UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF FLORIDA

Case No.:_____

NELY YOHANA TORRES-HUETE
Petitioner

v.

JUAN F. GONZALEZ Assistant, Field Office Director
Warden, GEO, Broward Transitional Center
GARRETT RIPA, District Director Department of Homeland Security
KRISTI NOEM, Secretary of the Department of Homeland Security

Respondents
_____/

MOTION FOR A TEMPORARY RESTRAINING ORDER

Petitioner, Nely Yohana Torres-Huete, appearing *pro se*, hereby petitions this Court for a writ of habeas corpus and seeks declaratory and injunctive relief to review the lawfulness of her detention by the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE), since that her detention violates: 1) the regulations set forth in 8 C.F.R. § 241.4(l) and § 241.13(i); (2) Judge Ruiz's order in Grigorian v. Bondi, 2025 U.S. LEXIS 175489 (S.D. Fla. Sep. 9, 2025); and (3) The Supreme Court decision in *Zadvydas v. Davis*, 533 U.S. 678, 682, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). Plaintiff challenge such requirements as, *inter alia,* arbitrarily and irrationally denying and violating plaintiff rights under the due process clauses of the fifth amendment of the United States Constitution. To redress deprivation of her constitutional rights, plaintiff seek a temporary restraining order relief. And in support of this Petition and Complaint, petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of respondents and detained at the Broward Transitional Center jail in Pompano Beach, Florida pursuant to a contractual agreement with the Department of Homeland Security.

JURISDICTION

2. This action arises under the United States Constitution, the Immigration and Nationality Act of 1952, as amended, 8 U.S.C. 1101 et seq. (the Act), and the Administrative Procedure Act, 5 U.S.C. 701 et seq. (the APA).

2. This is a civil action for declaratory and injunctive relief and Temporary restraining order arising under the fifth amendments to the United States Constitution and article 1, section 10, clause 1 of the United States Constitution. The jurisdiction of this Court is predicated on Title 28 U.S.C. 1331(a) and the first, fifth and fourteenth amendments of the United States Constitution.

VENUE

5. Pursuant to *Braden v. 30th* Judicial Circuit Court of Kentucky, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the District of Southern District of Florida, the judicial district in which petitioner is currently detained.

PARTIES

6. Petitioner is a native and citizen of Honduras. Petitioner was first taken into the respondent's custody on March 30, 2017. The respondent's application for protection under the CAT pursuant to 8 C.F.R. §§ 1209.16 and 1208.18; was granted on August 28, 2020 by the Immigration Judge G. Videla at the Immigration court in Miami, Florida. As such, The Department of Homeland Security (DHS) cannot deport Petitioner to Honduras.

7. Respondent-defendant Mr. Juan F. Gonzalez, Assistant, Field Office Director, Warden, GEO, Broward Transitional Center is sued in his official capacity as the Officer-in-Charge at the Pompano Beach Processing Center. In this capacity he maintains responsibility over the day-to-day operations at Pompano Beach Processing Center, where petitioner is presently detained by ICE.

8. Respondent-defendant Mr. Garrett Ripa, District Director is sued in his official capacity as the Assistant Secretary of ICE. In this capacity he is responsible for the administration and enforcement of all the functions, powers, and duties of ICE. He is also a legal custodian of petitioner.

9. Respondent-defendant Ms. Kristi Noem is sued in her official capacity as Secretary of the Department of Homeland Security. In this capacity he is responsible for the administration of the immigration laws pursuant to 8 U.S.C. 1103(a) and has ultimate custodial authority over petitioner.

FACTS

10. Petitioner, Nely Yohana Torres-Huete is a native and citizen of Honduras.

11. Petitioner was granted CAT protection under the United Nations Convention Against Torture (CAT) on August 28, 2020 by the Immigration Judge G. Videla at the Immigration court in Miami, Florida.

12. The petitioner was released on Bond on November 1, 2017, since that her case remains in appeal. On August 9, 2025 her Bond was revoked and has remained in (DHS) custody continuously since that date.

13. Petitioners appeal is being reviewed by the Board of Immigration Appeals since September 25, 2020, and without a decision by the Board after three years on appeal; thereby the removal order is non-final as of the date of the DHS's decision to revoke the petitioner's Bond.

14. Petitioner was taken into custody by ICE on August 9, 2025, and has been in the custody of ICE for more than two months since her revocation of bond take place, without ICE provide Notice of the intent to deport to a designated country, without be notify by the ICE Office of the Principal Legal Advisor so that it can move to reopen removal proceedings to designate a new country of removal and allow Petitioner to present her fear-based claim to an immigration judge; and stay Petitioner's removal until her fear-based claim is adjudicated by an immigration judge.

15. Petitioner has cooperated fully with all efforts by ICE to remove petitioner from the United States. Specifically, petitioner: has provided identity documents a letter Directed to Respondent-defendant Mr. Garrett Ripa, District Director, has provided necessary biographical information, complied with all demands of ICE.

16. To date, however, ICE has been unable to remove petitioner to Honduras or any other country.

17. Petitioner submitted a written request for release to the HQPDU asserting the basis for the alien's belief that there is no significant likelihood that he will be removed in the reasonably foreseeable future. 8 C.F.R. 241.13(d)(1), on June 8, 2025, since that Petitioner can request a more prompt review upon a showing of a material change in circumstances since the last review. 8 C.F.R. 241.4(k)(2)(iii). Petitioners 180 day Custody Review by the Department of Homeland Security Headquarters Post-Order Detention Unit (HQPDU) in Pompano Beach, Florida was not conducted, at which time petitioners release from custody was denied, but petitioner has not received a decision.

18. When release is denied pending the removal, the district director may retain responsibility for custody determinations for up to three months, or refer the alien to the Headquarters Post Order Detention Unit ("HQPDU") for further custody review. 8 C.F.R. 241.4(k)(1)(ii). To date, however, ICE has been unable to executed a custody determinations or refer the alien to the Headquarters Post Order Detention Unit ("HQPDU"). Petitioner's appeal during three years, the "case remains pending indefinitely in a period where matters are being delayed… prolonged detention become[s] unreasonable, unjustified, or arbitrary in light of the purpose of Section 1226(c)" Portuondo v. Field Office Director Miami Field Office, et al., 2020 U.S. Dist. LEXIS 266586 (S.D. Fla. 2020).

19. If released, petitioner will reside at 16 B Pine Hill Ln. Palm Coast Florida, 32164.

20. Petitioner prevailed in her petition for protection against the torture (CAT) and in her petition for release on Bond and was released on an Order of Supervision. Petitioner complied with the conditions of her order of Supervision for the next three years. On August 9, 2025, ICE re-detained Petitioner to once again try to remove her to Honduras. The Petitioner under this sworn declaration states that: I has not received an informal interview or had an opportunity to respond to the reasons for the revocation of her release. The petitioner has not been informed if ICE is trying remove her to a third country.

21. In the light of the decision rendered in Grigorian v. Bondi, 2025 U.S. LEXIS 175489 (S.D. Fla. Sep. 9, 2025); her detention in unlawful because her detention violates the regulations set forth in 8 C.F.R. § 241.4(l) and § 241.13(i). Which the petitioner is in custody "in violation of the Constitution and laws or treaties of the United States" *Id.* § 22419(C)(3).

22. Petitioner challenge her detention as unlawful based on ICE's decision to revoke her release without providing the required opportunity to be heard. Petitioner's claims therefore implicate the Due Process of Law. U.S. Const. Amend V. The Due Process rights extent to noncitizens present in the United States. Due process challenges to prolonged detention are to be analyzed under the "three-factor balancing test" set forth in *Mathews v. Eldridge*, 424 U.S. 319, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976), *see also Zadvydas*, 533 U.S. at 693 ("[T]he Due Process Clause applies to all persons within the United States, including [noncitizens], whether their presence is lawful, unlawful, temporary, or permanent.").

The regulations, which governs release and revocation of release of noncitizens subject to a final order of removal, are 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13. Both § 241.4 and § 241.13 were intended "to provide due process protections to [noncitizens] following period as they are considered for continued detention,, release, and then possible revocation release" Orellana v. Baker, 2025 U.S. Dist. LEXIS 164986 (D.C. Ma. 2025). However ICE failed to comply with the required procedures, thereby violating the Petitioner's due process rights.

COUNT ONE

Petitioner is in Detention in Violation of the Statute and Regulations as established upon sections: 8 C.F.R. § 241.4; 8 C.F.R. § 241.13 and the Due Process Clause of the Fifth Amendment to the United States Constitution.

23. Petitioner repeats and re-alleges the allegations contained in paragraphs 1 through 22 above as though set forth fully herein.

24. The regulation at 8 C.F.R. 241.4(b)(3) states that an alien granted withholding of removal under section 241(b)(3) of the Act who is otherwise subject to detention is subject to the provisions of this part 241. An alien released pursuant to 8 C.F.R. 241.4 shall be released pursuant to an order of supervision. 8

C.F.R. 241.5(a). However ICE failed to comply with the required procedures, thereby violating the Petitioner's due process rights, as follows:

Violation of Procedural Due Process Right to Notice:

The section 8 CFR 241.4(l), establish:

> "Upon revocation, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification" 8 CFR 241.4(l)(1)

Petitioner argues that her re-detention is procedurally deficient because she has not received any interview, much less a prompt one, to respond to the reasons for her revocation of her release. Petitioner was taken into ICE custody on August 9, 2025,, which means ICE has had over three months to provide to Petitioner the required interview and opportunity to respond. Because ICE failed to comply with 8 CFR 241.4(l), Petitioner's detention is unlawful. See, M.S.L. v. Bostock, 2025 U.S. LEXIS 162519 (D. Or. Aug, 21, 2025) (Finding an informal interview given 27 days after petitioner was taken into ICE custody "cannot reasonably be construed as … prompt" and granting habeas petition). Ouoc Chi Hoac v. Becerra, 2025 U.S. LEXIS136002 (E.D. Cal.2025) (Finding petitioner likely to succeed on his claim that her detention was unlawful "because there is no indication that an informal interview was provided). Wing Neun Liu v. Carter, 2025 U.S. LEXIS115275 (D. Kan. 2025) (Finding "that officials did not properly revoke petitioner's release" because "most obviously… petitioner was not granted the required interview upon the revocation of his release").

The section 8 CFR 241.13 provides: "This section establishes special review procedures for those aliens who are subject to a final order of removal and are detained… where the alien has provided good reason to believe there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country, in the reasonably foreseeable future.

The section 8 CFR 241.13(i)(2), establish the same requirements as 8 CFR 241.4 in that:

> "Upon revocation, the alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification"

ICE's failure to provide an interview and opportunity to respond is reason enough to find Petitioner's detention unlawful under 8 CFR 241.13(i)(2), there is an additional problem: Respondent cannot show

that "on account of changed circumstances, the Service determined that there is a significant likelihood that the noncitizen may be removed in the foreseeable future" 8 CFR 241.13(i)(2).

The DHS form I-213 documenting Petitioner's arrest does not indicate that ICE made such a determination. The Warrant for Arrest of Alien, issued on a DHS Form I-200, likewise does not described such a determination having been made. Thus, nothing on the record shows "a significant likelihood" that Petitioner "may be removed in the reasonably foreseeable future" on account of "change of circumstances" See 8 CFR 241.13(i)(2).

Violation of Procedural Due Process Right to Hearing:

The section 8 CFR 241.4(b)(3) *Individuals granted withholding or deferral of removal, establish:*

> "Aliens granted withholding of removal under section 241(b)(3) of the Act or withholding or deferral of removal under the Convention Against Torture who are otherwise subject to detention are subject to the provisions of this part 241. Individuals subject to a termination of deferral hearing under 8 CFR 208.17(d) remain subject to the provisions of this part 241 throughout the termination process".

The section 8 CFR 208.17(d), establish:

(d) *Termination of deferral of removal.*

(1) At any time while deferral of removal is in effect, the INS District Counsel for the District with jurisdiction over an alien whose removal has been deferred under paragraph (a) of this section may file a motion with the Immigration Court having administrative control pursuant to 3.11 of this chapter to schedule a hearing to consider whether deferral of removal should be terminated. The Service motion shall be granted if it is accompanied by evidence that is relevant to the possibility that the alien would be tortured in the country to which removal has been deferred and that was not presented at the previous hearing. The Service motion shall not be subject to the requirements for reopening in 3.2 and 3.23 of this chapter.

(2) The Immigration Court shall provide notice to the alien and the Service of the time, place, and date of the termination hearing. Such notice shall inform the alien that the alien may supplement the information in his or her initial application for withholding of removal under the Convention Against Torture and shall provide that the alien must submit any such supplemental information within 10 calendar days of service of such notice (or 13 calendar days if service of such notice was by mail). At the expiration of this 10 or 13 day period, the Immigration Court shall forward a copy of the

> original application, and any supplemental information the alien or the Service has submitted, to the Department of State, together with notice to the Department of State of the time, place and date of the termination hearing. At its option, the Department of State may provide comments on the case, according to the provisions of 208.11 of this part.

The INS District Counsel for the District did not file a motion with the Immigration Court having administrative control of the record and did not schedule a hearing to consider whether deferral of removal should be terminated. Moreover, Petitioner was not notified of the reasons for revocation of her release, or the execution of a new FARO on August 9, 2025, and was not afforded an initial informal interview promptly after her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification in violation of section 8 CFR 241.4(k)(4)(ii)(l), which constituted "the final order of removal" now under review. Respondents violated petitioner's procedural Due Process right, due to her continued detention which is subject to the due process standards set for in *Zadvydas v. Davis*, 533 U.S. 678, 682, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001).

25. No special circumstances exist to justify petitioners continued detention. However, it should be noted that 1231 authorizes aliens to be released and subject to supervision if the alien has not been removed in the 90-day period. *See* 1231(a)(3) ("the alien, pending removal, shall be subject to supervision under regulations prescribed by the Attorney General."). Those regulations are codified in the Code of Federal Regulations at 8 C.F.R. 241.4-5 and specifically apply to detainees that have been granted a deferral of removal. 8 C.F.R. 241.4(b)(3) ("Aliens granted . . . deferral of removal under the Convention Against Torture who are otherwise subject to detention are subject to the provisions of this part 241."). Thus, at the expiration of the 90 days period, Respondent (or others designated with authority in 241.4) must evaluate Petitioner's circumstances and determine whether she is a candidate for supervision if ICE attempts to effectuate her removal beyond the 90-day period. Respondents violated petitioner's procedural Due Process right, due to her continued detention which is subject to the due process standards set for in *Zadvydas v. Davis*, 533 U.S. 678, 682, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001).

"8 C.F.R. 241.8(f) states that execution of the reinstated order of removal and detention of the alien shall be administered in accordance with Part 241 of the Code of Federal Regulations, which contains the regulations implementing 8 U.S.C.S. 1231. 8 C.F.R. 241.8(f). The relevant provisions of Part 241, however, apply to aliens who are subject to reinstated removal orders but have either not expressed a fear of removal, or have already been granted withholding, but are still subject to detention. See id. 241.3, 241.4(b)(3), 241.8(f)....was entitled to a bond hearing under 8 U.S.C.S. 1231(a)" Guerrero-Sanchez v. Warden York County Prison, 905 F.3d 208 (3rd Cir. 2018).

a. Petitioner is not an alien with a highly contagious disease posing a danger to the public. See 8 C.F.R. 241.14(b).

b. Petitioners release would not cause serious adverse foreign policy consequences. See 8 C.F.R. 241.14(c)(1)(ii). There is no indication that Petitioners release would have serious adverse foreign policy consequences.

c. Petitioner was never and is not now detained on account of security or terrorism concerns. See 8 C.F.R. 241.14(d)(1)

d. Petitioner has not committed a violent crime as defined in 18 U.S.C. 16 as would classify him as specially dangerous. *See* 8 C.F.R. 241.14(f)(1). Her release therefore would not pose a special danger to the public. *See* 8 C.F.R. 241.14(f).

26. Because there is no significant likelihood of removal in the reasonably foreseeable future, and because none of the special circumstances exist here to justify petitioners continued detention, petitioner must be released under ICE supervision, since that "Individuals subject to a termination of deferral hearing under 8 CFR 208.17(d) remain subject to the provisions of this part 241 throughout the termination process" 8 CFR 241.4(b)(3).

27. ICE failed to follow its regulations with respect to Petitioner when it decided to detain her for approximately three months. As explained earlier, 8 C.F.R. 241.4(h) (2) and (d)(3) provide that the alien and her attorney must be given written notice approximately 30 days in advance of a custody review by ICE to determine whether detention should continue, so that the alien can submit information to support a request for his or her release. Id. 241.4(d)(3), (h) (2). As now interpreted by ICE, the regulations require that an alien's custody be reviewed within 90 days of his or her detention, unless there are exceptional circumstances, which ICE does not assert in these cases, 8 C.F.R. 241.4(k)(2)(iv), (k)(3).

28. Because Petitioner was detained on August 9, 2025, ICE should have given her notice of a custody review by approximately October 9, 2025. It did not. On October 9, 2025, ICE decided to continue Petitioner's detention before she had an opportunity to provide information in support of her release. It then made a series of false or misleading statements concerning that decision. When ICE had violated 241.4, characterizing the violation as an "irregularity," ICE decided to belatedly give Petitioner 30 days no notice of a custody review and to detain her at least until the review occurred Therefore, in essence, ICE had acted unlawfully in violating its regulations, Petitioner, who might be entitled to be released and to be reunited with her family before her possible deportation, should lose her liberty for at least another months.

29. The Petitioner asserts that she was given no notice at that time as to why she was re-detained by ICE on that date. The Petition asserts further that on August 9, 2025, when Petitioner was re-detained by ICE, she was taken into custody and she remains in ICE's custody. The Petition contends, inter alia, that

Petitioner's detention violates her right to due process and is in violation of ICE's regulations at 8 C.F.R. 241.4. At the hearing, Petitioner noted further that courts have recognized "an opportunity to prepare for an orderly departure," citing Rombot v. Souza, 296 F. Supp. 3d 383, 389 (D. Mass. 2017).

30. Respondent's counsel represented at the requests of a hearing and that notice was sent to the address Petitioner had given to ICE, and that notice complied with the requirements of the Temporary Restraining Order entered in the class action. Neither counsel provided the court with a copy of the Notice, or the operative order from the class action. (See Exhibit B, Doc # 1).

31. The court requires time to determine its jurisdiction and, if appropriate, to provide Petitioner the relief she has requested in her Petition for a Writ of Habeas Corpus [#1]. The proposed removal to another GEO Facility, despite the government's assurances that Petitioner will be returned to this District, may interfere with the court's ability to provide Petitioner that she is entitled to under federal law. At this juncture, it is not apparent whether ICE has detained Petitioner in accordance with its own regulations, the federal Constitution's Due Process Clause. Until the merits of the petition can be addressed, the court should deems it to be in the interests of justice that Petitioner remains within the court's jurisdiction.

32. The Accardi doctrine and the Due Process Clause of the Fifth Amendment to the United States Constitution were violated, as here, "Where ICE Fails to follows its own regulations in revoking release, the detention is unlawful and the petitioner release must be ordered" Rokhfirooz v. Laroze, 2025 U.S. Lexis 180605 (S.D. Cal. 2025). Rombot v. Souza, 296 F. Supp. 3d 383, 387 (D. Mass. 2017) (ordering the petitioner release where "based on ICE's violations of its own regulations, the court concludes the petitioner detention was unlawful). K.E.O v. Woosley, 2025 U.S. Dist. LEXIS 172361 (W. D. Ky. 2025) (noting "court across the country have ordered the release of individuals" in ICE custody where ICE "violated their regulations"). Grigorian v. Bondi, 2025 U.S. LEXIS 175489 (S.D. Fla. Sep. 9, 2025) ("The failure to provide the petitioner with an informal interview promptly after his detention or to otherwise provide meaningful opportunity to contest the reasons for revocation violates both ICE's own regulations and the Fifth Amendment Due Process Clause...This compel the petitioner's release"). Here, the petitioner is entitled to the same relief.

33. The change in the current policy to proceed in the respondent's case, this supports that the application in the respondent's case was arbitrary and capricious. "Patently inconsistent application of agency standards to similar situations lacks rationality and is arbitrary." *Contractors Transport Corp. v. United States*, 537 F.2d 1160, 1162 (4th Cir. 1976); *NLRB v. Washington Star Co.*, 235 U.S. App. D.C. 372, 732 F.2d 974, 977 (D.C. Cir. 1984) "The present sometimes-yes, sometimes-no, sometimes-maybe policy . . . cannot, however, be squared with our obligation to preclude arbitrary and capricious management of the Board's mandate (*Doyle v. Brock*, 821 F.2d at 786 & n.7; *Professional Airways*

Systems Specialists v. Federal Labor Relations Auth., 258 U.S. App. D.C. 14, 809 F.2d 855, 859 (D.C. Cir. 1987)" Vargas, v. INS, 938 F.2d 358 (2nd Cir. 1991).

34. Petitioner has a likelihood of success on the merits, and has Stated a Claim Against ICE under the APA. This Court should agrees with the reasoning and holdings in *Moreno* and *Gonzalez*. Thus, the Court should finds that Plaintiff has stated a plausible claim against ICE under Section 706(2)(C) of the APA based on the allegations that ICE-in issuing an immigration detainer for her-failed to comply with Section 1357(a)(2) because the agency (1) made no determination whatsoever about the chances that Petitioner would have been "likely to escape" before a warrant for her arrest could be obtained, and (2) did not have probable cause to believe that she was removable from the U.S.

Petitioner alleges-and nothing on the face of the detainer suggests otherwise-that when ICE issued the detainer against her the agency did not have "reason to believe that Petitioner posed a risk of flight" and did not conduct "any individualized assessment of Petitioner's risk of flight." Petitioner also alleges that the detainer was not supported by "a sworn, particularized showing of probable cause that she is a noncitizen and removable under federal immigration law." These allegations, taken as true at this stage, are sufficient to state a claim that ICE exceeded its statutory authority when it issued a detainer for Petitioner because ICE failed to comply with an explicit requirement of Section 1357(a)(2) and lacked probable cause to believe that he was removable from the U.S.

Because the Court should finds that the allegations in the complaint are sufficient to state a claim under the APA on the above-enumerated grounds, the Court should need not-at this stage-reach the Parties' arguments regarding whether ICE was authorized to issue a re-detainer for petitioner without having a formal agreement with the County under 8 U.S.C. 1357(g).

35. Petitioner should suffered irreparable harm absent injunctive relief; "It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Elrod v. Burns*, 427 U.S. 347, 373, 96 S. Ct. 2673, 49 L. Ed. 2d 547 (1976)). Respondent establish irreparable harm by alleging a deprivation of constitutional rights. The "*alleged* violation of a constitutional right ... triggers a finding of irreparable harm," *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996). Here, Respondents allege that their substantive and procedural due process rights have been violated. Accordingly, "no further showing of irreparable injury is necessary." *Mitchell v. Cuomo*, 748 F.2d 804, 806 (2d Cir. 1984) ("When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary."). Moreover, courts in this Circuit have held that "the deprivation of [a noncitizen's] liberty is, in and of itself, irreparable harm." *Sajous v. Decker*, No. 18 Civ. 2447, 2018 U.S. Dist. LEXIS 86921, 2018 WL 2357266, at *12 (S.D.N.Y. May 23, 2018). The other factors also weigh on plaintiff favor, since that she will "suffers a form of irreparable injury" any time if it is not enjoined from enforcing one of its statutes. *See id.* (quoting *Maryland v. King*, 567 U.S. 1301, 1303, 133 S. Ct. 1, 183 L. Ed. 2d

667 (2012)) (emphasis added). That the plaintiff suffers irreparable harm any time if it is not enjoined from enforcing one of its statutes is supported by a meaningful precedent. *Cf. Ex Parte Young*, 209 U.S. 123, 155-56, 28 S. Ct. 441, 52 L. Ed. 714 (1908) ("[I]ndividuals who, as officers of the state, are clothed with some duty in regard to the enforcement of the laws of the state, and who threaten...to enforce against parties affected an unconstitutional act...may be enjoined by a Federal court of equity from such action."); *see also Green v. Mansour*, 474 U.S. 64, 68, 106 S. Ct. 423, 88 L. Ed. 2d 371 (1985) ("*Young* also held that the Eleventh Amendment does not prevent federal courts from granting prospective injunctive relief to prevent continuing violation of federal law."). Because Plaintiff alleges a due-process violation, Plaintiff has shown irreparable harm.

36. Public interest weighing in favor of granting the injunction. The balance of equities and the public interest also weigh in Plaintiff's favor. As stated, the final two factors merge when the Government is the opposing party. *Nken*, 556 U.S. at 435. When "a plaintiff alleges constitutional violations, the balance of hardships tips decidedly in the plaintiff's favor despite arguments that granting a preliminary injunction would cause financial or administrative burdens on the Government." *Sajous*, 2018 U.S. Dist. LEXIS 86921, 2018 WL 2357266, at *13 (citing *Mitchell v. Cuomo*, 748 F.2d 804, 808 (2d Cir. 1984)). Further, there is a public interest in maintaining families together and in avoiding extreme hardship to Plaintiff's citizen wife and child. *You*, 321 F. Supp. 3d at 469. The balance of harms weighs heavily in favor of protecting Floridian's immigrants, from this unconstitutional statute. On one hand, for the other interested parties-*i.e.*, all Floridians-"[t]here is a potential for extraordinary harm" *Ashcroft v. American Civil Liberties Union*, 542 U.S. 656, 671, 124 S. Ct. 2783, 159 L. Ed. 2d 690 (2004). Indeed, "[t]he loss of ...Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparably injury." *Elrod v. Burns*, 427 U.S. 347, 373, 96 S. Ct. 2673, 49 L. Ed. 2d 547 (1976). All of these harms weigh heavily in favor of protecting non-parties from enforcement of this unconstitutional Acts.

By contrast, the potential harm to Defendants is limited. Defendants argue that Plaintiff's request will result in "delay and fragmentation of the enforcement of the immigration laws." Def. Opp. at 25 (citation omitted). But it is Defendants' own actions, in granting the ICE Stay, that have occasioned the delay here. The brief delay caused by a temporary stay here does not interfere with the public interest when Plaintiff has been allowed to live in the United States for eighteen years without Defendants executing the final removal order. *See You*, 321 F. Supp. 3d at 468-69. The instant stay, moreover, does not frustrate the execution of the removal order itself but ensures that ICE has properly complied with the laws and the Constitution in seeking to remove Plaintiff despite the ICE Stay. *Sajous*, 2018 U.S. Dist. LEXIS 86921, 2018 WL 2357266, at *13 ("The public interest is best served by ensuring the constitutional rights of persons within the United States are upheld."); *see Mitchell*, 748 F.2d at 808. The issuance of a stay is "an exercise of judicial discretion," based up on "the circumstances of the particular case... defendant appealing from so much as suspended the execution of the order pending appeal" *Virginian Ry. Co. v.*

United States, 272 U.S. 658, 672, 47 S. Ct. 222, 71 L. Ed. 463 (1926). Though it is possible that the Agency might seek to re-arrest the respondent who will be voluntarily released, Respondent have demonstrated a "reasonable expectation" that she would be subject to re-arrest while the appeals is pending in ICE detention facilities. Considering each of the factors, weigh in favor of enjoin the immigration proceedings pending appeal, so the Court will do so.

WHEREFORE, This Court should find that ICE's failure to comply with both 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 violated Petitioner's due process rights, See Diaz v. Wofford, 2025 U.S. Dist. LEXIS 173666 (S.D. Cal. 2025) (Failure to follow its own procedural regulations may constitute a due process violation" M.S.L. v. Bostock, 2025 U.S. LEXIS 162519 (D. Or. Aug, 21, 2025) (ICE's failure to provide Petitioner with a timely Notice of Revocation or conduct an informal interview until nearly a month after taking her into custody is a grave violation of Petitioner's due Process rights in that they deprived her both of meaningful notice and an opportunity to be heard").

PRAYER FOR RELIEF

WHEREFORE, petitioner prays that this Honorable Court to grant the following relief:

1. Issue an Order:

a. Declaring that petitioners continued detention is not authorized by the INA and/or violates the Fifth Amendment;

b. The Department of Homeland Security, U.S. Immigration and Customs Enforcement, should be ENJOINED from transferring, relocating, or removing Petitioner outside the jurisdiction of the United States District Court for the Southern District of Florida pending further court order.

c. Respondent shall file a Response to the Petition as previously ordered.

OATH

UNDER PENALTIES OF PERJURY, I, Nely Yohana Torres-Huete, declare that I have read the foregoing document, and I Understand its content; this document is filed in good faith and is timely filed, I understand its content in English, has potential merit, and that facts contained in the documents are true and correct.

Date: October 21, 2025

Nely Yohana Torres-Huete
Pro se Petitioner
A#: [redacted]
Broward Transitional Center
3900 N. Powerline Rd.
Pompano Beach Fl. 33073

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct original of the foregoing document has been furnished by U.S. Mail-postage prepaid to The Clerk of the District Court Southern District of Florida, to, Immigration and Custom Enforcement. Department of Homeland Security, Chief Counsel, Deputy Chief Counsel, Assistant Chief Counsel, Office of the principal Legal Advisor at Broward Transitional Center.3900 N. Powerline Road, Pompano Beach, Fl 33073, to the U.S. Dpt. of Justice, 950 Pennsylvania Av. NW. Office of the Attorney General, Room 5114, Washington DC. 20530-0001, and all the lawyer on record via e-filing court system, on this day October 21, 2025.

Respectfully Submitted:

Nely Yohana Torres-Huete
Pro se Petitioner
A#: [redacted]
Broward Transitional Center
3900 N. Powerline Rd.
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