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9 ATTORNEYS FOR PETITIONER

10 UNITED STATES DISTRICT COURT  
11 FOR THE DISTRICT OF ARIZONA

12 Silvia Elizabeth Colman-Randas

13 Petitioner

14 VS

15 John Cantu, Immigrations and Customs  
16 Enforcement Phoenix Field Office Director,  
17 Todd Lyons, Acting Director of  
18 Immigrations and Customs Enforcement;  
19 Kristi Noem ,U.S. Department of Homeland  
20 Security Secretary Kristi Noem; David R.  
21 Rivas, Warden of the San Luis Regional  
22 Detention Center and DOES 1-5,  
23 Defendants-Respondents

Case No.:

**REQUEST FOR TEMPORARY  
RESTRAINING ORDER**

24 In accordance with federal rule of civil procedure 65(b), Petitioner SILVIA  
25 ELIZABETH COLMAN-RANDAS respectfully move this court for a temporary  
26 restraining order directing her immediate release from immigration custody and in  
27

28 REQUEST FOR TEMPORARY RESTRAINING ORDER - 1

1 anticipation of the filing of a formal motion for preliminary injunction To be filed  
2 shortly.  
3

4 Petitioner respectfully request waiver of the notice of motion requirement and  
5 the posting of bond, and an expedited telephonic hearing on this request for TRO  
6 as soon as possible.  
7

8 Counsel for Petitioner have notified Respondents and the United States  
9 Attorneys Office for the District of Arizona of the filing of this matter by email  
10 communications.  
11

12 Petitioner is non-citizen from Guatemala held in civil detention by Immigration  
13 and Customs Enforcement (ICE) at the San Luis Detention Center. She is subject  
14 to a final order of removal but is also subject to a mandatory release on supervision  
15 pursuant to sections 1226(a) and 1231(a) of the Immigration and Nationality Act  
16 (INA).  
17  
18

19 Petitioner is the beneficiary of a stay pending adjudication of her Petition for  
20 Review before the 9<sup>th</sup> Circuit. Defendants, however, have refused to release her.  
21

22 In support of this request Petitioner States as follows:  
23  
24  
25  
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28

1           **INTRODUCTION**

2 1. This case challenges the unlawful and punitive detention of Ms. Silvia Elizabeth  
3 Colman-Randas (hereinafter "Petitioner" or "Ms. Colman-Randas"), who is currently  
4 in the custody of Immigration and Customs Enforcement ("ICE") at San Luis Regional  
5 Detention Center, in San Luis, Arizona. Petitioner is neither a flight risk nor a danger  
6 to the community. But on or about 15 May 2025 ICE detained her without notice or  
7 opportunity to be heard, on the decision of an individual without authority to do so,  
8 without findings required by law, and in violation of agency rules and published  
9 regulations.  
10

11 2. Unless the Court orders her immediate release, Petitioners will continue to be  
12 subjected to unlawful and punitive detention and denial of needed medical care.

13 3. Plaintiff -Petitioner, also challenge the Government's practice of refusing to  
14 accord reasonable accommodation or modification of policies and practices in  
15 violation of the Rehabilitation Act.  
16

17 4. Plaintiff-Petitioner further challenge the legality of 8 C.F.R. §241.4(l) and  
18 Respondents' uniform policy and practice of subjecting noncitizens to arrests,  
19 detention, and removal without providing due notice of condition of release violation,  
20 an opportunity to be heard and provide explanation prior to deprivation of liberty.  
21

22 5. Plaintiffs-Petitioners are not challenging or seeking judicial review of any  
23 outstanding order of removal, the way their removal proceedings were or are  
24 conducted, or the denial of immigration relief by the EOIR.  
25

26 6. Through their uniform practices Respondents violate the rights of Petitioner  
27 under the due process and equal protection guarantees of the U.S. Constitution, the  
28 INA and its regulations, the Administrative Procedure Act, and the Rehabilitation Act.

## JURISDICTION AND VENUE

1  
2 7. This action arises under the Constitution of the United States; the Immigration  
3 and Nationality Act, 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration  
4 Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208,  
5 110 Stat. 1570 [hereinafter ‘INA’]; the Rehabilitation Act, 29 U.S.C. § 701 et seq.;  
6 and the Administrative Procedure Act, 5 U.S.C. §§ 701 et seq [hereinafter “APA”].

7  
8 8. This Court has further jurisdiction under 28 U.S.C. § 2241, 2243, art. I § 9,  
9 cl. 2 of the United States Constitution (“Suspension Clause”), and 28 U.S.C. §  
10 1331, as Petitioner is presently in custody under color of the authority of the  
11 United States, and such custody is in violation of the Constitution, laws, or treaties  
12 of the United States.

13  
14 9. This Court also may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. §  
15 702, and the All Writs Act, 28 U.S.C. § 1651.

16  
17 10. This court has further remedial authority pursuant to the Declaratory  
18 Judgment Act, 28 U.S.C. § 2201 et seq..

19 11. The use of the Writ of Habeas Corpus to challenge detention by ICE is not  
20 foreclosed by the REAL ID Act. The REAL ID Act of 2005, Pub. L. 109-13, 119  
21 Stat. 231 (May 11, 2005), Title I, Section 106(c), amending INA §§ 242(a)(2)(A),  
22 (B), (C) and § 242(g), only deprives the district court of habeas jurisdiction to  
23 review orders of removal, not challenges to detention or the denial of constitutional  
24 rights. *See INS v. St. Cyr*, 533 U.S. 289, 364-65 (2001) (“The writ of habeas corpus  
25 has always been available to review the legality of executive detention.”).

1 12. This Court has the ability to enjoin federal officials pursuant to *Ex Parte*  
2 *Young*, 209 U.S. 123 (1908). *See Philadelphia Co. v. Stimson*, 223 U.S. 605, 619–  
3 21 (1912) (applying *Ex Parte Young* to federal official); *Goltra v. Weeks*, 271 U.S.  
4 536, 545 (1926) (same).

6 13. Plaintiff-Petitioner has exhausted all administrative remedies to the extent  
7 available and required by law.

8 14. Venue properly lies within this District, because each named Defendant-  
9 Respondent is present in this district and a substantial part of the events or  
10 omissions giving rise to this action occurred and continue to occur in this District.  
11 *See* 28 U.S.C. §1391(b). Ms. Colman-Randas is currently detained within this  
12 district. Accordingly, the “restraint complained of” is occurring within the Court’s  
13 territorial jurisdiction. *See* 28 U.S.C. § 2241(a)

15 15. No petition for habeas corpus has previously been filed in any court to  
16 review these Plaintiff’s detention or claims.

#### 18 PARTIES

19 16. Plaintiff-Petitioner, Silvia Elizabeth Colman-Randas, is a 47-year-old  
20 national and citizen of Guatemala who was arrested by ICE Los Angeles on 15 May  
21 2025 without providing her a prior notice of violation of condition of release, an  
22 opportunity to be heard, and/or to be represented by counsel. Ms. Colman-Randas  
23 has a pending Petition for Review before the Ninth Circuit Courts of Appeals and a  
24 stay of her removal is in effect prohibiting her removal from the US until the  
25 issuance of a mandate or further order by the Ninth Circuit. Ms. Colman-Randas  
26 suffers from chronic hernia, back pain, nerve pain and inflammation, has a  
27

1 prejudice immune system, and is blind in her left eye. Prior to her arrest she was on  
2 medication, medical observation, and in need of continuing medical care. She is  
3 currently detained in San Luis, Arizona.

4  
5 17. The U.S. Immigration and Customs Enforcement ("ICE") is an agency  
6 within DHS with the primary mission of arresting, detaining, and removing non-  
7 citizens physically present within the territory of the United States. ICE is also  
8 responsible for the custody and care of all detained non-citizens awaiting  
9 resolution of their immigration cases or removal after a final order of removal had  
10 been entered.

11  
12 18. Defendant Kristi Noem is the Acting Secretary for DHS. In this capacity,  
13 Ms. Noem has responsibility for the administration of immigration laws pursuant  
14 to 8 U.S.C. §1103(a), has authority over ICE and its field offices, and has authority  
15 to order the release of Plaintiff-Petitioner. At all times relevant to this Complaint,  
16 Defendant Noem was acting within the scope and course of his position as the  
17 Secretary for DHS. Defendant Noem is sued in his official capacity.

18  
19 19. Defendant-Respondent Todd Lyons is the Acting Director and Senior  
20 Official Performing the Duties of the Director of ICE. Defendant Lyons is  
21 responsible for the implementation of all ICE's policies, practices, and procedures,  
22 including those relating to detention of non-citizens. Defendant Lyons is a legal  
23 and immediate custodian of Plaintiff. At all times relevant to this Complaint,  
24 Defendant Lyons was acting within the scope and course of his position as an ICE  
25 official. He is sued in his official capacity.

1 20. Defendant-Respondent John Cantu is the Director of the Phoenix Office of  
2 ICE and he has immediate custody of Plaintiff-Petitioner. He is sued in his official  
3 capacity.

4  
5 21. Defendant David R. Rivas is the warden of San Luis Detention Facility  
6 where Plaintiff-Petitioner is currently detained. See Exhibit A. Defendant Rivas is  
7 the immediate, physical custodian of Plaintiff. He is named in his official capacity.

8 22. The true names or capacities, whether individual, corporate, associate or  
9 otherwise, of the Defendants-Respondents named herein as Does 1 through 5 are  
10 unknown to Plaintiff-Petitioner, who therefore sues said Respondents by such  
11 fictitious names, and Plaintiffs will amend this Complaint to show their true names  
12 and capacities when ascertained. Does 1 through 5 are the immediate, physical  
13 custodians of Plaintiff.  
14

15 **FACTS RELEVANT TO ALL CAUSES OF ACTIONS**

16 **A. Statement of Fact and Petitioner's Immigration History**

17 23. Petitioner is 47 years old and came to the United States from Guatemala in  
18 December 2018 with her teenage daughter almost seven years ago seeking safe  
19 heaven. Petitioner has resided in the United States continuously since then.  
20

21 24. Respondents placed her in section 240 removal proceedings with the  
22 issuance of a Notice of Appear on or about 17 April 2019. On the same date  
23 Respondents found that Petitioner was not a flight risk or danger to the community  
24 and placed her on an order of supervision and own recognizance, *Form I-220A*. See  
25 Exhibit A.  
26  
27  
28

1 25. Petitioner filed a timely application for asylum and withholding or removal  
2 based on membership in a particular social group and political opinion, and  
3 protection under the U.N Convention Against Torture based on severe  
4 mistreatment she suffered in Guatemala.  
5

6 26. On 19 July 2019 an immigration judge denied Petitioner's applications for  
7 relief and ordered her and her daughter removed to Guatemala.  
8

9 27. On 6 August 2019 Petitioner filed a timely appeal before the Board of  
10 Immigration Appeals. The appeal was denied on or about 17 March 2023.  
11

12 28. Through prior counsel Petitioner filed a timely Petition for Review with the  
13 Ninth Circuit but prior counsel failed to file the opening brief on time resulting in  
14 the initial dismissal of the appeal and the issuance of the mandate. *See* Exhibit B.  
15

16 29. With the help with a new counsel Petitioner filed a request to recall the  
17 mandate and reinstated the appeal. *See* Exhibit B.  
18

19 30. On 17 June 2025 the 9<sup>th</sup> Circuit stayed Petitioners' removal pending  
20 resolution of the motion to reinstate.  
21

22 31. On 10 July 2025 the 9<sup>th</sup> Circuit granted the opposed motion to reinstate,  
23 recalled the mandate and stayed Petitioner removal for the duration of the  
24 proceedings before the 9<sup>th</sup> Circuit.  
25

26 32. Since ICE released Petitioner on an order of supervision in 2019, Petitioner  
27 has complied with all conditions of the order, including periodic check-ins with  
28

1 ICE. No circumstances have changed that make Petitioner a flight risk or danger to  
2 the community.

3  
4 33. Throughout the time Petitioner was on supervised release she was told and  
5 understood that ICE would give non-citizens in her circumstances “the opportunity  
6 to prepare for an orderly departure” after securing Petitioner’s travel documents.  
7

8 34. But at a regularly ICE scheduled check-in on 15 May 2025 ICE suddenly  
9 revoked Petitioner’s order of supervision and arrested her on the spot. The  
10 deportation officer who “revoked” the order on supervised release provided no  
11 reason for the revocation nor did it allow Petitioner to contact her counsel of  
12 record, or to provide a response and rebut.  
13  
14

15 35. Based on information and belief the officer who revoked Petitioner’s order  
16 of supervision and own recognizance was not the Executive Associate Director of  
17 ICE and did not have a lawfully delegated authority to revoke orders of  
18 supervision; did not first refer the case to the ICE Executive Associate Director,  
19 did not make findings that revocation was in the public interest and that  
20 circumstances did not reasonably permit referral to the Executive Associate  
21 Director.  
22  
23  
24

25 36. Upon arrest, ICE transferred petitioner to a detention facility in California  
26 and then moved her to the San Luis Detention facility where is currently is  
27 detained.  
28

1 37. Petitioner believes and alleges that Respondents transferred Petitioner to  
2 Arizona away from her retained counsel and family to punish her for exercising  
3 her First Amendment right to Petition the courts for redress and for obtaining a  
4 stay of removal.  
5

6 38. Petitioner is a person with disability and require medical care and  
7 medication for pre-existing medical conditions which she is not receiving since her  
8 transfer to Arizona.  
9

10 39. Upon information and belief, at the time ICE revoked Petitioner's order of  
11 supervision, the agency had not secured travel documents necessary for removal  
12 from the United States.  
13

14  
15 **B. Medical Care in Immigration Detention Facilities is Utterly insufficient**

16 40. Medical care in the detention system administered by DHS is jail-like,  
17 decentralized, and highly dysfunctional. According to a 2016 report by the  
18 Government Accountability Office, ICE lacks the tools to track and understand its  
19 own system of medical care, from the actual cost of care to trends in off-site  
20 medical care. *See* US Government Accountability Office, "Immigration  
21 Detention: Additional Actions Needed to Strengthen Management and Oversight  
22 of Detainee Medical Care," <http://gao.gov/products/GAO-16-231>.  
23

24 41. Under the Trump administration the medical care has become even worst  
25 with a trend towards reduction of per-diem rate paid to the facility per person  
26 detained and for off-site costs, requested through the Medical Payment  
27  
28

1 Authorization Request (MedPAR) system. As a result, for-profit companies and  
2 county governments receiving payments from ICE for holding immigrants in  
3 detention have a financial incentive to reduce costs related to both on-site and off-  
4 site care, with little risk of real penalties for providing medical care that does not  
5 meet the applicable detention standards.  
6

7 42. Many non-citizens in immigration detention routinely fail to receive the  
8 medical care they need. Specifically,

9 A) Non-citizens do not receive a prompt physical examination on intake  
10 and as such are not placed on life-saving prescription medication for  
11 days and sometimes for weeks. This is particularly problematic for  
12 individuals who suffer from comorbidities that require a treatment  
13 plan that includes daily and sometimes hourly monitoring;  
14

15 B) Non-citizens with chronic medical problems do not receive a medical  
16 exam or lab tests while incarcerated;  
17

18 C) Non-citizens do not receive mental health screening and those  
19 suffering from bi-polar disorders, depression, anxiety, stress and similar  
20 conditions are denied medication and monitoring;  
21

22 D) Non-citizens are penalized for requesting or insisting to see a medical  
23 provider;  
24

25 E) When care is provided, DHS approved facilities rely primarily on  
26 licensed vocational nurses or licensed practical nurses. Detainees with  
27 chronic medical conditions can go months without seeing a doctor,  
28 while others who require emergency care are not transferred to a hospital,

1 are denied off-site care, and are denied prescription medication and  
2 monitoring in an apparent attempt to save costs.

3 F) Requests for care are routinely refused, ignored, and/or unreasonably  
4 delayed;

5 G) The Facilities keep inadequate medical records and refuse to provide  
6 medical records to detainees, their families, and counsel.  
7

8 43. Individuals like Petitioner who suffer from chronic medical conditions are  
9 thus unable to manage effectively their illness and fear aggravations and extreme  
10 consequences that jeopardize their lives.

11 44. These conditions created by DHS's carelessness and/or disregard for  
12 medical needs of detainees causes pain, suffering, and extreme emotional distress.  
13

14  
15 **RELEVANT IMMIGRATION STATUTORY SCHEME**

16 **Immigration Detention**

17 45. The INA governs the use of immigration detention both pre- and post-final  
18 order. Post-final-order immigration detention is governed by 8 U.S.C. § 1231(a);  
19 pre-final-order detention by 8 U.S.C. § 1226.  
20

21 46. In 8 U.S.C. §§ 1226 and 1231 Congress created different, but interrelated,  
22 comprehensive frameworks for detaining criminal and non-criminal non-citizens.

23 47. Section 1226 authorizes the detention of non-citizens during removal  
24 proceedings: section 1226(a) controls non-criminal aliens' detentions, while  
25 section 1226(c) controls criminal aliens' detentions. *See* 8 U.S.C. § 1226(a)&(c).

26  
27 Once a non-citizen's removal proceedings are completed ICE's detention authority  
28

1 is controlled by section 1231, which also distinguishes between non-criminal and  
2 criminal non-citizens. *See* 8 U.S.C. § 1231.

3  
4 *Section 1226(a) and Non-Criminal Non-citizens*  
*During Removal Proceedings*

5 48. The Attorney General has discretion to detain a non-criminal non-citizen  
6 “pending a decision on whether the alien is to be removed from the United States.”  
7 *See* 8 U.S.C. § 1226(a). The Attorney General may detain the non-citizen for the  
8 duration of the removal proceedings or release him on bond or conditional parole.  
9 *See* 8 U.S.C. § 1226(a)(1)-(2).

10  
11 49. In connection with § 1226(a), the DHS promulgated regulations setting out  
12 the process by which a non-criminal non-citizen may obtain release. Petitioner was  
13 released on her own recognizance pursuant to section 1226(a) at the start of her  
14 removal proceedings.

15  
16 *Section 1226(c) and Criminal Non-citizens*  
*During Removal Proceedings*

17  
18 50. Although the Attorney General has broad discretion to release non-criminal  
19 non-citizens during the pendency of their removal proceedings, the INA limits the  
20 Attorney General’s discretion in the case of criminal non-citizens. Specifically,  
21 section 1226(c) mandates that “[t]he Attorney General shall take into custody any  
22 alien who . . . is deportable by reason of having committed [certain specified  
23 offenses].” *See* 8 U.S.C. § 1226(c)(1)(B).

24  
25 51. Section 1226(c) provides that the Attorney General may release a criminal  
26 non-citizen “only if” necessary for narrow witness protection purposes. *See* 8  
27 U.S.C. § 1226(c)(2). Under § 1226(c), custody is mandatory for criminal non-

1 citizens throughout the entirety of their removal proceedings, and there is no  
2 statutory possibility for release on bond.

3 52. Petitioner was never detained under the authority of section 1226(c). She has  
4 no criminal record of any kind or prior immigration record.  
5

6 *Supervised Release*

7 53. When a non-citizen is released on bond or under supervision, the non-citizen  
8 must periodically appear before an immigration officer, obey written restrictions,  
9 and comply with other requirements provided for by regulation. *See* 8 U.S.C. §  
10 1231(a)(3).  
11

12 54. When a non-citizen is released on supervision ICE must issue and serve on  
13 the individual a standardized form I-220 which imposes the following conditions  
14 on release:

- 15 a) The non-citizen must appear in person at the time and place specified, upon  
16 each and every request of the agency, for identification and for deportation  
17 or removal;  
18  
19 b) Upon request, the non-citizen must appear for medical and psychiatric  
20 examination at the expense of the United States Government;  
21  
22 c) The non-citizen must provide information under oath about his/her  
23 nationality, circumstances, habits, associations and activities and such other  
24 information as the agency considers appropriate;  
25  
26 d) The non- non-citizen must notify the agency of all changes in residence and  
27 employment;  
28

1 e) The non-citizen must assist ICE in obtaining any necessary travel  
2 documents;

3 f) Additional conditions tailored to the alien's criminal history.  
4

5 55. Specifically, both the regulations and the standard form I-220 inform the  
6 non-citizens that any violation of the conditions imposed by ICE "will result in  
7 revocation of your employment authorization document" and that any violation of  
8 the conditions "may result in your being taken into Service custody and you being  
9 criminally prosecuted."  
10

11 56. On information and belief Petitioner alleges that ICE now routinely takes  
12 into custody non-citizens previously released on bond or under supervision when  
13 they have not violated any condition of release and solely at the whim of the  
14 deportation officer.

15 57. On information and belief Petitioner alleges that since 27 January 2025 DHS  
16 and DOJ encourage officers to disregard the provisions and statutory limitations  
17 imposed by section 1226 and 1231 for political reasons and to boost the  
18 administrations' rhetoric and animus against non-citizens ordered removed and/or  
19 unlawfully present in the U.S..  
20

21 *Due Process Governs Decisions to Revoke an Order of Supervision*

22 58. "The Due Process Clause applies to all persons within the United States,  
23 including aliens, whether their presence here is lawful, unlawful, temporary, or  
24 permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified).  
25  
26 "Freedom from imprisonment—from government custody, detention, or other  
27  
28

1 forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Id.*  
2 at 690 (2001).

3  
4 59. Under substantive due process doctrine, a restraint on liberty like revocation  
5 of a non-citizen’s order of supervision is only permissible if it serves a “legitimate  
6 nonpunitive objective.” *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The  
7 Supreme Court has only recognized two legitimate objectives of immigration  
8 detention: *preventing danger to the community or preventing flight prior to*  
9 *removal. See Zadvydas v. Davis*, 533 U.S. 678, 690-92 (discussing constitutional  
10 limitations on civil detention).

11  
12  
13  
14 60. “Procedural due process imposes constraints on governmental decisions  
15 which deprive individuals of liberty,” like the decision to revoke a non-citizen’s  
16 order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation  
17 modified). “The fundamental requirement of [procedural] due process is the  
18 opportunity to be heard at a meaningful time and in a meaningful manner.” *Id.* at  
19 333 (citation modified).  
20  
21

22  
23 *Statute and Regulation Govern Procedures for  
Revoking an Order of Supervision*

24 61. A non-citizen with a final order of removal “who is not removed within the  
25 [90-day] removal period . . . shall be subject to [an order of] supervision under  
26 regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3) (titled  
27 “Supervision after 90-day period”).  
28

1 62. A non-citizen may only be detained past the 90-day removal period  
2 following a removal order if found to be “a risk to the community or unlikely to  
3 comply with the order of removal” or if the order of removal was on specified  
4 grounds. *Id.* § 1231(a)(6).  
5

6 63. But even where initial detention past the 90-day removal period is  
7 authorized, if “removal is not reasonably foreseeable, the court should hold  
8 continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In  
9 that case, of course, the alien’s release may and should be conditioned on any of  
10 the various forms of supervised release that are appropriate in the  
11 circumstances . . . .” *Zadvydas v. Davis*, 533 U.S. 678, 699-700.  
12  
13  
14

15 64. Regulations purport to give additional reasons, beyond those listed at §  
16 1231(a)(6), that an order of supervision may be revoked and a non-citizen may be  
17 re-detained past the removal period: “(1) the purposes of release have been served;  
18 (2) the alien violates any condition of release; (3) it is appropriate to enforce a  
19 removal order . . . ; or (4) the conduct of the alien, or any other circumstance,  
20 indicates that release would no longer be appropriate.” 8 C.F.R. § 241.4(l)(2); *see*  
21 *also id.* § 241.13(i) (permitting revocation of an order of supervision only if a  
22 non-citizen “violates any of the conditions of release”). Because “[r]egulations  
23 cannot circumvent the plain text of the statute[,]” courts question whether these  
24 regulations are *ultra vires* of statutory authority. *See, e.g., You v. Nielsen*, 321 F.  
25  
26  
27  
28

1 Supp. 3d. 451, 463 (S.D.N.Y. 2018) (comparing regulations to 8 U.S.C. §  
2 1231(a)(6), which authorizes detention past the removal period only if person is a  
3 risk to the community, unlikely to comply with the order of removal, or was  
4 ordered removed on specified grounds).  
5

6  
7 65. It is clear, however, that regulations permit only certain officials to revoke  
8 an order of supervision: the ICE Executive Associate Director, a field office  
9 director, or an official “delegated the function or authority . . . for a particular  
10 geographic district, region, or area.” *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137,  
11 161 (W.D.N.Y. 2025) (citing 8 C.F.R. §§ 1.2, 241.4(l)(2) and explaining that the  
12 Homeland Security Act of 2002 renamed the position titles listed in § 241.4). If the  
13 field office director or a delegated official intends to revoke an order of  
14 supervision, they must first make findings that “revocation is in the public interest  
15 and circumstances do not reasonably permit referral of the case to the Executive  
16 Associate [Director].” 8 C.F.R. § 241.4(l)(2). And for a delegated official to have  
17 authority to revoke an order of supervision, the delegation order must explicitly say  
18 so. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (finding a delegation order  
19 that “refers only to a limited set of powers under part 241 that do not include the  
20 power to revoke release” insufficient to grant authority to revoke an order of  
21 supervision).  
22  
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1 66. Upon revocation of an order of supervision, ICE must give a non-citizen  
2 notice of the reasons for revocation and a prompt interview to respond. 8 C.F.R. §  
3 241.4(I)(1).  
4

5 67. Respondents failed to comply with these regulations and instead revoked  
6 Petitioner's order of supervision and whim and/or to punish her to seeking and  
7 obtaining a stay of removal.  
8

9 68. Petitioner cannot be lawfully removed while the 9<sup>th</sup> Circuit stay is in effect,  
10 yet Respondents refuse to release Petitioner and re-instate her on an order of  
11 supervision knowing that removal cannot be effect for months even years in light  
12 of the severe backlog of cases.  
13  
14

15 **STANDARD FOR TEMPORARY RESTRAINING ORDER**  
16 **ADJUDICATION**

17 69. Both Temporary Restraining Orders [TRO] and Preliminary Injunctions are  
18 governed by Rule 65. *See Credit Bureau Connection, Inc. v. Pardini*, \_\_ F. Supp.  
19 2d \_\_, 2010 WL 2737128, at \*5 (E.D. Cal. July 12, 2010). The purpose of such  
20 temporary injunctive relief is to preserve the rights and relative positions of the  
21 parties, i.e., the status quo, until a final judgment issues. *See Univ. of Tex. v.*  
22 *Camenisch*, 451 U.S. 390, 395 (1981).  
23  
24  
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28

1 70. 28 U.S.C. §1651(a), in turn, provides that "[A]ll courts established by Act of  
2 Congress may issue all writs necessary or appropriate in aid of their respective  
3 jurisdictions and agreeable to the usages and principles of law."

4  
5 71. A party seeking a TRO or a preliminary injunction "must establish that he is  
6 likely to succeed on the merits, that he is likely to suffer irreparable harm in the  
7 absence of preliminary relief, that the balance of equities tips in his favor, and that  
8 an injunction is in the public interest." *See Winter v. Natural Res. Def. Council,*  
9  
10 *Inc.*, 555 U.S. 7, 20 (2008). Plaintiffs readily satisfy these requirements

11  
12 A. Petitioner is likely to succeed on their section 1231(a) unlawful arrests  
13 claims.

14 **COUNT ONE**

15 **Violation of the Fifth Amendment Right to Substantive Due Process**  
16 **(Unlawful Punishment)**  
17 **Against All Defendants**

18 72. Petitioner repeats and incorporates by reference all allegations in paragraphs  
19 1 to 68 above.

20 73. The Fifth Amendment of the Constitution guarantees that civil detainees,  
21 including all immigrant detainees, may not be subjected to punishment.

22 74. Respondents violate this substantive due process right when they  
23 continuously fail to satisfy their affirmative duty to provide conditions of  
24 reasonable health and safety to the people they hold in their custody, and violate  
25 the Constitution when they fails to provide for their basic human needs—*e.g.*,  
26 food, clothing, shelter, hygiene, medical care, and reasonable safety. The federal  
27

1 government also violates substantive due process when it subjects civil detainees to  
2 cruel treatment and conditions of confinement that amount to punishment.

3 75. Respondents lack a constitutionally sufficient purpose for continued  
4 detention of medically vulnerable individuals like Petitioner.

5  
6 76. Petitioner's detention therefore does not bear a reasonable relationship to the  
7 two regulatory purposes of immigration detention: preventing danger to the  
8 community or flight prior to removal.

9 77. Because Respondents had no legitimate, non-punitive objective in revoking  
10 Petitioner's order of supervision, Petitioner's detention violates substantive due  
11 process under the Fifth Amendment to the U.S. Constitution.

12  
13 **COUNT TWO**  
14 **(Violation of the Rehabilitation Act – Failure to Provide Reasonable**  
15 **Accommodation to Persons with Disabilities)**  
16 **against All Defendants**

17 78. Petitioner repeats and incorporates by reference all allegations in paragraphs  
18 1 to 68 above.

19 79. Section 504 of the Rehabilitation Act requires federal agencies to provide  
20 "reasonable accommodations" to individuals with disabilities so they can fully  
21 participate in benefits administered by these agencies. (29 U.S.C. § 794(a)).

22 80. DHS regulations implementing the Rehabilitation Act mandate that "[n]o  
23 qualified individual with a disability in the United States, shall, by reason of his or  
24 her disability, be excluded from participation in, be denied benefits of, or otherwise  
25 be subjected to discrimination under any program or activity conducted by the  
26 Department." (6 C.F.R. § 15.30; see also 29 U.S.C. § 794(a)).  
27

1 81. The regulations implementing Section 504 prohibit entities receiving federal  
2 financial assistance from utilizing “criteria or methods of administration (i) that  
3 have the effect of subjecting qualified handicapped persons to discrimination on  
4 the basis of handicap, (ii) that have the purpose or effect of defeating or  
5 substantially impairing the accomplishment of the objectives of the recipient’s  
6 program or activity with respect to handicapped persons.” (34 C.F.R. §  
7 104.4(b)(4).)  
8

9 82. Petitioner is blind in one eye, has a prejudiced immune system as a result of  
10 an ongoing infection in her back and a surgery she underwent in 2024, and requires  
11 preventive care for a hernia. She is on pain medication. Petitioner’s medical  
12 conditions qualify as disabilities under the Rehabilitation Act and they affect her  
13 daily life functions such as walking, stooping, bending, sleeping, and working.  
14

15 83. Petitioner has been denied access to medical care, prescription medications,  
16 sufficient hygiene materials, food appropriate for comorbidities, and preventive  
17 care.  
18

19 84. The removal proceedings as codified in the INA are a benefit or program  
20 administered by Respondents and Petitioner is entitled to participate in the removal  
21 process. The services, programs, and activities within the detention centers where  
22 DHS detains non-citizens receive substantial federal financial assistance.  
23

24 85. Medical care as promulgated and mandated by ICE National Detention  
25 Standards (NDS) 2019 and/or the Performance-Based National Detention  
26 Standards 2011 (amended 2016) is a benefit or program administered by  
27  
28

1 Respondents and Petitioner is entitled to participate and receive the benefits of said  
2 program.

3 86. Petitioner's underlying medical conditions qualify as disabilities for  
4 purposes of the Rehabilitation Act. (29 U.S.C. §705(2)(B); 42 U.S.C. § 12102).

5 87. By exposing Petitioner to a heightened risk of aggravation of pre-existing  
6 conditions and refusing to provide medication, treatment, and proper food,  
7 Respondents are preventing Petitioner from participating in the removal process  
8 and to access sufficient medical care by reason of her disability.  
9

10 88. By failing to provide Petitioner adequate medical care Respondents have the  
11 purpose or effect of defeating or substantially impairing the accomplishment of the  
12 objectives of removal proceedings and the services, programs, and activities within  
13 the detention centers with respect to Petitioner.  
14

15 89. The only available "reasonable accommodation" that would mitigate  
16 Petitioner's disability is release from detention. Respondents have failed to  
17 implement this reasonable accommodation, which would not be unduly  
18 burdensome nor require a fundamental alteration in the removal process or the  
19 programs and activities of the detention center.  
20

21 90. Respondents have also denied "reasonable accommodation", and continue to  
22 do, by refusing needed medical care and access to medication and proper nutrition.  
23

24 91. Respondents' ongoing detention of Petitioner constitutes discrimination  
25 because it is either disparate treatment of, or at the very least has a disparate impact  
26 on, people with qualifying disabilities who are at severe risk of serious illness or  
27 death.  
28

1 92. For these reasons, Respondents' ongoing detention of Petitioner violates the  
2 Rehabilitation Act.

3 **COUNT III**

4 **Procedural Due Process Claim**

5 **Arrest and revocation of bond and/or orders of supervision without notice and**  
6 **opportunity to contest the revocation.**

7 **Against all Defendants**

8 93. Petitioner repeats and incorporates by reference all allegations in paragraphs  
9 1 to 68 above.

10 94. Petitioner's arrest and/or continued detention is a violation of her  
11 Constitutional procedural due process rights.

12 95. Respondents have a policy and practice of revoking section 1226 and section  
13 1231 releases and work authorizations without providing any process and without a  
14 finding that a violation of a condition for release had occurred. Once release on  
15 specified conditions has been granted, however, it cannot be taken away without  
16 adequate process. In the orders of supervision (standard Form 220) Respondents  
17 served on Petitioner and others, Respondents warned them that any violation of the  
18 conditions imposed by ICE "will result in revocation of your employment  
19 authorization document" and that any violation of the conditions of release "may  
20 result in your being taken into Service custody and you being criminally  
21 prosecuted."  
22 prosecuted."

23  
24 96. As a matter of standard policy and practice, however, Respondents revoke  
25 bonds and supervised release and take targets into custody without any violation of  
26 enumerated conditions and without a notice or the opportunity to respond and be  
27 heard. This policy and practice violates procedural due process because it fails to

1 provide the release recipients with notice, a reasoned explanation for the  
2 revocation decision, and an opportunity to respond, present arguments and  
3 evidence to demonstrate that the individual continues to be eligible for and  
4 warrants the continuation of his or her grant of section 1226 release. Respondents'  
5 policy and uniform practice also fails to provide for reinstatement in cases where  
6 the revocation decision was in error.  
7

8 97. Petitioner's private interests affected by Respondents' actions are profound –  
9 their physical liberty. The risk of erroneous deprivation of liberty is high, because  
10 Petitioner is neither a flight risk or a danger to the community. In fact, she was  
11 found eligible and had previously been released from ICE custody for seven years.  
12

13 98. The government's interest in Petitioner's arrest and punitive administrative  
14 detention is minimal.

15 99. The deprivation of Petitioner's liberty interests far outweighs the  
16 government's interest in arrests and continued detention after release under section  
17 1226 had been granted as authorized by the INA and while they are actively  
18 pursuing their path towards lawful status in pending removal proceedings before  
19 the immigration court.  
20

21 100. The burden on the Government for the additional process requested by  
22 Petitioners and the class, to wit, a notice of condition violation and/or revocation of  
23 release, an opportunity to respond, and be heard would be minimal.  
24

25 101. Non-citizens granted bond or orders of supervision who are arrested at their  
26 check-in ICE appointment or during targeted enforcement action have no other  
27

1 judicial venue to challenge the revocation of their orders of release or the legality  
2 of their arrests.

3 102. Not affording them a judicial forum to challenge the revocations and/or the  
4 legality of their arrests though this habeas corpus proceedings would also violate  
5 the Suspension Clause of the U.S. Constitution.  
6

7 103. Respondents' revocation of Petitioner's order of supervision was contrary to  
8 the agency's constitutional power under the Fifth Amendment's Due Process  
9 Clause, as explained above.  
10

11 104. The revocation was also not in accordance with the INA and implementing  
12 regulations governing who may lawfully revoke an order of supervision and under  
13 what circumstances, as cited and discussed above.

14 105. Petitioner's order of supervision was not revoked by the ICE Executive  
15 Associate Director. The officer who revoked the order did not first make findings  
16 that revocation was in the public interest and that circumstances did not reasonably  
17 permit referral to the Executive Associate Director. Nor had the officer been  
18 properly delegated authority to revoke an order of supervision.  
19

20 106. Before revoking the order, Respondents did not make findings that Petitioner  
21 is dangerous or unlikely to comply with a removal order, as required by statute.  
22

23 107. Nor did the Respondents give Petitioner notice of the reasons for revocation  
24 and opportunity to be heard.  
25

26 **COUNT FOUR**  
27 **VIOLATION OF FIFTH AMENDMENT RIGHT TO DUE PROCESS**  
28 **(RIGHT TO COUNSEL AND TO A FULL AND FAIR HEARING)**

**Against all Defendants**

1  
2  
3 108. Petitioner repeats and incorporates by reference all allegations in paragraphs  
4 to 68 above.

5  
6 109. The Due Process Clause of the Fifth Amendment guarantees the right to the  
7 effective assistance of counsel during removal proceedings at no cost to the  
8 government and to a full and fair hearing.

9 110. At all relevant times to this Complaint Petitioner was represented by counsel  
10 in removal proceedings and before the ICE, EOIR, and the 9<sup>th</sup> Circuit.

11 111. Respondents knew that Petitioner was represented by counsel but  
12 Respondents revoked her release and took her into custody without allowing her  
13 the opportunity to respond, present evidence before a neutral decision maker, and  
14 to be represented by counsel before the deprivation of their liberty.

15  
16 112. Respondents' policies, practices, and omissions of indiscriminate arrests,  
17 frequent transfers between facilities without updates, and detention in places away  
18 from the person's residence, family, counsel, and community have further created  
19 substantial barriers to Petitioner's efforts to access retained counsel and prepare her  
20 claims, including but not limited no free phone calls, no private unmonitored legal  
21 calls, no procedure to receive documents from counsel via fax or email, or send  
22 documents to their attorneys.  
23

24 113. Petitioner has a substantial interest in avoiding prolonged detention.  
25  
26  
27  
28

1 114. Petitioner has suffered and will imminently suffer irreparable injury as a  
2 result of Respondents' policies, practices, and omissions and are entitled to  
3 injunctive relief to avoid any further injury.  
4

5 **COUNT FIVE**

6 **Statutory APA Violation Claim**  
7 **Uniform Practice of Revocation of releases**  
8 **Without prior notice, opportunity to respond, and to**  
9 **be represented by counsel**  
10 **Against all Defendants**

11 115. Petitioner repeats and incorporates by reference all allegations in paragraphs  
12 to 68 above.

13 116. The Administrative Procedure Act (APA) forbids agency action that is  
14 "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with  
15 law." 5 U.S.C. § 706(2)(A). A court reviewing agency action "must assess ...  
16 whether the decision was based on a consideration of the relevant factors and  
17 whether there has been a clear error of judgment"; it must "examin[e] the reasons  
18 for agency decisions— or, as the case may be, the absence of such reasons."  
19 *Judulang v. Holder*, 565 U.S. 42,53 (2011) (quotations omitted).

20 117. Respondents' practice of terminating and/or revoking releases  
21 and employment authorizations without notice, a reasoned explanation, an  
22 opportunity to be heard, or a reinstatement procedure is arbitrary, capricious, and  
23 contrary to law, thus in violation of the APA because a discretionary release under  
24 1226 on conditions of supervision once granted cannot be terminated without  
25 first providing a meaningful process.  
26  
27  
28

1 118. Respondents' practice of terminating or revoking a supervised release and  
2 employment authorization and taking the recipient into custody when no condition  
3 of supervised released had been violated is contrary to law and thus, in violation of  
4 the APA for multiple reasons, including that such an revocation and arrest fails to  
5 provide a reasoned basis for the adverse action; denied the beneficiary the right to  
6 be represented by counsel and to be heard before a neutral decision maker prior to  
7 the liberty deprivation, and the practice entrusts the revocation decision entirely on  
8 the arbitrary decision of an ICE officer and his/her whim.  
9

10 119. The revocation was also not in accordance with the INA and implementing  
11 regulations governing who may lawfully revoke an order of supervision and under  
12 what circumstances, as cited and discussed above.  
13

14 120. Petitioner's order of supervision was not revoked by the ICE Executive  
15 Associate Director. The officer who revoked the order did not first make findings  
16 that revocation was in the public interest and that circumstances did not reasonably  
17 permit referral to the Executive Associate Director. Nor had the officer been  
18 properly delegated authority to revoke an order of supervision.  
19

20 121. Before revoking the order, Respondents did not make findings that Petitioner  
21 is dangerous or unlikely to comply with a removal order, as required by statute.  
22

23 122. Nor did the Respondents give Petitioner notice of the reasons for revocation  
24 and opportunity to be heard.

25 123. The revocation should be held unlawful and set aside because it was  
26 contrary to the agency's constitutional power and not in accordance with the INA  
27 and implementing regulations, is *ultra vires*, and arbitrary and capricious.  
28

COUNT SIX

**Non-Statutory Ultra Vires Action/Accardi Doctrine Violation  
Against all Defendants**

124. Petitioner repeats and incorporates by reference all allegations in paragraphs 1 to 68 above.

125. There is no statute, constitutional provision, or other source of law that authorizes Respondents to detain Petitioner under the circumstances of this case.

126. Petitioner has a non-statutory right of action to declare unlawful, set aside, and enjoin Respondents' ultra vires actions.

127. Under the Accardi doctrine, Petitioner also has a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 ("If petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing").

128. Respondents violated agency regulations governing who and upon what findings it may properly revoke an order of supervision when it revoked Petitioner's order. "As a result, this Court cannot conclude that [the revoking officer] had the authority to revoke release" and Petitioner "is entitled to release on that basis alone." *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (citing *Rombot v. Moniz*, 296 F. Supp. 3d 386, 386-89); *see also, e.g., Zhu v. Genalo*, 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267 (D. Or.

1 Aug. 21, 2025) (releasing habeas petitioner where where revocation of an ICE  
2 order of supervision was ordered by someone without regulatory authority to do  
3 so).  
4

5 129. Respondents also violated agency instructions in Petitioner's release  
6 notification to give an opportunity to prepare for an orderly departure when they  
7 revoked Petitioner's order without advance notice.  
8

9 *The Remaining Factors Weight Heavily in Favor of Granting a*  
10 *Temporary Restraining Order*

11 130. It is well established that the deprivation of constitutional rights constitutes  
12 irreparable injury. *See Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017).

13 The Ninth Circuit recently recognized that dangerous conditions of detention also  
14 constitute irreparable harm supporting injunctive relief. *See Padilla v. U.S.*

15 *Immigration & Customs Enforcement*, No. 19- 35565, 2020 WL 1482393, at \*9

16 (9<sup>th</sup> Cir. Mar. 27, 2020). The Ninth Circuit also has recognized that irreparable  
17 harm exists where government actions threaten an individual's health. *See M.R. v.*

18 *Dreyfus*, 663 F.3d 1100, 1111 (9th Cir. 2011), as amended by 697 F.3d 706 (9th

19 Cir 2012); *Indep. Living Cent. of S. California, Inc. v. Shewry*, 543 F.3d 1047,

20 1050 (9th Cir. 2008) (recognizing that Medi-Cal beneficiaries would suffer

21 irreparable harm where new policy would limit access to pharmaceuticals). Here,

22 continued detention threatens Plaintiff's health and livs. Petitioner suffers from

23 chronic medical conditions and has been denied access to medication.  
24  
25  
26  
27  
28

1 131. The harm is particularly grave where as here the named Plaintiffs' continued  
2 detention is more likely than not unlawful. The deprivation of constitutional rights  
3 and threats to life that Plaintiffs face unequivocally constitute irreparable harm.

4  
5 132. The Public Interest and Balance of Equities Weigh Heavily in Plaintiffs'  
6 Favor. The government "cannot reasonably assert that it is harmed in any legally  
7 cognizable sense" by being compelled to follow the law. *See Zepeda v. I.N.S.*, 753  
8 F.2d 719, 727 (9th Cir. 1983). The balance of equities thus favors preventing the  
9 violation of "requirements of federal law." *See Arizona Dream Act Coal. v.*  
10 *Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014). Finally, it is always in the public  
11 interest to prevent violations of fundamental rights. *See Melendres*, 695 F.3d at  
12 1002. It is in both the Defendants' and the broader public interest to release  
13 detainees with particular medical vulnerabilities or those who should have been  
14 released long time ago. Releasing Plaintiff is clearly in the broader public's  
15 interest.

16  
17  
18  
19  
20  
21 **PRAYER FOR RELIEF**

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

23 (1) Assume jurisdiction over this matter;

24 (2) Issue a Writ of Habeas Corpus on the ground that Petitioner's continued  
25 detention violates the Due Process Clause and order Petitioner's immediate  
26 release;

27  
28 REQUEST FOR TEMPORARY RESTRAINING ORDER - 32

1 (3) In the alternative, issue injunctive relief ordering Respondents to  
2 immediately release Petitioners, on the ground that their continued detention  
3 violates Plaintiffs' constitutional due process rights;

4 (4) Issue a declaration that Respondents' continued detention in civil  
5 immigration custody of individuals at increased risk for severe illness, and/or  
6 underlying medical conditions that may increase the risk of serious illness or  
7 death without proper access to medical care, violates the Due Process Clause

8 (5) Issue an injunction ordering Respondents not to arrest and detain Petitioner  
9 without a proper finding that she has committed a violation of the conditions  
10 of release;

11 (6) Issue an injunction ordering Respondents not revoke Petitioner's grant of  
12 release without providing prior written notice, an opportunity to respond, and  
13 be represented by counsel prior to deprivation of liberty when the individual  
14 is not yet subject to a final order of removal;

15 (7) Enter a judgment declaring that Respondents' detention of Petitioner  
16 is and will be unauthorized by statute and contrary to law;

17 (8) Award Petitioner and other members of the proposed class reasonable costs  
18 and attorney fees.

19 Date: 9/25/2025

20 Submitted by

21 s/ Nicolette Glazer Esq.

22 Nicolette Glazer Esq.  
23 LAW OFFICES OF LARRY R GLAZER  
24 1875 Century Park East #700  
25 Century City, CA 90067

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