Immigration Judge issuing a comprehensive nineteen-page decision affirming her entitlement to protection under the Convention Against Torture (CAT).
42. ICE is currently unable to effectuate the removal of Petitioner to Colombia. Additionally, there is no significant likelihood of Petitioner's removal to any other country in the reasonably foreseeable future. Petitioner is entitled to protection under the Convention Against Torture (CAT), and removal to a safe third country is not reasonably foreseeable, as Petitioner has no substantial ties to any country other than Colombia and the United States.
43. Petitioner has not been charged with or convicted of any crimes in the United States.

44. Petitioner has fully cooperated with ICE's efforts regarding her detention and removal, despite the apparent circumventions of legal requirements for her placement by ICE on March 27th and 28th, 2025.

45. Petitioner is fearful for her wellbeing while remaining in ICE custody. She has



The extreme stress she has endured, including prior torture in Colombia and legal circumventions by ICE in the United States, has significantly impacted her mental and physical health. Petitioner seeks only to return to her family, where she can recover from these recent events in a safe and supportive environment.

V. LEGAL FRAMEWORK

46. An individual granted Withholding of Removal under the Convention Against Torture (CAT), rather than full asylum, remains subject to a final order of removal. As a result, they enter a mandatory 90-day post-removal detention period pursuant to INA § 241(a)(1), during which the Department of Homeland Security (DHS) may attempt to effectuate removal to a third country.

47. However, this practice assumes DHS compliance with 8 C.F.R. § 241.8(b) mandating that DHS provide written notice of the reinstatement determination to the individual and their attorney, if any, within 30 days of the final decision on the merits. See also 8 C.F.R. § 292.5(a) (requiring notice and service of papers on counsel or the individual if unrepresented); see also 8 C.F.R. § 103.8(c)(2) (related to personal service of persons in penal or mental institutions, incompetents, and minors under the age of 14).

48. In practice, and absent criminal or national security grounds for continued detention, ICE policy since at least 2004 has favored the release of CAT grantees for whom removal to a third country is not reasonably foreseeable. This policy is reflected in ICE memoranda issued in 2004, 2012, and 2021.

49. Failing to serve a reinstatement order violates statutory, constitutional, and regulatory rights. Individuals also have statutory and constitutional rights to judicial review of a reinstatement order. See 8 U.S.C. § 1252(a); *INS v. St. Cyr*, 533 U.S. 289, 300 (2001); see also INA § 242(c)(1) (stating that a copy of any removal order must be submitted with a petition for review). Due process requires timely notice of DHS' issuance of a final order of reinstatement against them, which impacts their ability to seek judicial review and their detention status. See generally *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). Regulations also protect these interests. See 8 C.F.R. § 241.8(b) (mandating written notice of reinstatement determination to the individual); 8 C.F.R. § 292.5 (requiring service of documents); and 8 C.F.R. § 103.8(c)(2) (requiring service of decisions in administrative proceedings upon the person in charge of institution if the person is detained). In *Villegas de la Paz v. Holder*, 640 F.3d 650, 654-55 (6th Cir. 2010), the court held that the 30-day clock did not start until service of the reinstatement order.
50. Ms. Quiroz Zapata, whose removal order was originally issued in 2021 designating Colombia as the country of removal, was granted protection under CAT in February 2025. As such, she is protected from removal to Colombia. She also cannot be removed to any other country not designated by the Immigration Judge pursuant to 8 U.S.C. § 1231(b)(3)(A), any country where she has no established ties pursuant to the Safe Third Country Procedures and Directive, Article 3 20(1)(d), or to any country that has not formally accepted her pursuant to INA § 241(b)(1)(C)(iv).
51. Ms. Zapata has no familial, cultural, or legal ties to any country aside from Colombia and the United States. Her only family outside of Colombia are U.S. citizens residing in New Jersey, including two sisters, a niece, and a fiancé. Upon release, Ms. Zapata plans to reside in North Bergen, New Jersey, with her family.
52. ICE El Paso has continued to detain Ms. Zapata despite the absence of any significant likelihood that she will be removed in the reasonably foreseeable future, in contravention of established legal precedent and longstanding ICE policy.
53. Petitioner's release is required by controlling Supreme Court precedent and the

54. *Zadvydas* involved a noncitizen with a final order of removal. Although the government had not yet been able to remove him, it asserted authority to continue detaining him under the post-removal-period detention statute, which allows detention beyond the normal 90-day removal period if the noncitizen is considered a "risk to the community or unlikely to comply with the order of removal." *Zadvydas*, 533 U.S. at 688; 8 U.S.C. § 1231(a)(6).
55. The Court rejected the Government's position. It first observed that a statute permitting potentially indefinite detention, which is civil and therefore non-punitive in nature, would violate the Due Process Clause of the Fifth Amendment unless there is a "special justification" that outweighs the individual's constitutionally protected interest in avoiding physical restraint. Additionally, the Court emphasized that the statute must provide rigorous procedural protections to ensure that continued detention is justified. *Zadvydas*, 533 U.S. at 690.
56. The *Zadvydas* Court held that the two justifications for the detention at issue—preventing flight and protecting the community—were inadequate to justify prolonged and indefinite detention. *Id.* Regarding the risk of flight, the Court stated that the first justification, preventing flight, is weak or nonexistent when removal seems a remote possibility at best. *Id.* Regarding protecting the community, the Court explained that this rationale should be reserved for "specially dangerous individuals," and that clear and convincing evidence of such danger, accompanied by strong procedural safeguards and additional special circumstances—such as mental illness that exacerbates the danger—would be required to justify prolonged and indefinite detention on that basis. *Id.* at 691. The Court found that the administrative procedures available to Mr. *Zadvydas* were inadequate, and that Mr. *Zadvydas* did not fall within the class of "especially dangerous individuals" whose detention could be justified indefinitely. *Id.* at 684, 691-92 (suggesting that individuals suspected of terrorism or those with violent criminal histories,

accompanied by a mental condition that makes future violence likely, could conceivably meet this standard).

57. To avoid declaring the statute unconstitutional, the *Zadvydas* Court construed §1231(a)(6) to implicitly contain a “reasonable time” limitation, subject to federal judicial review, rather than authorize indefinite detention. *Id.* at 682. In doing so, the Court established a presumptively reasonable period of six months after the final order of removal during which the government may detain a non-citizen to effectuate removal. It held that a reviewing habeas court must determine whether any detention beyond that period exceeds what is reasonably necessary to secure removal in any given case. *Id.* at 699, 701. After this six-month period, “once the non-citizen provides good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future, the government must respond with evidence sufficient to rebut that showing.” *Id.* at 701. Moreover, as the period of post-removal detention extends, the concept of the “reasonably foreseeable future” must shrink accordingly. *Id.*
58. Importantly, the regulations implementing § 1231(a)(6) are codified in part at 8 C.F.R. § 241.13. According to these regulations, if there is not a “significant likelihood that the [noncitizen] will be removed in the reasonably foreseeable future,” the Service must order the release of the noncitizen unless there are “special circumstances” that justify continued detention. 8 C.F.R. § 241.13(g)(1).
59. In the present case, there is no need to grant Respondents six months to effectuate Petitioner’s removal before allowing federal judicial review. As the Grantee of protected status under the Convention Against Torture, Petitioner is legally protected from removal to Colombia. Under INA § 241(b)(1)(C)(iv) and the corresponding regulation under 8 U.S.C. § 1231(b)(1)(C)(iv), Respondents are required to obtain formal acceptance from a third country for placement. Additionally, under the Asylum Act Safe Third Country Procedures and Directive at

Article 3, § 20(1)(d), Respondents must demonstrate some ties to the third country for placement. Furthermore, the Temporary Restraining Order issued on March 28, 2025, enjoins any further attempts at alternate country placement without adhering to these laws and ensures Petitioner is afforded proper notice and the opportunity for formal challenge to any removal to said country.

60. Mexico's INAMI division has confirmed that they have no record of accepting Petitioner as of March 26, 2025. On March 28, 2025, Mexican border officials refused to accept Petitioner and instead demanded her safe return to the United States as a Grantee under CAT. Since Petitioner won her case for CAT protections on February 21, 2025, ICE El Paso has been unable to produce any formal acceptance documents from any third country for her placement. Furthermore, since that date, ICE El Paso has not responded to Counsel for Petitioner's repeated inquiries regarding any potential third-country placement options for Ms. Zapata. As such, there is no likelihood, much less a significant likelihood, that Petitioner will be removed in the reasonably foreseeable future. Accordingly, Petitioner should be released to her family under an Order of Supervision for the remainder of the 90-day period, which concludes on May 22, 2025.
61. A noncitizen's release may be revoked, and the noncitizen may be returned to DHS custody, but only under specific conditions. These conditions include a violation of the terms of the release or if, due to a change in circumstances, DHS determines that there is a significant likelihood that the noncitizen may be removed in the reasonably foreseeable future. 8 C.F.R. § 241.13(i)(2). However, DHS is required to notify the noncitizen of the reasons for the revocation of their release. 8 C.F.R. § 241.13(i)(3) sets forth the procedures for revocation.
62. Here, Petitioner is entitled to release under the principles established in *Zachydas* and in accordance with 8 C.F.R. § 241.13. As outlined in *Zachydas*, detention beyond the presumptively reasonable period of six months is

unconstitutional unless there is a significant likelihood of removal in the reasonably foreseeable future. Given that Petitioner has been granted protection under the Convention Against Torture and no third country has accepted her for removal, her continued detention is not justified. Furthermore, under 8 C.F.R. § 241.13, Petitioner must be released unless there are special circumstances justifying continued detention, which are not present in this case.

63. First, by operation of law, there is no significant likelihood of removing Petitioner in the reasonably foreseeable future for several reasons: (1) no third country has accepted her for removal as required by INA § 241(b)(1)(C)(iv) and the corresponding regulation under 8 U.S.C. § 1231(b)(1)(C)(iv); (2) Petitioner has no proven ties to any third countries outside of Colombia and the United States, as required for placement under the Asylum Act Safe Third Country Procedures and Directive at Article 3(20)(1)(d); and (3) an appeal of her Motion to Reopen the 2021 removal order remains pending as of March 27, 2025, which stays removal by operation of law pursuant to 8 C.F.R. § 1003.23. Specifically, 8 C.F.R. § 1003.23(f) provides that the filing of a motion to reopen automatically stays deportation pending a decision on the motion and the adjudication of any properly filed administrative appeal.

64. Second, the Respondents have failed to adhere to the legal requirements outlined above in detaining the Petitioner. Specifically, they attempted to abandon her in Mexico without first securing formal acceptance from Mexico or addressing her filed challenges to removal through the Asylum addendum. Additionally, the Petitioner has been detained without explanation or notice regarding any potential plans by ICE to place her in another country. This is in direct violation of the nationwide Temporary Restraining Order (TRO) regarding her eligibility for relief under the Convention Against Torture (CAT), which mandates that ICE provide notice if they intend to seek third-country placement. The Petitioner has not received

such notice and remains uncertain as to why ICE has not released her to her family in New Jersey, especially given the absence of any criminal history or security concerns.

65. The only significant change between the time the Petitioner was informed of her likely release in February 2025 and March 5, 2025, when ICE El Paso began their retaliatory actions, is the dissolution of the Office of the Immigration Detention Ombudsman (OIDO) and other oversight bodies, as well as the transition to a new presidential administration. Upon taking office, President Donald J. Trump issued numerous executive orders and policy changes aimed at deporting as many noncitizens as possible, while limiting deportations in cases involving individuals granted relief to those with criminal backgrounds. However, the Petitioner does not fall into this category. Despite this, the Respondents are still required to comply with the law as written, and in this case, they have consistently failed to do so.

VI. CLAIMS FOR RELIEF

COUNT ONE

Violation of the Fifth Amendment Right to Due Process

66. The allegations in paragraphs 1 through 60 above are hereby repeated, realleged, and incorporated by reference as though fully stated herein.
67. Under the Due Process Clause of the Fifth Amendment, even a noncitizen who may be detained for an extended period due to a "special justification" (which is not applicable in this case) is still entitled to robust procedural safeguards to protect against constitutional violations in the detention process. *Zadvydas v. Davis*, 533 U.S. 678, 691 (2001).

68. Ms. Zapata, the Petitioner in this case, has been repeatedly denied adequate procedural safeguards throughout her detention by ICE El Paso. She was not afforded an opportunity for review of her parole request denial prior to her final hearing, and her rights to understand the documents she was signing and to receive attorney notice were violated on December 10, 2024, by D.O. Randy Najera. Furthermore, following her successful grant of CAT protection on February 21, 2025, she has not had a hearing to determine whether her ongoing detention, purportedly for possible placement in Mexico or any other country, is even legally justified. The only officials who have considered her release are ICE agents, who are responsible for her custody and removal, and who have a history of violating her due process rights. This demonstrates a lack of neutrality and impartiality in their decision-making, especially given their recent attempt to abandon her in Mexico on March 28, 2025, without legal support or justification. The dissolution of oversight bodies, coupled with the executive orders issued by the current administration, further reinforces the bias of the Respondents.
69. While there is an administrative process allowing Petitioner to request a review of her release from ICE El Paso, her repeated requests—made in the days following the Immigration Judge's grant of relief on February 21, 2025—seem to be disregarded. ICE El Paso has failed to provide any direct, written responses to these requests, with the most recent communication falsely claiming that her release decision was with their legal department, which later confirmed that this was not the case. As such, it appears that Petitioner's release requests are not being considered or adjudicated by Assistant Field Office Director Martin Sarellano or Field Office Director Mary Anda Ybarra of the El Paso Immigration Enforcement and Removal Office. The failure of the Respondents to provide a neutral decision-maker to review the continued custody of Petitioner constitutes a violation of her right to procedural due process.

70. Additionally, when Petitioner was forcibly abandoned in Mexico by ICE El Paso, she was not informed of the reasons for her transfer there instead of being released to her family. Since March 28, 2025, Petitioner has received no explanation from ICE El Paso regarding why this occurred or why she continues to be detained, despite there being no apparent or significant likelihood that her removal will occur in the reasonably foreseeable future.

71. Finally,

72. For the reasons stated above, Petitioner's detention constitutes a violation of the Due Process Clause of the Fifth Amendment

COUNT TWO

Violation of 8 U.S.C. § 1231(a)(6) and Implementing Regulation 8 C.F.R. § 241.13

72. The allegations set forth in paragraphs above are hereby repeated, realleged, and incorporated by reference as though fully stated herein.

73. Petitioner's continued detention by Respondents is unlawful and violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, and 8 C.F.R. § 241.13. Petitioner's removal to Colombia is legally barred, and her removal to any other country is not significantly likely to occur in the reasonably foreseeable future.

74. For these reasons, Petitioner's detention violates 8 U.S.C. § 1231(a) and 8 C.F.R. § 241.13.

COUNT THREE

Violation of INA 241(b)(1)(C)(iv), Corresponding Code at 8 U.S.C. 1231 (b)(1)(c)(iv), and Related Provisions under the Asylum Act Safe Third Country Procedures and Directive at Article 3 20(1)(d)

75. The allegations set forth in paragraphs above are hereby repeated, realleged, and incorporated by reference as though fully stated herein.
76. Petitioner's continued detention by Respondents is unlawful, and their actions on March 27th and 28th, 2025, contravene INA 241(b)(1)(C)(iv), the corresponding provision under 8 U.S.C. § 1231(b)(1)(C)(iv), and the Asylum Act Safe Third Country Procedures and Directive at Article 3(20)(1)(d). These provisions require formal ties to and acceptance from any third country considered for alternative placement following a grant of relief under the Convention Against Torture.
77. For these reasons, Petitioner's detention violates INA 241(b)(1)(C)(iv), the corresponding provision under 8 U.S.C. § 1231(b)(1)(C)(iv), and the Asylum Act Safe Third Country Procedures and Directive at Article 3(20)(1)(d).

COUNT FOUR

Violation of the Fifth Amendment Right to Substantive Due Process

78. The allegations set forth in paragraphs above are hereby repeated, realleged, and incorporated by reference as though fully stated herein.
79. Petitioner's continued detention violates her right to substantive due process. Respondents, by operation of law, are prohibited from effectuating Petitioner's removal, and therefore, the justification of preventing flight is nonexistent, even assuming it could constitute a "special justification" sufficient to permit prolonged detention. Moreover, Petitioner's detention cannot be justified on public safety grounds, as she has neither committed nor been charged with any crimes in the United States, nor does she have a history of mental illness. Consequently, Petitioner does not qualify as one of the "especially dangerous" individuals described by the Court in *Zadvydas* that would justify indefinite detention. Even if Petitioner's detention were authorized by statute or regulation, the government fails to meet the

constitutional standard set forth in *Zadvydas*, as they have not provided clear and convincing evidence of dangerousness, nor any requisite special circumstances, such as mental illness, to justify prolonged detention based on dangerousness.

REQUIREMENTS OF 28 U.S.C. § 2243

80. The court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the court must require Respondents to file a return "within 3 days unless for good cause, additional time not exceeding 20 days, is allowed." *Id.* (Emphasis added).
81. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The great writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

VII. PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause, ordering Respondents to show cause why this petition should not be granted within 3 days;
- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231(a), and 8 CFR § 241.13;
- (4) Issue a Writ of Habeas Corpus, ordering Respondents to immediately release Petitioner from custody on reasonable conditions of supervision, to her family in New Jersey;

- (5) Enter preliminary and permanent injunctive relief, enjoining Respondents from further unlawful detention of Petitioner;
- (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (7) Grant any further relief this Court deems just and proper.

Respectfully submitted this 9th day of September 2025.

/s/ Lauren O'Neal
Lauren O'Neal, Esq.
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent petitioner, Adriana Quiroz Zapata, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 9th day of September 2025.

/s/ Lauren O'Neal
Lauren O'Neal, Esq.
Virginia State Bar No.: 91662