

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLORADO

Civil Action No. 25-cv-03475-RMR

IRENE FLORES-MENDOZA,

Petitioner-Plaintiff,

v.

JUAN BALTAZAR, Warden, Aurora ICE Processing Center,
ROBERT HAGAN, Field Office Director, U.S. Immigration and Customs Enforcement,
KRISTI NOEM, Secretary, U.S. Department of Homeland Security,
TODD LYONS, Acting Director of Immigration and Customs Enforcement,
PAMELA BONDI, U.S. Attorney General, U.S. Department of Justice,

In their official capacities,

Respondents-Defendants.

**PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO MOTION FOR A
TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION ECF
NO. 5, ECF NO. 19**

Petitioner-Plaintiff ("Petitioner"), Irene Flores-Mendoza ("Ms. Flores-Mendoza"), files this Reply to the Respondents-Defendants' ("Respondents") Response to Motion for Temporary Restraining Order and/or Preliminary Injunction, ECF No.5. ECF No. 19. Here, the record overwhelmingly establishes that Ms. Flores-Mendoza's detention is unconstitutionally indefinite and uncontroverted evidence establishes that, absent intervention from this Court, she is at imminent risk of being unlawfully removed to Mexico or another country without meaningful notice or opportunity to present a fear-based claim. For the following reasons, Ms. Flores-Mendoza merits immediate release.

- I. **Ms. Flores-Mendoza's Detention Violates Due Process and 8 U.S.C. § 1231's Prohibition Against Indefinite Detention, as Recognized in *Zadvydas*.**

Respondents do not contest that the six-month period where Ms. Flores-Mendoza's detention was presumptively reasonable lapsed on August 25, 2025. Resp., ECF No. 19 at 11 (Respondents acknowledge that Ms. Flores-Mendoza has been detained for eight and a half months post-final order). The Supreme Court has found that what constitutes the reasonably foreseeable future will shrink "as the period of post-removal confinement grows." *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Here, Ms. Flores-Mendoza's detention has become indefinite, violating both due process and 8 U.S.C. § 1231. For the reasons summarized in her Petition for Writ of Habeas Corpus, ECF No. 1, Motion for Temporary Restraining Order and/or Preliminary Injunction, ECF No. 5, and discussed below, Ms. Flores-Mendoza merits immediate release.

Ms. Flores-Mendoza has met her initial burden, showing there is good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future and prevails on her indefinite detention claim. The initial burden identified in *Zadvydas* does not "require [a noncitizen] seeking release to show the absence of any prospect of removal." 533 U.S. at 702; *see also* *Senor v. Barr*, 401 F. Supp. 3d 420,430 (W.D.N.Y 2019); *Quang Minh Lien v. Sessions*, No. 18-CV-2146-WJM-SKC, 2018 WL 4853339, at *5 (D. Colo. Oct. 5, 2018) (finding unsubstantiated argument that Petitioner was unlikely to be deported to Vietnam insufficient under the "good reason to believe" standard without facts to suggest ICE's lack of progress). It is undisputed that Ms. Flores-Mendoza cannot be removed to her country of citizenship because she has been granted withholding of removal from El Salvador. Additionally, she has no ties to other countries, and although almost eight months have passed, DHS has not identified any third countries willing to accept her. *See* Kinsey

Decl., ECF No. 19-1 ¶ 39. Therefore, Ms. Flores Mendoza has met her initial burden. See *Batzogs v. Carter*, No. 25-3127-JWL, 2025 WL 2550321, at *2 (D. Kan. Aug. 14, 2025) (determining that petitioner met his initial *Zadvydas* burden when he was detained for over six months during which ICE had reached out to various third countries but was unsuccessful in finding a country to accept him); see also *Gomez v. Mattos*, No. 2:25-CV-00975-GMN-BNW, 2025 WL 3101994, at *5 (D. Nev. Nov. 6, 2025).

Respondents fail to rebut this showing. The only evidence Respondents provide in response to Ms. Flores-Mendoza's challenge to her unlawful detention is a declaration from an employee for Immigration and Customs Enforcement ("ICE") Enforcement and Removal Operations ("ERO"), Officer Mark Kinsey, indicating that ICE ERO contacted various countries to accept Ms. Flores-Mendoza, with the most recent outreach occurring on July 2, 2025. See Kinsey Decl., ECF No. 19-1 at ¶ 30. The declaration does not show that any country has accepted her, but states that four countries have since rejected ERO's requests. *Id.* It is unclear if any applications to the non-rejecting countries are still pending, or if these countries simply never responded. Either way, Respondents fall short of establishing that Ms. Flores-Mendoza's removal is reasonably foreseeable. See *Moreno v. Bondi*, No. 25-3168-JWL, 2025 WL 2926547, at *2 (D. Kan. Oct. 15, 2025) (deciding that removal was not reasonably foreseeable when after seven and a half months of detention ICE had failed to remove petitioner to three alternate countries and "the Court agrees that the fact that officials have been unsuccessful with their first choices suggests that officials will have difficulty eventually finding a country that will accept petitioner").

Officer Kinsey states that “ICE continues to seek a third country to which Petitioner can be removed.” Kinsey Decl., ECF No. 19-1 at ¶ 39. But Respondents have hardly acted diligently, as according to the Kinsey Declaration, their last outreach effort was over four months ago. *Id.* at ¶ 30. Respondents’ lackluster efforts cannot satisfy what *Zadvydas* or due process require. *Vaskanyan v. Janecka*, No. 5:25-CV-01475-MRA-AS, 2025 WL 2014208, at *5 (C.D. Cal. June 25, 2025) (explaining that *Zadvydas* mandates more than a showing that “‘good faith efforts to effectuate...deportation continue,’ and that Petitioner’s removal is not impossible”) (quoting *Zadvydas*, 533 U.S. at 702). “[T]he deference baked into the *Zadvydas* standard does not permit the government to detain a noncitizen and then sit on its hands. Such inaction, or lack of progress in effectuating removal, is precisely what *Zadvydas* forbids.” *Douglas v. Baker*, No. 25-CV-2243-ABA, 2025 WL 2997585, at *5 (D. Md. Oct. 24, 2025). Based on this alone, Ms. Flores-Mendoza prevails on both under *Zadvydas* and her as-applied due process claim.

Respondents cannot circumvent due process to meet their burden under *Zadvydas*. As a practical matter, Ms. Flores-Mendoza does not deny that Respondents *can* remove her from this country at any time without warning—as indeed they attempted to do on two occasions. See Pet.’s Decl., ECF No. 1-1 at 201-02; Resp.’s Status Rep., ECF No. 15 at 2; Pet.’s Dec., ECF No. 22-1 at 233-36. Her point is that she cannot *lawfully* be removed in the foreseeable future, a distinction implicit in the standard of *Zadvydas* and its progeny, which did not need to be explicitly clarified until now.

To determine whether removal is reasonably foreseeable, courts must consider whether a petitioner has a reasonable basis to bring a fear-based claim to contest such removal. See *Ortega v. Kaiser*, No. 25-CV-05259-JST, 2025 WL 2243616, at *5 (N.D. Cal. Aug. 6, 2025) (finding detention indefinite where “there are no countries to which [petitioner] could currently be removed without his first being afforded notice and opportunity to be heard on a fear-based claim as to that country, as the Fifth Amendment Due Process Clause requires.”); *Zavvar v. Scott*, No. CV 25-2104-TDC, 2025 WL 2592543, at *8 (D. Md. Sept. 8, 2025) (factoring petitioner’s fear-based claims against third country removal, including potential litigation before the immigration court and subsequent appeals, into the court’s determination that “removal is not likely in the reasonably foreseeable future.”).

Respondents do not deny that Ms. Flores-Mendoza has strong claims that she will face torture and persecution in Mexico and other countries they have identified for removal. Nonetheless, they insist this is not a barrier to deporting her, as the Court must determine “whether Petitioner’s removal is likely to be effected in the reasonably foreseeable future in light of the procedures ICE *currently* provides for third country removals.”¹ Resp., ECF No. 19 at 13-14. However, ICE’s current third country procedures, as applied to Ms. Flores-Mendoza, do not absolve Respondents from what the Immigration and Nationality Act (“INA”), Convention Against Torture (“CAT”), and due process require.

II. It is Unlawful for ICE to Remove Ms. Flores-Mendoza to a Third Country Without Sufficient Notice and Process.

¹ Respondents do not cite to any cases where courts have used ICE’s third country removal guidelines to assess a *Zadvydas* claim.

Time and again, Respondents have failed to adhere to their obligations to protect Ms. Flores-Mendoza's rights against unlawful removal to a place where she will likely face persecution and torture. In their Response, Respondents first attempt to circumvent the third country removal issue altogether by asserting that Ms. Flores-Mendoza cannot challenge Respondents' unconstitutional and unlawful plan to summarily deport her because of pending nationwide litigation challenging DHS's third country removal policy. Resp., ECF No. 19 at 12-13. Second, ICE seeks to justify Ms. Flores-Mendoza's detention based on the premise that the agency can remove her to a third country. *Id.* at 14. Both arguments are unconvincing.

Because ICE's third country removal policy is a pretext for Respondents' current detention of Ms. Flores-Mendoza, habeas is the most appropriate vehicle for this claim. See *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973). The "fundamental purpose of a § 2241 habeas proceeding" is to "attack" the legality of detention and to "secure release from illegal custody." *McIntosh v. U.S. Parole Comm'n*, 115 F.3d 809, 811 (10th Cir. 1997) (quotation marks and citation omitted). As the Supreme Court recently recognized, "immediate physical release [is not] the only remedy under the federal writ of habeas corpus." *Trump v. J. G. G.*, 604 U.S. 670, 672 (2025) (quoting *Peyton v. Rowe*, 391 U.S. 54, 67 (1968)). The question of third country removal is inextricably linked with the fact of detention under current ICE policy because, if ICE were not attempting to remove her to a third country, Ms. Flores-Mendoza should have been released at the end of the 90-day removal period, if not sooner. See 8 U.S.C. § 1231(a)(1)(A).

Despite Respondents' assertion, this Court is not barred from providing Ms. Flores-Mendoza with the relief she seeks by the pending litigation in *D.V.D. v. Department of Homeland Security*, No. 25-10676-BEM, 2025 WL 1142968, at *24 (D. Mass. Apr. 18, 2025). Respondents' reliance on *Sanchez v. Bondi* for this position is misplaced. Resp., ECF No. 19 at 13. Unlike here, the Court in *Sanchez* was not considering a *Zadvydas* indefinite detention claim. Instead, its order was in response to an Emergency Motion filed by petitioner, which focused solely on challenging the third-country removal guidelines—with much of the motion copied almost verbatim from the civil complaint filed in *D.V.D.*² See *Sanchez Mtn.*, ECF No. 22-1 at 243-56. Moreover, Judge Sweeney rendered her decision on a motion that was not fully briefed, and the Court found failure to file a timely reply constituted a "waiver of any challenge to [Respondents'] arguments." *Sanchez v. Bondi*, No. 1:25-CV-02287-CNS, 2025 WL 2550646, at *2 (D. Colo. Aug. 20, 2025) (finding "the relief Mr. Sanchez seeks mirrors the relief sought" in *D.V.D.*). The outcome in *Sanchez* is narrow and is not instructive here.

Notably, multiple other courts—including another court in this district—have found that the *D.V.D.* litigation does not preclude them from addressing individual claims raised by habeas petitioners that challenge third country removal procedures. *Arostegui-Maldonado*, No. 25-CV-2205-WJM-STV, 2025 WL 2280357, at *12 (D. Colo. Aug. 8, 2025); see e.g., *Baltodano v. Bondi*, No. C25-1958RSL, 2025 WL 2987766, at *2-3 (W.D. Wash. Oct. 23, 2025) (collecting cases and explaining that "[c]ourts in this district have recently found that challenges to ICE's policy on third country removals are

² *D.V.D.* Complaint, No. 1:25-cv-10676, ECF No 1, available at: <https://immigrationlitigation.org/wp-content/uploads/2025/03/1-DVD-Complaint.pdf>.

likely to succeed on the merits.”); *Sagastizado v. Noem*, No. 5:25-CV-00104, 2025 WL 2957002, at *8 (S.D. Tex. Oct. 2, 2025) (determining that petitioner could “bring his individual claims while the class-wide relief remains pending” in *D.V.D.*); *M.T.M. v. Andrews, et al.*, No. 2:25-CV-08208-SRM-PD, 2025 WL 2995053, at *2 (C.D. Cal. Sept. 24, 2025); *Cruz Medina v. Noem*, No. 25-CV-1768-ABA, 2025 WL 2306274, at *12 (D. Md. Aug. 11, 2025) (declining to stay or dismiss petitioner’s challenge to his removal to a third country because he “challenges his continued *detention*, which is not addressed in *D.V.D.*”).

Respondents must afford Ms. Flores-Mendoza the opportunity to seek fear-based protections against her removal to a third country. Although third country removals are permissible under 8 U.S.C. § 1231(b)(2)(E)(vii), they “are subject to the same mandatory protections that exist in removal or withholding-only proceedings.” *Sagastizado*, 2025 WL 2957002, at *5 (relying on 8 U.S.C. § 1231(b)(3)(A); 28 C.F.R. § 200.1; 8 C.F.R. §§ 208.16-18, 1208.16-18). It is unlawful for Respondents to remove Ms. Flores-Mendoza to a third country without first providing her with the process she is due.

Respondents have repeatedly ignored even their own constitutionally deficient guidelines in trying to spirit Ms. Flores-Mendoza out of the country. DHS regulations require that if a person asserts a fear of removal to a third country, the individual will be referred to U.S. Citizenship and Immigration Services (“USCIS”) for a screening to determine their eligibility for protection under the INA and CAT. 8 C.F.R. §§ 208.31, 1208.31. Failure to follow the safeguards in place to protect people from persecution and torture is unlawful. *Santamaria Orellana v. Baker, et al.*, No. CV 25-

1788-TDC, 2025 WL 2841886, at *10 (D. Md. Oct. 7, 2025) (finding immigration court's failure to follow the procedures set forth in 8 C.F.R. § 1208.31(g) "a due process violation under the *Accardi* doctrine.").

Compounding the harm, Respondents are not following the requirements set forth in DHS's current third country removal policy issued in March 2025,³ which ICE Acting Director, Todd Lyons, subsequently clarified on July 2025.⁴ DHS policy does not require prior notice of removal when there are credible diplomatic assurances against the infliction of persecution or torture. March Memo at 1-2. If no such assurances are provided, ICE must typically afford notice 24 hours before effectuating removal, and ensure the noncitizen has "reasonable means and opportunity to speak with an attorney prior to removal." Lyons Guidance at 1. "In cases where the [noncitizen] affirmatively states a fear, USCIS will generally screen the [noncitizen] within 24 hours of referral from the immigration officer." March Memo at 2.

Respondents are falling short of their nondiscretionary duties at every turn. As an initial matter, Respondents do not allege or present evidence establishing that Mexico has provided any diplomatic assurances that Ms. Flores-Mendoza will not be persecuted or tortured if removed there. Respondents did not provide Ms. Flores-Mendoza with any prior notice, access to counsel, or a reasonable fear screening during

³ U.S. Dep't of Homeland Security, ICE Memorandum: *Guidance Regarding Third Country Removals* (March 30, 2025), available at: <https://immigrationlitigation.org/wp-content/uploads/2025/04/43-1-Exh-A-Guidance.pdf> (hereinafter "March Memo").

⁴ Todd M. Lyons, Acting Director, U.S. Immigration and Customs Enforcement, ICE Guidance: *Third Country Removals Following the Supreme Court's Order in Department of Homeland Security v. D.V.D., No. 24A1153 (U.S. June 23, 2025)* (Jul. 9, 2025), available at: https://iptp-production.s3.amazonaws.com/media/documents/2025.07.09_ICE_-_Third_Country_Removals_Following_Dept_of_Homeland_Sec._v._D.V.D..pdf ("Lyons Guidance").

its two prior attempts to summarily deport her to Mexico. Pet's Decl., ECF No. 1-1 at 202 ¶¶ 6-8; Lunn Decl., ECF No. 13 at 1 ¶ 6; Pet's Decl., ECF No. 22-1 at 233-35 ¶¶ 2-3, 6, 9. And nothing in their Response shows that they intend to in the future.

Up to this point, Respondents have steamrolled over the rights protecting Ms. Flores-Mendoza from future persecution and torture. During their first deportation attempt in June 2025, ICE failed to give Ms. Flores-Mendoza any notice of removal. After being shackled and put on a plane to San Diego, Ms. Flores-Mendoza pleaded with ICE officers for information on where they were taking her and they refused to respond. Pet.'s Decl., ECF. No. 1-1 at 201 ¶ 6. Ms. Flores-Mendoza learned that she was being deported when she was loaded onto a bus near the Mexican border and immediately expressed a fear. *Id.* at ¶ 7.

During ICE's second removal attempt occurred on November 3, 2025, despite ICE being on notice—many times over—of her fear of removal to Mexico. Resp., ECF No. 19-1 ¶ 35; Pet.'s Decl., ECF No. 22-1 at 233 ¶ 2. ICE officers provided her with a notice of removal to Mexico. ECF No. 22-1 at 233 ¶ 2; Exh. V, ECF No. 22-1 at 239. The officers told her she could contact her attorneys, but when she tried to do so, the phones in the Aurora facility had been disconnected and she could not call out. Pet.'s Decl., ECF No. 22-1 at 233 ¶ 3. Ms. Flores-Mendoza repeatedly asked again to be able to contact her lawyers, but ICE officers refused, telling her “it wasn't important for [her] to talk to [her] attorneys.” *Id.* at 234 ¶ 9. ICE officers also informed Ms. Flores-Mendoza that they could not communicate with her attorneys directly about her rapidly approaching removal. *Id.* at 233 ¶ 2. On the morning of November 4, 2025, ICE officers gave Ms. Flores-Mendoza a second paper titled “Warning to Alien Ordered Removed or

Deported,” which was not read to her in Spanish. Pet.’s Decl., ECF No. 22-1 at 234 ¶ 8. She explicitly expressed a fear of removal to Mexico, and the ICE officer ignored her. *Id.* at ¶ 9. She again asked to speak to counsel, and ICE refused. *Id.* at ¶ 7. Meanwhile, between 12:26 p.m. on November 3rd and 11:07 a.m. on November 4th Ms. Flores-Mendoza’s lawyers called the Aurora facility six times trying to reach her, to no avail. See Lunn Decl., ECF No. 13 at 1 ¶ 6.

The record is clear that Respondents’ application of the third country removal policy in Ms. Flores-Mendoza’s case violates due process, the INA, the CAT and its implementing regulations, and DHS’s own policy and guidance. Her immediate release is warranted.

III. Ms. Flores-Mendoza Merits Immediate Release Due to Respondents’ Significant Violations of the Post-Custody Review Regulations.

Even assuming Ms. Flores-Mendoza’s indefinite detention did not violate due process and the INA, it similarly violates DHS regulation providing Post-Order Custody Reviews (“POCRs”).

First, Respondents offer no further explanation to justify their decision to extend Ms. Flores-Mendoza’s detention for almost eight months. Respondents insist that they have provided her with sufficient notice because there is a statement in her 90-day review decision that says she was determined to be a flight risk “based upon [her] removal order. Resp’s Exh. [ECF 19-1] at 10. However, this reason is not individualized to Ms. Flores-Mendoza and could equally be applied to every other person in post-removal detention. Further, there is no way for her to challenge such a vague conclusion. Does the fact that she has a removal order make her a flight risk? Or is that

finding based on some unspecified detail inside the order itself? Ms. Flores-Mendoza can only speculate.

Second, Respondents do not dispute that Petitioner's 180-day review is now seven weeks overdue. They offer no reasons for the delay. They provide no information on when it will be completed. Instead, they contend that 8 C.F.R. § 241.4(d), which prescribes the timeline for when reviews should be conducted, does not specifically state when a *decision* regarding the review must be sent. See Resp., ECF No. 19 at 15. Respondents' strained interpretation that there is *no* timeframe by which they must notify someone about why they are being detained is fundamentally at odds with the function and purpose of the regulations and due process.

Respondents argue that Ms. Flores-Mendoza has not been prejudiced by any regulatory violations, because she was provided with the opportunity to submit documents and attend a custody review interview. Resp., ECF No. 19 at 16. But these "opportunities" for Ms. Flores-Mendoza to act do not constitute meaningful process absent any action from the government. And nothing in the record suggests anyone at ICE ever reviewed the documents she submitted or assessed the statements at her interview. Moreover, prejudice is presumed in an *Accardi* claim. See, e.g., *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991); see also *Nunez-Robles v. Garland*, No. 20-9629, 2021 WL 5710935, at *4, FN 4 (10th Cir. Dec. 2, 2021).

Third and finally, Respondents do not dispute Petitioner's evidence that ICE has a blanket policy to deny parole to everyone. See Habeas Pet., ECF No. 1 at 34 (citing *Arostegui Maldonado v. Baltazar*, No. 25-CV-2205-WJM-STV, 2025 WL 2280357, at *11 (D. Colo. Aug. 8, 2025)). Thus, the entire review process provides review in name

only, and any decision about Ms. Flores-Mendoza's custody made under this process was, is, and will be "pre-ordained." *Id.*

IV. Ms. Flores-Mendoza Meets the Required Standard for Injunctive Relief.

Ms. Flores-Mendoza establishes that she meets the requirements for injunctive relief. Pet'r Mtn for TRO, ECF No. 5. First, Ms. Flores-Mendoza's unconstitutional detention and imminent possibility of third country removal both constitute irreparable harm. Pet'r Mtn for TRO, ECF No. 5 at 9-11; see *Baltodano v. Bondi*, No. C25-1958RSL, 2025 WL 2987766, at *3 (W.D. Wash. Oct. 23, 2025) (citing *A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025)). Notably, Respondents concede that Ms. Flores-Mendoza's third country removal constitutes irreparable harm and insist that this Court already granted relief preventing such an occurrence. Resp., ECF No. 19 at 20. It is true, Ms. Flores-Mendez *already* met the requirements for injunctive relief and this Court should extend the temporary protections it afforded, ECF No. 14, and convert them into a preliminary injunction. Ms. Flores-Mendoza also merits injunctive relief preventing her indefinite detention. This is consistent with the approach taken by Judge Martinez in *Arostegui-Maldonado*. 2025 WL 2280357, at *16. Second, as discussed *supra*, Ms. Flores-Mendoza is likely to succeed on the merits. Third, the balance of equities tips in her favor, as the threatened injury outweighs any harm that the preliminary injunction may cause Respondents. Finally, the public interest favors requiring Respondents to follow the law.

In the alternative, the Court can grant Ms. Flores-Mendoza the requested relief and order her immediate release through its habeas authority, 28 U.S.C. § 2241, or under the All Writs Act, 28 U.S.C. § 1651(a).

V. Ms. Flores-Mendoza Requests a Narrowly Tailored Scope of Relief.

Ms. Flores-Mendoza merits explicit protections ordering her immediate release and, if the government seeks to redetain her to effectuate her removal to a third country, she must receive adequate notice and a meaningful opportunity to present a claim with the assistance of counsel. The Court, not ICE, should set any conditions of release.

Given Respondent's repeated attempts to secretly and unlawfully deport Ms. Flores-Mendoza to a country where her safety is at risk, she fears that even if granted release, without further protection from this Court, ICE will simply re-detain her on the same grounds and try to remove her for a third time. Indeed, this has already been documented in several cases.

For example, the petitioner in *Santamaria Orellana v. Baker*, was initially released from ICE custody on bond, won withholding of removal to El Salvador in 2023, was redetained by ICE on June 4, 2025, and was granted immediate release after prevailing on a habeas petition on August 25, 2025. No. CV 25-1788-TDC, 2025 WL 2841886, at *1 (D. Md. Oct. 7, 2025). ICE released Mr. Santamaria Orellana on August 27, 2025, only to redetain him on September 10, 2025. *Id.* Petitioner subsequently filed an Emergency Motion and the court granted a TRO the next day, and the court entered a preliminary injunction on October 7, 2025, granting release and barring third country removal without adequate process. *Id.* at 2, 13; ECF No. 52 (Order directing release).

In a similar case, a citizen of El Salvador who was previously granted withholding and released from ICE custody, was detained about a year later based on ICE's current third country removal policy. *Sagastizado*, 2025 WL 2957003, at *1 (S.D. Tex, Sep. 10, 2025). After his detention, Sagastizado first filed a habeas petition, then expressed fear

of removal to Mexico and received a Reasonable Fear Interview (“RFI”), which resulted in a negative fear determination—a finding his attorneys only discovered thanks to the pending litigation. *Id.* at 1-2. On September 10, 2025, the court entered an order restraining respondents from removing Mr. Sagastizado without first affording him a review of his RFI decision by an immigration judge (“IJ”). *Id.* at 4. Subsequently, the court entered a preliminary injunction ordering the same. *Sagastizado*, 2025 WL 2957002, at *16 (S.D. Tex. Oct. 2, 2025). The court granted habeas relief on November 14, 2025, ordering immediate release, where respondents never scheduled an IJ hearing, nor did they ever commit to doing so, and had taken no steps to effectuate removal to a different third country. *Sagastizado*, No. 5:25-CV-00104, ECF No. 29 (S.D. Tex. Nov. 14, 2025).

Given Respondents’ pattern of lawlessness, Ms. Flores-Mendoza seeks a narrowly tailored order that grants explicit protections to prevent further litigation. *See, e.g., Villanueva v. Tate*, No. CV H-25-3364, 2025 WL 2774610, at *11 (S.D. Tex. Sept. 26, 2025); *M.T.M.*, 2025 WL 2995053, at *2; *Cruz Medina*, 2025 WL 2306274, at *12.

VI. Conclusion

For the forgoing reasons, Ms. Flores-Mendoza respectfully requests that the Court grant her Petition, ECF No. 1. In the alternative, the Court should grant a preliminary injunction, ECF No. 5, and order her immediate release.

Dated: November 17, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system pursuant to Fed. R. Civ. P. 5., which will send notification of such filing to the following recipients by email:

Benjamin.Gibson@usdoj.gov

/s/ Laura Lunn
Attorney for Petitioner