

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

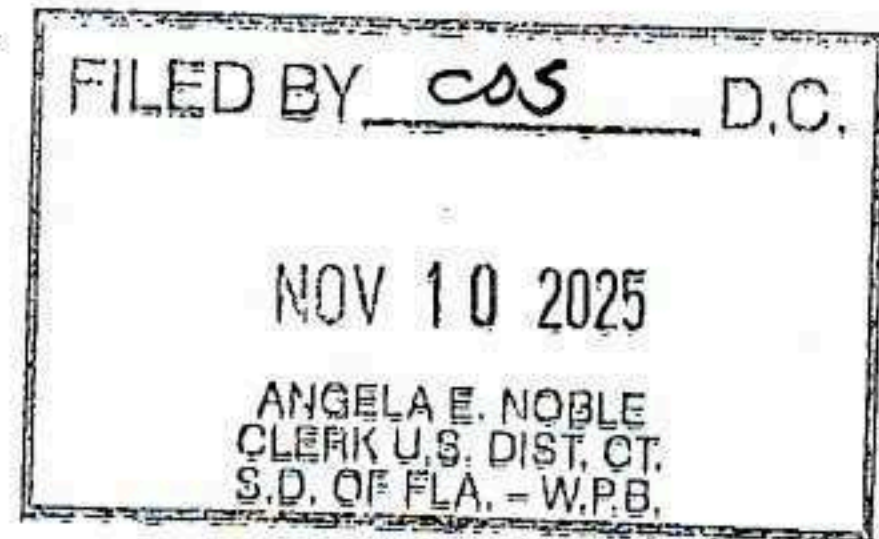
## UNITED STATES DISTRICT COURT

for the

NELY YOHANA TORRES-HUETE  
Petitioner

v.

Case No.



(Supplied by Clerk of Court)

Juan E. Gonzalez, Warden, GEO, et seq.  
Respondent  
(name of warden or authorized person having custody of petitioner)

## PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

## Personal Information

1. (a) Your full name: NELY YOHANA TORRES-HUETE  
(b) Other names you have used: N/A
2. Place of confinement:  
(a) Name of institution: Broward Transitional Center  
(b) Address: 3900 N. Powerline Rd. Pompano Beach, FL 33073  
(c) Your identification number: A- [REDACTED]
3. Are you currently being held on orders by:  
☒ Federal authorities      ☐ State authorities      ☐ Other - explain: \_\_\_\_\_
4. Are you currently:  
☐ A pretrial detainee (waiting for trial on criminal charges)  
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime  
If you are currently serving a sentence, provide:  
(a) Name and location of court that sentenced you: \_\_\_\_\_  
(b) Docket number of criminal case: \_\_\_\_\_  
(c) Date of sentencing: \_\_\_\_\_  
☒ Being held on an immigration charge  
☐ Other (explain): \_\_\_\_\_

## Decision or Action You Are Challenging

5. What are you challenging in this petition:  
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

- ☐ Pretrial detention  
☒ Immigration detention  
☐ Detainer  
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)  
☐ Disciplinary proceedings  
☐ Other (explain): \_\_\_\_\_

6. Provide more information about the decision or action you are challenging:
- (a) Name and location of the agency or court: Department of Homeland Security (DHS)  
Immigration Customs Enforcement
- (b) Docket number, case number, or opinion number: A- [REDACTED]
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):  
Re-detainer imposed on August 9, 2025, following an Immig-  
ration Court order granting CAT protection.
- (d) Date of the decision or action: August 9, 2025

## Your Earlier Challenges of the Decision or Action

## 7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes                      ☐ No

(a) If "Yes," provide:

- (1) Name of the authority, agency, or court: Mr. Garret Ripa, District Director  
Enforcement and Removal Operations
- (2) Date of filing: June 8, 2025
- (3) Docket number, case number, or opinion number: A- [REDACTED]
- (4) Result: N/A
- (5) Date of result: N/A
- (6) Issues raised: Lack of Notice, and articulation of fear of perse-  
cution or torture in identified countries and Demand for stay  
of Removal and Reopening if DHS intends to remove to any of  
the identified countries.

(b) If you answered "No," explain why you did not appeal: \_\_\_\_\_

## 8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes                      ☒ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not file a second appeal: \_\_\_\_\_

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not file a third appeal: \_\_\_\_\_

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Date of filing: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes☒ No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Date of filing: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: \_\_\_\_\_

# 11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☒ Yes☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: August 9, 2025(b) Date of the removal or reinstatement order: August 28, 2020

(c) Did you file an appeal with the Board of Immigration Appeals?

☒ Yes☐ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

If "Yes," provide:

(1) Date of filing: September 25, 2020(2) Case number: A - [REDACTED](3) Result: N/A - Pending(4) Date of result: N/A(5) Issues raised: N/A

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes☒ No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Case number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

## 12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: \_\_\_\_\_

(b) Name of the authority, agency, or court: \_\_\_\_\_

(c) Date of filing: \_\_\_\_\_

(d) Docket number, case number, or opinion number: \_\_\_\_\_

(e) Result: \_\_\_\_\_

(f) Date of result: \_\_\_\_\_

(g) Issues raised: \_\_\_\_\_

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

**Grounds for Your Challenge in This Petition**

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND 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 Due Process Clause of the Fifth Amendment of the U.S. Constitution.

(a) Supporting facts (Be brief. Do not cite cases or law.):

See Memorandum in Support attached, as Petition for Writ of Habeas Corpus.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☒ No

**GROUND TWO:** Petitioner is in Detention of the Statute and Regulations, the Accordi Doctrine and the Due Process Clause of the Fifth Amendment of the United States Constitution.

(a) Supporting facts (Be brief. Do not cite cases or law.):

See Memorandum in Support attached, as Petition for Writ of Habeas Corpus.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

**GROUND THREE:** N/A

(a) Supporting facts (Be brief. Do not cite cases or law.):

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

GROUND FOUR: N/A

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

#### Request for Relief

15. State exactly what you want the court to do: Issue an Order: 1) Declaring that petitioner's continued detention is not authorized by the INA and/or violates the Fifth Amendment, 2) Granting this petition for Writ of Habeas Corpus and releasing petitioner under an Order of Supervision, 3) Grant any other and further relief this Court may deem appropriate.

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

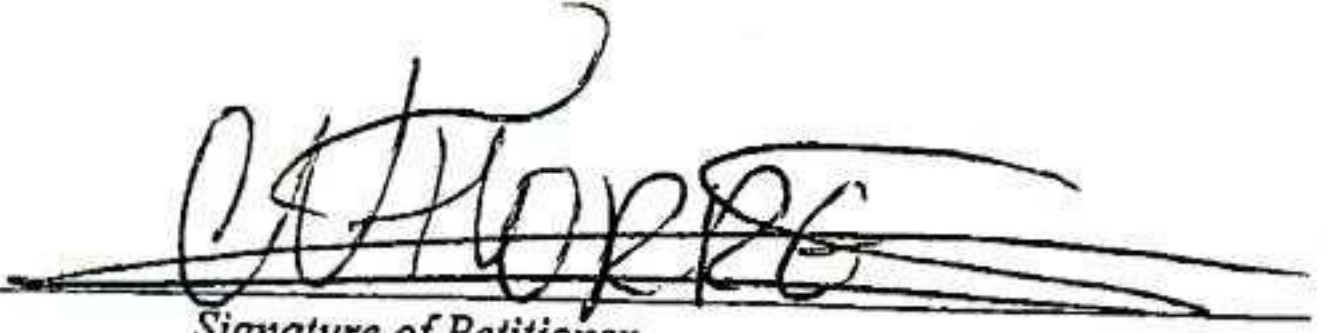
**Declaration Under Penalty Of Perjury**

If you are incarcerated, on what date did you place this petition in the prison mail system:

On this day November 07, 2025

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 11/07/2025

  
Signature of Petitioner

\_\_\_\_\_  
Signature of Attorney or other authorized person, if any

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

**NELY YOHANA TORRES-HUETE**  
Plaintiff / Petitioner,

Case No.: \_\_\_\_\_

v.

**PAMELA BONDI**, United States Attorney General;  
**HAYDEN O'BYRNE**, U.S. Attorney for Southern  
District of Florida, **GARRET J. RIPA**, Acting  
Executive Associate Field Office Director for the ICE  
Miami Office of Enforcement and Removal Operations;  
**JUAN F. GONZALEZ**, Acting Field Officer Director  
of the ICE Field Office and Office in charge, Broward  
Transitional Center, Pompano Beach, Florida; **TODD  
LYONS**, Acting Director of the United States  
Immigration and Customs Enforcement; and **KRISTI  
NOEM**, Secretary of the United States of Department of  
Homeland Security.

Defendants / Respondents.

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**PETITION FOR WRIT OF HABEAS CORPUS AND EMERGENCY MOTION FOR  
IMMEDIATE TEMPORARY RESTRAINING ORDER**

**INTRODUCTION**

1. Petitioner Nely Yohana Torres-Huete ("Ms. Torres-Huete") is a native and citizen of Honduras, who has resided in the United States for the past thirteenth (13) years alongside her U.S. citizen family members.

2. Petitioner was first taken into the respondent's custody on March 30, 2017, and her 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, under Article 3 of the Convention Against Torture ("CAT") pursuant to 8 C.F.R. §

208.17(a), thereby deferring the execution of her removal order to Honduras on a finding that is more likely than not to be tortured if returned. On November 1, 2017, the petitioner was released on Bond.

3. Since September 25, 2020 the Petitioner's appeal is being reviewed by the Board of Immigration Appeals without a decision. To date, in the five that the Petitioner's appeal is being reviewed by the Board; thereby the removal order is final as of the date of the DHS's decision to revoke the petitioner's Bond. The DHS has failed to identify, or propose a viable third country alternative for removal; particularly one where Ms. Torres-Huete would be protected from detention and torture by the Honduran Government, its affiliates, or the government of the third country. More specifically, no third country has been provided to Ms. Torres-Huete prior her unlawful detention by Immigration and Customs Enforcements ("ICE"), nor was Ms. Torres-Huete provided any assurances she would not be tortured in a third country nor provided an opportunity to present or contradict any such assurances. The likelihood of Ms. Torres-Huete being tortured has only increased.

4. On August 9, 2025 her Bond was revoked and has remained in (DHS) custody continuously since that date. She was taken into custody without explanation and is currently being detained at Broward Transitional Center.

5. In detaining, Ms. Torres-Huete ICE violated his due process in failing to comply with the statutory requirements required to revoke an Order of Supervision outlined in 8 C.F.R. 241.4(1)(2), Ms. Torres-Huete has never violated the terms of her supervision, and the conditions supporting Ms. Torres-Huete's release on supervision have not changed. Thus, any subsequent detention by ICE was and is unlawful.

6. In the light of there being no change in circumstances or third country designation that assures Ms. Torres-Huete will not be tortured, there is no significant likelihood of removal in the reasonably foreseeable future, and continued detention violates the fundamental constitutional protection of due process and those established in *Zadvydas v. Davis*, 533 U.S. 678 (2001). In *Zadvydas*, the Supreme Court held that the government may not detain individuals indefinitely where removal is not reasonably foreseeable. Given Ms. Torres-Huete's ongoing CAT protection and the lack of any identified removal destination, her detention is both arbitrary and unlawful.

7. Petitioner, Ms. 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(I)(1) 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). And in support of this Petition and Complaint, petitioner alleges as follows:

### **CUSTODY**

8. Petitioner satisfies the "in custody" requirement for habeas review because she is currently being physically detained by ICE-ERO at the Broward Transitional Center, Pompano Beach, Florida.

### **JURISDICTION**

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1651 (All the Writs Acts), 28 U.S.C. § 1331 (federal question) and the U.S. Constitution, art I § 9, cl. 2 (Suspension Clause). While the courts of appeals have jurisdiction to review removal orders directly through petitions for review, 8 U.S.C. § 1252(a)(1), (b), the federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas corpus claims by aliens challenging "the constitutionality of the entire statutory scheme under the Fifth Amendment." <sup>1</sup> This case arises under the United States Constitution; the immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*, and the Due Process Clause of the Fifth Amendment. This Court has remedial authority under its inherent authority and the All Writs Act, 28 U.S.C. § 1651.

10. Furthermore, 28 U.S.C. § 2241 authorizes district courts to grant writs of habeas corpus to individuals "in custody in violation of the Constitution or laws or treaties of the United States." Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention; as well as claims by noncitizens seeking to protect their due process rights. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 840-41 (2018); *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Petitioner is currently detained by U.S. Immigration Custom Enforcement (“ICE”) within this judicial district, satisfying the “custody” requirement at the time of filing. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

11. This court further has jurisdiction under Article, Section 9, Clause 2 of the U.S. Constitution, the Suspension Clause, which guarantees the availability of the writ of habeas corpus except in cases of rebellion or invasion.

12. 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).

13. Jurisdiction exists in this Court pursuant to 28 U.S.C. § 2241 et seq., 28 U.S.C. § 1331, the APA, 5 U.S.C. § 701 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1361.” Officials must comply with the requirements of applicable regulations...Because they failed to do here, Petitioner may demonstrate entitlement to a writ of habeas corpus...§ 2241 confers jurisdiction upon the federal courts to hear challenges to the lawfulness of immigration detention” *Grigorian v. Bondi*, 2025 U.S. LEXIS 175489 (S.D. Fla. Sep. 9, 2025). Accordingly this court has jurisdiction to hear “Petitioner’s claim that her detention is unlawful under 28 U.S.C. § 2241”).

14. The claims raised herein are not barred by 8 U.S.C. § 1252, as Petitioner is not challenging the validity of the final order of removal, but rather the legality of detention in the absence of a foreseeable removal and in violation of Due Process under the Fifth Amendment. See *Clark v. Martinez*, 543 U.S. 371 (2005) (extending *Zadvydas* to inadmissible aliens).

<sup>1</sup> *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018). District courts also have jurisdiction to review “collateral challenges to unconstitutional practices and policies” used by Respondents in reaching their detention. *McNary v. Haitian Refugee Ctr., Inc.* 498 U.S. 479, 896 (1991).

## VENUE

15. Venue is Proper because Petitioner's detention and removal proceedings have all occurred in the Southern District of Florida, 28 U.S.C. § 1391(e)(1)(B). Venue is also proper because the Petitioner resides in Pompano Beach, Florida, which is in the Southern District of Florida, and Ms. Ms.Torres-Huete is detained in ICE Custody in the Southern District of Florida, 28 U.S.C. § 1391(e)(1)(C) and 28 U.S.C. § 2241(d).

## PARTIES

16. 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.

17. Respondent-defendant Pamela Bondi is the attorney General for the United States Justice Department. Ms. Bondi is the official ultimately responsible with proper enforcement of federal immigration law. She is sued in her official capacity.

18. Respondent-defendant Hayden O'Byrne, is the U.S. Attorney for Southern District of Florida. He is the Chief federal law enforcement officer in the District. He is sued in her official capacity.

19. Respondent-defendant Mr. Garrett Ripa, is the Acting Field Office Director for the ICE Miami Office of Enforcement and Removal Operations ("ICE ERO"). In this capacity, he has jurisdiction over petitioner and is a legal custodian of Petitioner. He is sued in his official capacity.

20. Respondent-defendant Mr. Juan F. Gonzalez is the Acting Filed Office Director for the Miami Field Office of the U.S. Immigration and Customs Enforcements ("ICE") in the Broward Transitional Center. Mr. Gonzalez is responsible for effectuating Petitioner's removal from the United States and their immediate custodian. He is sued in his official capacity.

20. Respondent-defendant Todd Lyons, is the Acting Director of the United States Immigration and Customs Enforcement ("ICE"). In his capacity, he has responsibility for the enforcement of the immigration laws, including detention and removal. As such, he is a legal custodian of Petitioner, Mr. Lyons is sued in his official capacity.

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

### **FACTUAL AND PROCEDURAL HISTORY**

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

23. 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.

24. Petitioners appeal is being reviewed by the Board of Immigration Appeals since September 25, 2020, and without a decision by the Board after five years on appeal, as of the date of the DHS's decision to revoke the petitioner's Bond.

25. 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.

26. 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.

27. To date, however, ICE has been unable to remove petitioner to Honduras or any other country. Despite this, Ms. Torres-Huete was detained by ICE. Petitioner was not informed as to the reason her Order of Supervision was being revoked. Revocation of Petitioner's Order of Supervision was without cause and she was not provided with an opportunity to review and oppose the arbitrary revocation of her Order of supervision, against her due process rights, because noncitizens "will be advised of the immigration consequences of a conviction," as defense counsel is required to do under *Padilla v. Kentucky*, 559 U.S. 356, 130 S. Ct. 1473, 176 L. Ed. 2d 284 (2010).

28. Ms. Torres-Huete has not violated the terms of her Order of Supervision and the conditions of Honduras have not changed so as to undermine the basis of Ms. Torres-Huete's protection under CAT and warrant her detention.

29. Conditions in Honduras have not improved so as to merit any future termination of Ms. Torres-Huete's CAT grant. In fact, the relationship between the U.S. and Honduras, as has been widely reported on international news, has only gotten worse. Therefore, there is no foreseeable way that Ms. Torres-Huete could be removed to Honduras without removal resulting in Torture.

30. Neither ICE not DHS has established or provided notice of any third country where she would free from the risk of torture. To detain Ms. Torres-Huete indefinitely without any previous identification of a third country, a hearing on that third country, a change in country conditions, or a violation of her Order of Supervision is an arbitrary and unlawful detention that violates Ms. Torres-Huete's constitutional rights.

31. Ms. Torres-Huete is being held at Broward Transitional Center with no significant or lawful likelihood of removal in the reasonably foreseeable future, and continued detention violates her constitutional protections.

### STATEMENT OF LAW

32. The Due Process Clause of the Fifth Amendment states that “[n]o person shall be... deprived of life, liberty, or property without due process of law.” U.S. Const. Amend. V. “Freedom from imprisonment—from government custody, detention, or other form of physical restraint—lie at the heart of the liberty that [the Due Process’] Clause protects.”<sup>2</sup> This applies to everyone in this country, including aliens.<sup>3</sup>

33. Pursuant to 8 C.F.R. § 241.4(I)(1), ICE may revoke an Order of Supervision only if the conditions supporting release no longer exist. Under 8 C.F.R. § 241.13(i)—which governs release in prolonged detention cases---a previously released individual may only be re-detained based on new evidence or a material change in circumstances, such as the identification of a viable removal destination.

34. Furthermore, ICE must document the basis for revocation and provide procedural safeguards. As stated in 8 C.F.R. § 241.4(I)(1) “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 and the reasons for revocation stated in the revocation.” DHS failed to comply with this notification requirement.

35. Arbitrary or unexplained revocation---especially without identifying a third country for removal---violates both agency regulations and due process protections under the Fifth Amendment. See *Castaneda v. Souza*, 810 F.3d 15, 43 (1<sup>st</sup> Cir. 2015) (en banc) (recognizing liberty interest in avoiding arbitrary immigration detention); *Doiuf v. Napolitano*, 634 F.3d 1081, 1086 (9<sup>th</sup> Cir. 2010) (recognizing procedural due process right in prolonged detention under § 241).

36. Ms. Torres-Huete was suddenly and without explanation detained after years of full compliance with her Supervision Order. There was no notice of alleged violations, no opportunity

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<sup>2</sup> *Zadvydas v. Davis*, 533 U.S. 678 (2001)

<sup>3</sup> *Id.* at 693 (“[T]he Due Process clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful [or] unlawful....”); *Reno v. Florida*, 507 U.S. 292, 306 (1993) (“the Fifth Amendment entitles aliens to due process of law in deportation proceedings”).

to rebut the government’s reasoning, and no indication that any viable removal country had been identified. The revocation of her Order of Supervision and/or her subsequent detention without formal revocation of her Order of Supervision was therefore unreasonable, arbitrary, and unconstitutional.

37. Furthermore, an individual granted Deferral of Removal under the Convention Against Torture (CAT) under 8 C.F.R. § 208.17(a) cannot lawfully be removed to the country to which their removal is deferred. In such cases, the government may not indefinitely detain the individual without identifying an alternatively country for removal and establishing that removal is significantly likely in the reasonably foreseeable future.

38. Additionally, pursuant to 8 C.F.R. § 1240.10(f), the immigration judge must identify for the record a country, or countries in the alternative, to which a respondent may be removed if the designated country will not accept them. Here, the immigration judge did not identify *any other country* to which Ms. Torres-Huete could reasonably be removed without being subject to torture. This is because there is no third country alternative to which Ms. Torres-Huete can be removed without being subject to torture. The silence of the immigration judge in his order is no mistake and should not be taken as error or construed in any other manner. It was an intentional omission, as evidenced by the immigration judge crossing out the words “or in the alternative to” when indicating the country of removal is Honduras, as there is not third country alternative. Ms. Torres-Huete will only be safe in the United States.

39. In *Zadvydas*, the Supreme Court held that detention beyond 180 days after a final order of removal is presumptively unreasonable where there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701. The court extended this protection to all noncitizens ordered removed, regardless of inadmissibility. See *Clark v. Martinez*, 543 U.S. 371, 386(2005).

40. Here, Petitioner’s deferral of removal to Honduras remains in effect, and the immigration judge did not designate a third country of removal. No alternative country can be identified. DHS has failed to reopen Ms. Torres-Huete’s CAT proceedings and has failed to obtain a new order of removal with a proper third country designated. ICE and DHS have failed to provide Ms. Torres-Huete with any advance notice of a third country of removal and has failed to provide Ms. Torres-Huete with the requisite due process to ensure she is not tortured in any third country that

she is potentially removed to. This is a stark violation of Ms. Torres-Huete's constitutional protections under the Fifth Amendment and Ms. Torres-Huete's rights to the due process. Ms. Torres-Huete is entitled to notice and the opportunity to be heard as to her CAT claim as it relates to any alternative country of removal.<sup>4</sup>

41. Moreover, it has been more than 180 days since Ms. Torres-Huete was ordered removed and thus, her continued detention violates the constitutional limits established in *Zadvydas*.

42. Due Process under the Fifth Amendment requires reasonable notice and an opportunity to be heard. Before Ms. Torres-Huete can be removed to any third country, such a hearing must occur. The right to be heard before being condemned to suffer grievous loss of any kind is a principle basic to society. *Mathews v. Eldridge*, 424 U.S. 319 (1976). Ms. Torres-Huete has been in the United States for over thirteen years. Any removal from the United States would result in Ms. Torres-Huete's torture and/or death as was already determined by an immigration judge. To now detain Ms. Torres-Huete and attempt to deport her to an unknown and unidentified third country where it has not been determined that Ms. Torres-Huete will be safe is arbitrary, unlawful, and a violation of Ms. Torres-Huete's constitutional and human rights.

### **IRREPARABLE INJURY**

43. Petitioner is suffering and will continue to suffer irreparable injury from her unreasonable and arbitrary detention. Every day that she is held in violation of her due process rights, she suffers further injury which is irreparable.

44. Ms. Torres-Huete is at risk of losing her family; her son and her sisters all citizens and her husband and daughter all legal resident of the United States; who suffer from significant medical ailments and are suffering extreme hardship and injury from the arbitrary detention of her mother.

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<sup>4</sup> The Supreme Court's recent decision in *Dep't of Homeland Sec. v. D.V.D.*, 602 U.S. (2025)(granting stay) does not preclude individual petitions for habeas, it merely precludes the universal injunction on the matter.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES**

45. Petitioner is being held in detention in violation of the law. She is entitled to immediate release. She has exhausted all available administrative remedies and there are no further administrative remedies available to her.

46. However ICE failed to comply with the required procedures, thereby violating the Petitioner's due process rights. In the light of the decision rendered in *Grigorian v. Bondi*, 2025 U.S. LEXIS 175489 (S.D. Fla. Sep. 9, 2025); her detention is unlawful because her detention violates the regulations set forth in 8 C.F.R. § 241.4(I) 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). She has exhausted all available administrative remedies.

47. If released, petitioner will reside at 16 B Pine Hill Ln. Palm Coast Florida, 32164, which: 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) Petitioner's release would not cause serious adverse foreign policy consequences. See 8 C.F.R. 241.14(c)(1)(ii). There is no indication that Petitioner's 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 her 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).

48. As a person in the United States, petitioner is protected by the Due Process Clause of the Fifth Amendment. ICE has detained petitioner for more than two months since the issuance of her final order of removal. There is no significant likelihood that petitioner's removal will occur in the reasonably foreseeable future, since that the appeal proceeding continues being delayed by three years, and without decision by the Board of Immigration Appeal. Petitioner does not pose a danger to the community or a risk for flight, and no special circumstances exist to justify her continued detention. As Petitioner is not dangerous, not a flight risk, and cannot be removed, her indefinite detention is not justified and violates substantive due process. See *Zadvydas*, 533 U.S. at 690-91.

49. The *Accardi* doctrine-derived from *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954)" stands for the unremarkable proposition that an agency must abide by its own regulations...). It is well settled that the regulations which the Service promulgates have the force and effect of law and are binding on the Service and the Immigration Court. This change in policy with regard to the respondent:

- a) Was arbitrary and capricious; "under the APA because the Acting Secretary offered no reason for terminating the forbearance policy" *Department of Homeland Security v. Regents of Univ. of Cal.*, 591 U.S.140 S. Ct. 1891(2019). This change in the current policy to proceed 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 (2<sup>nd</sup> Cir. 1991).
- b) Was contrary to law and agency rules; because ICE is detaining petitioners in violation of a Department of Homeland Security "DHS" regulation, section sections 8 C.F.R. 241.4(I)(1) and 8 C.F.R. 241.13.
- c) Unreasonably delayed or unlawfully withheld adjudication of respondent imprisonment, See also, *Bridges v. Wixon*, 326 U.S. 135 (1945) (deportation order vacated because of noncompliance with evidentiary requirements). "Whether the Services violation of a regulation is a per se due process violation" cf. *Vitarelli v. Seaton*, 359 U.S. 535 (1959); *Service v. Dulles*, 354 U.S. 363 (1957). A "Violation of a regulatory requirement by a Service officer can result in evidence being excluded or proceedings invalidated where the regulation in question serves a purpose of benefit to the alien and the violation prejudiced interests of the alien which were protected by the regulation." *Matter of*

*Garcia-Flores*, 17 I&N Dec. 325 (BIA 1980). Here, the violation of the *Accardi* doctrine constitute “a violation of the Fifth Amendment's Due Process Clause” *Gayle v. Meade*, 2020 U.S. Dist. LEXIS 76040 (S.D. Fla., April 30, 2020).

50. 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 (2<sup>nd</sup> Cir. 1991).

51. 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.

52. 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, due to ICE Failure to follow its own procedural regulations which constitute a due process violation. ICE’s failure to provide

Petitioner with a timely Notice of Revocation or conduct an informal interview 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. Granting this petition for a Writ of Habeas Corpus and releasing petitioner from custody immediately;

2. Grant any other and further relief this Court may deem appropriate.

**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: November 07, 2025



Nely Yohana Torres-Huete

Pro se Petitioner

A#:

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 November 07, 2025.

Respectfully Submitted:



Nely Yohana Torres-Huete

Pro se Petitioner

A#:

Broward Transitional Center

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Label 228, December 2023

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