



### INTRODUCTION

1. Mrs. Joanny NUNEZ-MINCHAN is a female, citizen and national of Peru, who was granted Withholding of Removal pursuant to the Convention Against Torture (CAT) by a Hyattsville Immigration Judge on March 26, 2025, along with her husband and minor child. (A copy of the order of the immigration judge is attached hereto and made a part hereof as Exhibit 1).
2. After being granted Withholding of Removal pursuant to the Convention Against Torture, Ms. Joanny NUNEZ-MINCHAN was regularly reporting to ICE/ISAP via her phone app. Yesterday, November 6, 2025, Petitioner received a text message demanding that she report to ICE in Baltimore today, November 8, 2025, which she did. Upon reporting, she was detained by ICE. Petitioner is being held at the Immigration and Customs Enforcement Baltimore Field Office at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201, in deplorable conditions.
3. Petitioner NUNEZ-MINCHAN petitions this Court to issue a Writ of Habeas Corpus seeking relief to remedy her unlawful detention by ICE. 28 U.S.C. § 2241. She was warned of her imminent removal from the United States to a third country, likely Mexico, Uganda, or El Salvador.
4. Mrs. NUNEZ-MINCHAN has very strong family and community ties in Maryland, including her two-year-old U.S. citizen son, eight-year-old daughter, and husband. (A copy of her U.S. citizen son's U.S. birth certificate is attached hereto and made a part hereof as Exhibit 2). Additionally, Mrs. NUNEZ-MINCHAN has steady and meaningful employment as a caretaker of elderly veterans at Premium Care USA. Petitioner regularly

attends Iglesia Pentecostal Poder and Revalacion, in Burtonsville, Maryland, and has no criminal record in the United States.

#### CUSTODY

5. Petitioner is in the physical custody of Respondents. Petitioner is detained at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201. Petitioner is under the direct control of Respondents and their agents.

#### JURISDICTION AND VENUE

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (APA), 5 U.S.C. § 701, et seq. 4. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I § 9, cl. 2 of the United States Constitution (Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in custody under alleged color of authority of the United States, and such custody is in violation of the Constitution, laws, and/or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.
7. Venue is proper in the District of Maryland because that is where Petitioner is detained and that is where Petitioner resides. *See* 28 U.S.C. § 1391(b); *Kholavskiy v. Achim*, 443 F.3d 946 (7th Cir. 2006).

#### THE PARTIES

8. Petitioner Joanny NUNEZ-MINCHAN is a citizen and national of Peru who was granted CAT Withholding of Removal on March 26, 2025, by a Hyattsville Immigration Judge.
9. Defendant Krisiti Noem is the Secretary of the Department of Homeland Security in Washington, D.C. Ms. Noem is responsible for the enforcement of the U.S. immigration

laws, including those governing the admissibility of foreign nationals in the U.S. Ms. Noem and agents acting under her direction are at present detaining the Petitioner. Ms. Noem is being sued in her official capacity only.

10. Defendant Todd Lyons is the Acting Director of Immigration and Customs Enforcement in Washington, D.C. Mr. Lyons is responsible for the enforcement of the U.S. immigration laws, and the agents holding Mrs. NUNEZ-MINCHAN are under his direction. Mr. Lyons is being sued in his official capacity only.

11. Defendant Nikita Baker is the current Acting Deputy Director of the ICE Baltimore Field Office, the facility where Petitioner is currently detained. Ms. Baker is responsible for ICE operations in the Maryland area. Mrs. NUNEZ-MINCHAN is held by ICE agents under Ms. Baker's direction. Ms. Baker is being sued in her official capacity only.

#### **FACTUAL ALLEGATIONS**

12. Petitioner is a national and citizen of Honduras and was granted Withholding of Removal pursuant to CAT, along with her husband and minor daughter, by the Hyattsville Immigration Court on March 26, 2025.

13. After being granted Withholding of Removal pursuant to the Convention Against Torture, Ms. Joanny NUNEZ-MINCHAN was regularly reporting to ICE/ISAP via her phone app. Yesterday, November 6, 2025, Petitioner received a text message requesting that she report to ICE in Baltimore today, November 8, 2025, which she did. Upon reporting, she was detained by ICE. Petitioner is being held at the Immigration and Customs Enforcement Baltimore Field Office at 31 Hopkins Plaza, Suite 630, Baltimore, MD 21201, in deplorable conditions.

14. Petitioner NUNEZ-MINCHAN is being held in deplorable and inhumane conditions. Although she has only recently arrived, she has already witnessed, and counsel has previously been informed by other similarly-situated clients of, extremely inhumane and degrading treatment at the ICE facility in Baltimore. There are no beds or showers available, and detainees are provided with little to no food during their detention.
15. Petitioner has no criminal record. Further, has many family and community ties in Maryland and is the primary caregiver and provider for her minor children (one of whom is a U.S. citizen and the other who was granted Withholding of Removal pursuant to CAT), who depend on their mother for financial, physical, and emotional support.

#### **LEGAL BACKGROUND**

##### **A. Statutory and Constitutional Limits for Immigration Detention**

16. The Fifth Amendment to the U.S. Constitution provides limits on detention. As the Supreme Court has noted, "[i]t is well-established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Hyung Joon Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of liberty," that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678,690 (2001). This fundamental due process protection applies to all noncitizens, even if they are removable or inadmissible. *See id.* at 721 (Kennedy, J., dissenting) ("[B]oth removable and inadmissible aliens are entitled to be free from detention that is arbitrary or capricious."). Under these due process principles, detention must "bear [a] reasonable relation to the purpose for which the individual [was] committed." *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

17. Due process, therefore, requires "adequate procedural protections" to ensure that the government's asserted justification for physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690 (internal quotations omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 538.
18. Following *Zadvydas* and *Demore*, most circuit courts to confront the issue have protected the due process rights of people detained in civil immigration detention by requiring a custody hearing for noncitizens subject to unreasonably prolonged detention pending removal proceedings. *See Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199 (11th Cir. 2016); *Reid v. Donelan*, 819 F.3d 486 (1st Cir. 2016); *Lora v. Shanahan*, 804 F.3d 601 (2d Cir. 2015); *Rodriguez v. Robbins (Rodriguez III)*, 804 F.3d 1060 (9th Cir. 2015); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221 (3d Cir. 2011); *Ly v. Hansen*, 351 F.3d 263 (6th Cir.2003).
19. In addition to the amount of time in detention, courts weigh the following factors when assessing reasonableness: (1) how long the detention will likely continue in the absence of judicial relief; (2) the nature and extent of removal proceedings, including whether any delays are attributable to the government or the immigrant; (3) the conditions of detention; and (4) the likelihood that the proceedings and judicial review will end with a removal order. *See Jamal*, 358 F. Supp. 3d at 859-60.

**B. Withholding of Removal under the Convention Against Torture**

20. Withholding of removal under the Convention Against Torture ("CAT") is a mandatory form of protection governed by 8 C.F.R. § 208.16(c). To qualify, an applicant bears the

burden of establishing that it is *more likely than not* that they would be subjected to torture if removed to the proposed country of removal. In making this determination, adjudicators must consider all relevant evidence, including past instances of torture, the possibility of internal relocation, evidence of gross or systematic human rights violations, and other country conditions. See 8 C.F.R. § 208.16(c)(3). “Torture” is defined as the intentional infliction of severe physical or mental pain or suffering by, or with the consent or acquiescence of, a public official or person acting in an official capacity. 8 C.F.R. § 208.18(a)(1). Once it is determined that an applicant meets this standard and is not subject to mandatory denial, the adjudicator must grant withholding of removal under CAT. 8 C.F.R. § 208.16(d)(1).

#### **FIRST CLAIM FOR RELIEF**

##### **VIOLATION OF THE DUE PROCESS CLAUSE OF THE U.S. CONSTITUTION**

21. Petitioner re-alleges and incorporates by reference the paragraphs above.
22. Petitioner’s detention violates substantive and procedural due process guarantees of the U.S. Constitution, as there is no legal basis for detaining someone granted withholding of removal pursuant to the Convention Against Torture and not subject to imminent removal.
23. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty without due process of law.” U.S. Const. Amend. V.
24. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [non-U.S. citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas, supra* at 693 (2001). For this reason, even “removable and inadmissible [non-U.S. citizens] are entitled to be free from detention that is arbitrary and capricious,” *Id.* at 721 (Kennedy, J., dissenting). That Constitutional protection is unaffected by the

government's authority to make rules for "admission" that regulate the immigration status of noncitizens. *See* 8 U.S.C. § 1101(a)(13)(A) (defining admission as "the lawful entry of the alien").

25. "A statute permitting indefinite detention of a [non-U.S. citizen] would raise a serious constitutional problem" under the Fifth Amendment's Due Process Clause. *Id.* at 690. That serious constitutional problem is raised by the government's reading of § 1225(b). It apparently interprets the statute to permit the indefinite detention of a noncitizen whom the government has not found to be removable or inadmissible, but instead granted the right to remain in the United States indefinitely.
26. In *Zadvydas, supra*, the Supreme Court rejected the government's argument that its immigration powers permit it to indefinitely detain noncitizens after the conclusion of removal proceedings. *Id.* at 695.
27. A person like Petitioner, granted withholding of removal pursuant to CAT by an immigration judge, is entitled to be free from arbitrary and capricious detention under the Due Process Clause.
28. Moreover, Petitioner has been at liberty in the United States for many years and has been protected from removal to her country since March 2025. Respondents have not demonstrated any evidence as to why they are disrupting the status quo. Respondents maintain the burden to show why they are violating Petitioner NUNEZ-MINCHAN 's constitutional, inter alia, rights.
29. Petitioner's detention is unreasonable based on the facts and circumstances of petitioner's case, including her current protected status pursuant to the grant of withholding of removal pursuant to CAT, lack of a criminal record, or ongoing removal proceedings. *Sopo*, 825

F.3d at 1217-19 (outlining factors that govern when mandatory detention becomes prolonged).

30. Under either a bright-line rule or the facts and circumstances of this case, Petitioner's detention is unreasonable. This Court should therefore order Immigration and Customs Enforcement to release Mrs. NUNEZ-MINCHAN.
31. Further, preventive detention is only constitutional when "subject to strong procedural protections." *Zadvydas, supra* at 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71 (1992) (striking down civil commitment statute for placing the burden on the detainee)).

### **SECOND CLAIM FOR RELIEF**

#### **VIOLATION OF 28 U.S.C. § 1361 (Writ of Mandamus)**

32. Petitioner re-alleges and incorporates by reference the paragraphs above.
33. ICE has a non-discretionary duty to recognize and honor the grant of withholding of removal pursuant to the United Nations Convention Against Torture granted by a Maryland immigration judge and provides protection to individuals, like the Petitioner.
34. Petitioner's detention, despite having been granted withholding of removal, is an abuse of discretion and is unlawful.
35. For these reasons, this Court should order Immigration and Customs Enforcement to immediately release Petitioner NUNEZ-MINCHAN from detention based on her current protected status as a CAT withholding of removal recipient with no criminal record, a U.S. citizen son, husband, daughter, strong family and community ties within Maryland. She is not a danger to the community, nor is she likely to abscond due to her ties here in the community, including local counsel and employment.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

- 1) Assume jurisdiction over this matter;
- 2) Grant a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, on reasonable conditions of supervision if necessary;
- 3) Order Respondents to show cause, returnable within three days pursuant to 28 U.S.C. §2243, as to why the relief requested in this petition should not be granted;
- 4) Declare the Petitioner's continued detention is unlawful and violates, inter alia, Due Process;
- 5) Grant a Temporary Restraining Order restricting Respondents from transferring Petitioner out of Maryland until further order;
- 6) Award Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, other statutes; and
- 7) Grant such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Ronald D. Richey

Ronald D. Richey, Esq.  
MD Bar# 0906240005  
Law Office of Ronald D. Richey  
19785 Crystal Rock Dr., Ste. 307  
Germantown, MD 20874  
T: (301) 738-2338  
info@immigrationlawrichey.com  
Attorney for Petitioner