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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SARAH BRUNO REYES, *Petitioner,* vs. CHRISTOPHER LAROSE, Senior Warden, Otay Mesa Detention Center, et al., *Respondents.*	**Case No.: 25-cv-02959-JLS-JLB** **TRAVERSE TO RESPONDENTS' RETURN TO THE HABEAS PETITION**

I. INTRODUCTION

Petitioner Sarah Bruno Reyes, a 62-year-old transgender woman from Mexico, has resided in the United States for over 18 years. On February 19, 2013, an Immigration Judge granted her withholding of removal (WOR) to Mexico, permanently barring her deportation to that country. For more than 12 years, she complied with ICE supervision. On March 11, 2025, ICE re-detained her during a routine check-in, citing an erroneous removal order despite her valid WOR. Respondents now concede they violated 8 C.F.R.

§ 241.13(i)(3), fail to show removal is reasonably foreseeable under *Zadvydas v. Davis*, 533 U.S. 678 (2001), and ignore due process owed to long-term supervisees. Mrs. Bruno Reyes is currently in the custody of Immigration and Customs Enforcement ("ICE") at the Otay Mesa Detention Center ("OMDC") based on a removal order that cannot be executed. Mrs. Bruno Reyes has no pending removal proceedings or judicial review in her immigration case.

II. RESPONDENTS CONCEDE VIOLATION OF 8 C.F.R. § 241.13(i)(3)

Respondents concede they did not comply with 8 C.F.R. § 241.13(i)(3), which requires written notice of revocation reasons, a prompt informal interview, and an opportunity to contest facts before re-detention. Return at 4. This admission alone warrants immediate release. The *Accardi* doctrine mandates that agencies follow their own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). The government's "no prejudice" argument fails because the violation is the deprivation of liberty after 12 years of compliance. *Brown v. Holder*, 763 F.3d 1141, 1148–50 (9th Cir. 2014), requires prejudice only for harmless errors. *United States v. Tatoyan*, 474 F.3d 1174, 1178 (9th Cir. 2007), and *United States v. Barraza-Leon*, 575 F.2d 218, 221–22 (9th Cir. 1978), address non-fundamental agency errors, not liberty deprivations under *Accardi*. Ms. Bruno Reyes received no process, no notice, no interview, no chance to respond. ICE detained her mid-check-in, citing a removal order. This conceded violation demands immediate relief.

III. NO SIGNIFICANT LIKELIHOOD OF REMOVAL UNDER ZADVYDAS

Respondents assert detention is authorized under 8 U.S.C. § 1231(a)(6) and that removal is "reasonably foreseeable" through third-country efforts. Return at 2–3. This is incorrect. Removal to Mexico is permanently barred by WOR. Third-country removal is not reasonably foreseeable. Ms. Bruno Reyes's detention now over 8 months since March 11, 2025 more than exceeds the 6-month presumptive limit in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). The burden is on ICE to prove imminent removal. It cannot. On March 14, 2025 ICE requested acceptance from Guatemala, El Salvador, and Ecuador on which were all denied. Ramirez Decl. ¶¶ 6–9. There is no mention of the existence of any travel documents in possession of ICE. ICE states that it "continues to seek to identify a country where Petitioner may be removed" offering only vague ongoing efforts with no specifics. ¶ 10. Generalized claims fail. *Singh v. Gonzales*, 448 F. Supp. 2d 1214, 1220 (W.D. Wash. 2006) (mere follow-up requests inadequate); *Chun Yat Ma v. Asher*, 2012 WL 1432229, at *4 (W.D. Wash. Apr. 25, 2012). "At some point in the future" is not "reasonably foreseeable." *Kong v. U.S.*, 62 F.4th 608, 619–20 (1st Cir. 2023). ICE's delays and denials prove indefinite detention.

IV. DUE PROCESS VIOLATIONS

Due process applies to post-order supervisees. *Chhoeun v. Marin*, 442 F. Supp. 3d 1233, 1246 (C.D. Cal. 2020). The *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976), balance favors Ms. Bruno Reyes: (1) strong liberty interest after 12 years of compliance and family support; (2) high risk of error without notice (no counsel, no documents, no

goodbyes); (3) minimal government burden as advance notice prevents error without hindering removal. Sudden detention mid-check-in shocks the conscience. Eight months of detention severs her from her dependent family, causing emotional, financial, and health crises. Harm is irreparable.

V. THIRD-COUNTRY REMOVAL VIOLATIONS

Respondents' reliance on 8 U.S.C. § 1231(b)(2)(E) for third-country removal is misplaced. The statute requires a hierarchical process, and removal to a third country is permissible only if removal to Mexico or other listed countries is "impracticable, inadvisable, or impossible." Return at 3. But WOR makes removal to Mexico permanently barred, not merely impracticable. ICE must still provide statutorily compliant notice and a meaningful opportunity to raise fear-based claims before any third-country removal. *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash. 2019) (requiring written notice of designated country and statutory basis); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (last-minute notice violates due process). ICE must prove the third country will accept the individual. *Himri v. Ashcroft*, 378 F.3d 932, 939 (9th Cir. 2004). The government's policy of providing only 6–24 hours' notice and no fear hearings violates the INA, CAT, and due process.

VI. CONCLUSION

Respondents concede regulatory violations, fail their *Zadvydas* burden, and violate due process. The Court should: (1) grant the writ and order immediate release under supervision; (2) enjoin re-detention without pre-deprivation process; (3) prohibit third-

country removal without notice, hearings, and reopening; (4) award EAJA fees.

Respectfully submitted this 14th day of November, 2025.

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Pro Bono Attorney for Petitioner