IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 25-cv-03475-RMR

I.F.M.,

Petitioner-Plaintiff,

v.

JUAN BALTAZAR, *et al.*,

Respondents-Defendants.

PETITIONER'S EMERGENCY MOTION TO ENFORCE THE COURT'S ORDER, ECF No. 23, AND FINAL JUDGMENT, ECF No. 28, GRANTING RELEASE

INTRODUCTION

Petitioner, I.F.M., through counsel, seeks emergency relief because, despite this Court's order to the contrary, she is now in the custody of the Department of Homeland Security ("DHS"). She seeks an order from this Court granting her immediate release.

On November 24, 2025, this Court entered an order, ECF No. 23, finding that "Respondents have not provided the concrete evidence necessary to rebut I.F.M.'s reasoning that there is no significant likelihood of removal in the reasonably foreseeable future," and, based on that finding, ordered I.F.M.'s release. ECF No. 23 at 10. Implicit in this order was that Respondents would not redetain I.F.M. on the same basis that this Court previously found unlawful. However, on March 16, 2026, undersigned counsel received a phone call from I.F.M. from an Immigration and Customs Enforcement ("ICE") facility located in Pearsall, Texas.

Based on information and belief, on or about March 4, 2026, ICE redetained I.F.M., in violation of this Court's order.

The Supreme Court has made clear that "once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001) (citation omitted). When that happens, a detained individual should be released. *Id.* at 700. Nevertheless, despite this binding precedent and an order from this Court explicitly granting release, I.F.M. is now—again—in DHS custody where they—again seek to deport her—without providing any evidence to demonstrate that they can lawfully do so.

I.F.M. files this Emergency Motion to Enforce and the accompanying Emergency Ex Parte Motion for Temporary Restraining Order and/or Preliminary Injunction and Motion for Order to Show Cause Why Respondents Should Not be Held in Contempt ("Emergency TRO") to prevent her continued unconstitutional detention and unlawful removal to a third country. ECF No. 30. A full accounting of the updated facts appear in the Emergency TRO at 1-5 and the accompanying affidavit from Attorney Shira Hereld, ECF No. 30-1.

This Court should afford expedited adjudication to this Motion and order I.F.M.'s immediate release and an order clarifying that Respondents may not redetain I.F.M. absent a pre-deprivation custody hearing before this Court where she receives sufficient notice and an opportunity to be heard.

Pursuant to local rule D.C.COLO.LCivR 7.1(a), on March 17, 2026 undersigned counsel sought Respondents' position on this motion. They oppose.

ARGUMENT

I. This Court Retains Jurisdiction to Grant the Requested Relief

The Court has jurisdiction to enforce its order and final judgment granting I.F.M.'s habeas petition, ECF Nos. 23, 28.

This Court possesses inherent authority to enforce its own orders. *See Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) ("[C]ourts of justice are universally acknowledged to be vested, by their very creation, with power to impose … submission to their lawful mandates") (internal citation omitted). Such authority derives not "by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Id.* (quoting *Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962)). This maxim stands true in the context of orders granting habeas relief. *Gall v. Scroggy*, 603 F.3d 346, 352 (6th Cir. 2010) ("[B]ecause a federal court always retains jurisdiction to enforce its lawful judgments, including habeas judgments, the court has the authority to see that its judgment is fully effectuated.").

Here, this Court ordered I.F.M.'s release. ECF No. 23. Although Respondents initially adhered to that order, that is no longer the case. As a result, this Court must immediately intervene and enforce its final judgment, mandating I.F.M.'s release.

II. Respondents Cannot Circumvent this Court's Judgment

This Court should enforce its order to prevent I.F.M.'s continued unconstitutional detention. In November, this Court found that I.F.M.'s indefinite detention violates *Zadvydas*, 533 U.S. at 699-700, ECF No. 23 at 9-10. That Order clearly established a legal relationship between the parties. *Id.* Yet, less than four months later, without providing *any* evidence of materially changed circumstances, Respondents redetained I.F.M. and will continue to do so

absent this Court's intervention. Respondents' actions undermine this Court's authority and seek to unilaterally absolve themselves of their legal responsibilities toward I.F.M.

A. Respondents Cannot Redetain I.F.M. Absent Materially Changed Circumstances

In her habeas petition, I.F.M. argued that her "detention violates both the substantive due process limits of *Zadvydas* and the procedural due process set forth in the Agency's own regulations." ECF No. 1 at 22 ¶ 68. This Court agreed. ECF No. 23 at 11. Yet, she is now again subject to indefinite detention in direct defiance of this Court's order. That cannot stand.

The sole issue relevant to whether Respondents may detain I.F.M. is whether they can establish that they are able to effectuate her removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 699-700. No other facts are pertinent to the inquiry of detention. *Id.* When previously ordered by this Court to show their cards, Respondents could not demonstrate that they could lawfully effectuate I.F.M.'s removal in the reasonably foreseeable future. *See generally* ECF Nos. 19, 19-1. As a result, on November 24, 2025, this Court ordered I.F.M.'s release. ECF No. 23 at 11. Nevertheless, with no prior notice or an opportunity to be heard and without providing any evidence that facts had materially changed, ICE redetained I.F.M., and have again stripped her of her liberty.

Respondents have not provided I.F.M. with any justification for her current detention. Based on information and belief, after redetaining I.F.M. in March 2026, ICE indicated that they are seeking removal to Costa Rica and Honduras.[1] If that is true, the record in this case demonstrates that it is unlikely ICE will succeed in this pursuit. On November 11, 2025, an ICE

[1] At no point has ICE communicated with undersigned counsel or I.F.M.'s counsel in her immigration case to inform them of her redetention let alone a justification for her current unconstitutional confinement.

deportation officer, Mark Kinsey, indicated that "[o]n June 1, 2025, ICE submitted requests for acceptance to Costa Rica, Nicaragua, and Honduras." ECF No. 19-1 at ¶ 25. However, almost immediately, those requests were denied. *Id.* at ¶ 26 ("Between June 2, 2025 and June 3, 2025, ICE received rejections from Honduras and Costa Rica.").

Thus, not only has ICE failed to demonstrate a likelihood of removal, ICE's own prior statement indicates deportation is not possible to the countries to which it purports to seek third country removal. There is no indication that circumstances have changed in the four months since ICE submitted its prior statements regarding the likelihood of I.F.M.'s removal in the reasonably foreseeable future.

B. This Court is Best Suited to Afford the Relief Sought Because it Already Ruled on the Legal Question Presented and Found I.F.M.'s Indefinite Detention Unconstitutional

The crux of I.F.M.'s legal claim remains the same today as it was when she filed her habeas petition on October 31, 2025: her detention is unconstitutionally indefinite. Based on this claim, this Court found that she merited relief and ordered her release. ECF No. 23 at 11. DHS's subsequent actions serve to nullify that order.

It is a waste of judicial resources to relitigate a matter that was previously decided. Here, I.F.M. previously raised the same claims she would put forth today to challenge her unlawful detention. ECF No. 1 at 44-46. DHS may not redetain I.F.M. in a different jurisdiction to circumvent this Court's prior order.

Principles of res judicata emphasize this point. "Under Tenth Circuit law, claim preclusion applies when three elements are met: (1) a final judgment on the merits in an earlier action; (2) identity of parties in the two suits; and (3) identity of the cause of action in both suits." *MACTEC, Inc. v. Gorelick*, 427 F.3d 821, 831 (10th Cir. 2005). First, this Court entered a

final judgment on the merits. ECF Nos. 23, 28. Second, the parties are substantially the same. Respondents for ICE, DHS, and the DOJ are identical. Third, the causes of actions are identical. ECF No. 1 at 44-46. Thus, to require I.F.M. to raise a new challenge to her unlawful confinement would serve to force her to relitigate claims already resolved by this Court.

In light of this context, this Court is best suited to afford I.F.M. the relief she seeks through this Motion to Enforce because it *already* found her indefinite detention was unconstitutional. ECF No. 23 at 11.

III. Under Similar Circumstances, Courts Have Granted the Exact Relief Sought

I.F.M. foreshadowed her current situation in her reply brief, ECF No. 22, when she provided a detailed analysis of ICE's redetention of a petitioner under starkly similar circumstances. *Id.* at 14. There, I.F.M. provided a detailed accounting of the case of *Santamaria Orellana v. Baker*, No. 25-cv-1788-TDC, 2025 WL 2841886, at *1 (D. Md. Oct. 7, 2025). In *Santamaria Orellana*, the petitioner prevailed on a habeas petition and was ordered released only to be redetained my ICE a couple of weeks later. *Santamaria Orellana*, 2025 WL 2841886, at *1. In response, petitioner filed an Emergency Motion and the court granted a Temporary Restraining Order the next day and ultimately ordered release through the issuance of a preliminary injunction. *Id.* at 2, 13; ECF No. 52 (directing release).

Myriad cases exist where noncitizens previously granted withholding or deferral of removal based on fear-based claims are later redetained by DHS and courts have found that "[a] petitioner's total length of confinement need not be consecutive" to trigger the six-month presumption of unreasonableness. *Tang v. Bondi*, No. 2:25-CV-01473-RAJ-TLF, 2025 WL 2637750, at *4 (W.D. Wash. Sept. 11, 2025) (finding that presumption that detention was

unreasonable applied where individual had been detained for 92 days in 2011 and 113 days in 2025); *Nguyen v. Scott*, 2025 WL 2419288, at * 13 (W.D. Wash. Aug. 21, 2025) (issuing injunction preventing redetention of individual who was detained for "more than a year" in 2000 through 2001, five months from 2003 to 2024, and one month in 2025); *Nhean v. Brott*, No. CV 17 28 (PAM/FLN), 2017 WL 2437268, at *2 & n.1 (D. Minn. May 2, 2017) (finding no authority to support the position that the six-month period "would start over after [an individual is] placed back into ICE custody").

These courts have so found because to hold otherwise would permit "a series of releases and re-detentions by the government" that would violate *Zadvydas* by "in essence result[ing] in an indefinite period of detention, albeit executed in successive six month intervals." *Chen v. Holder*, No. CV 17 28 (PAM/FLN), 2015 WL 13236635, at *2 (W.D. La. Nov. 20, 2015). *Zadvydas* does not allow such an end-run around substantive due process.

A motion to enforce is the appropriate mechanism to provide the relief I.F.M. seeks. A recent case out of the District of Colorado is instructive on this point. In *Cervantes Arredondo v. Baltazar*, petitioner filed a motion to enforce judgment after the court granted a habeas petition where the government bore the burden of proof by clear and convincing evidence. No. 1:25-cv-03040-RBJ, ECF No. 26 (D. Colo. Dec. 18, 2025). Nevertheless, without evidence presented by respondents, the immigration judge denied bond and petitioner sought enforcement of the court's underlying order. *Id.* Judge Jackson found jurisdiction and granted a new constitutionally adequate bond hearing, with specific instructions for the immigration court. *Id.* at 15-16. Similarly, in *Batz Barreno v. Baltasar*, Judge Gallagher granted a motion to enforce on a similar basis in the context of an immigration habeas petition where DHS failed to adhere to the scope of

the court's order. No. 25-CV-03017-GPG-TPO, 2026 WL 120253, at *1 (D. Colo. Jan. 15, 2026).

In contrast, Judge Brimmer denied a motion to enforce where the unlawful actions challenged in the motion to enforce were not raised in the initial petition and before the entry of a final judgment. *Pena-Gil v. Lyons*, No. 25-CV-03268-PAB-NRN, 2026 WL 25143, at *3 (D. Colo. Jan. 5, 2026). The justification for the court's denial there—the variance between the relief granted in the petition and the conduct challenged in the motion to enforce—does not exist here.

Accordingly, the Court should grant I.F.M.'s Emergency Motion to Enforce. In her underlying Petition for Writ of Habeas Corpus, I.F.M. sought release. ECF No. 1. After considering briefing from both parties, the Court granted release. ECF No. 23. Now, I.F.M. simply seeks an order from this Court enforcing its final judgment, ECF No. 28.

IV. Expedited Adjudication is Warranted in Light of the Risk of I.F.M.'s Unlawful Removal

DHS has a documented history of engaging in attempts to unlawfully remove I.F.M. from the United States. She provided evidence of two prior attempts by DHS 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. Both unlawful deportation attempts occurred immediately after I.F.M. initiated litigation challenging her third country removal and/or unlawful detention. Significantly, ICE tried to deport Ms. I.F.M. to Mexico four days after she sought habeas relief from this Court.

The current events and circumstances indicate the DHS is now attempting the same for a third time. This Court must immediately intervene to prevent further harm.

V. This Court Should Grant the Narrowly Tailored Relief I.F.M. Previously Requested

In I.F.M.'s Petition for Writ of Habeas Corpus, she sought immediate release and adequate notice and a meaningful opportunity to present a fear-based claim. ECF No. 1 at 44-47. The Court explicitly granted release, ECF No. 23 at 11, but given DHS's repeated lawless acts, should provide more stringent guidance to Respondents to ensure they do not continue to violate this Court's order.

Specifically, I.F.M. requested "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." ECF No. 22 at 14. I.F.M. reiterates this request.

Further, in her Petition, ECF No. 1, I.F.M. challenged the lack of process that violated her constitutional and legal rights. *Id.* at ¶¶ 8, 64-65. Along those same lines, I.F.M. establishes a "sufficiently strong liberty interest[] to be entitled to a hearing prior to re-incarceration." *Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021, 1033 (N.D. Cal. 2025); *Ortega v. Kaiser*, No. 25-cv-05259-JST, 2025 WL 1771438, at *3-4 (N.D. Cal. June 26, 2025) (noncitizens who have been released have a strong liberty interest); *see also Ramazan M. v. Andrews*, No. 1:25-CV-01356-KES-SKO (HC), 2025 WL 3145562, at *5-6 (E.D. Cal. Nov. 10, 2025) (finding a noncitizen's "parole from detention is similar" to the parole in *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972), and that he had a "protected liberty interest in his release"); *Garcia Domingo v. Castro*, No. 1:25-CV-00979-DHU-GJF, 2025 WL 2941217, at *4 (D.N.M. Oct. 15, 2025) (requiring a finding by a neutral arbiter, by clear and convincing evidence, that detention was justified prior to re-detention).

Along those lines, *Zadvydas*'s burden-shifting framework places the burden on the *government* to explain why the re-detention is reasonable. *Tang*, 2025 WL 2637750, at *4; *Nguyen*, 2025 WL 2419288, at * 13; *Nhean*, 2017 WL 2437268, at *2 & n.1; *Chen*, 2015 WL 13236635, at *2. *Zadvydas* does not authorize the government to engage in repeated release and redetention to circumvent what due process requires. 533 U.S. at 699-70.

I.F.M. respectfully requests that this Court order Respondents to provide I.F.M. with a pre-deprivation bond hearing, with sufficient notice—to both I.F.M. and undersigned counsel—and a meaningful opportunity to be heard prior to her redetention. At such a hearing, Respondents must bear the burden of proof by clear and convincing evidence with a neutral arbiter from this Court presiding over the adjudication. The sole issue pertinent to the Court's inquiry is whether Respondents have established a significant likelihood of removal in the reasonably foreseeable future.

CONCLUSION

The Court should order Respondents to immediately release I.F.M. Further, the Court should clarify that Respondent cannot redetain I.F.M. absent a constitutionally adequate pre-deprivation bond hearing.

Dated: March 17, 2026

Respectfully submitted,

/s/ Laura P. Lunn
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CERTIFICATE OF SERVICE

I hereby certify that on March 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

CERTIFICATE OF CONFERRAL

I confirm that I have conferred with the opposing counsel in good faith regarding this motion, as required under local rule D.C.COLO.LCivR 7.1(a).

Dated: March 17, 2026

/s/ Laura Lunn
Attorney for Petitioner