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15 UNITED STATES DISTRICT COURT
16 FOR THE CENTRAL DISTRICT OF CALIFORNIA
17

18 BEATRIZ A. FLORES MOTA
19 Plaintiffs and Petitioners,
20
21

22 vs.
23

24 JAMES JANECKA, Warden of the Adelanto
25 Detention Center; ERNESTO SANTACRUZ,
26 Director of the Los Angeles Field Office,
27 United States Immigration and Customs
28 Enforcement; PAM BONDI, Attorney
General, United States Department of Justice;
KRISTI NOEM, Secretary, United States
Department of Homeland Security; TODD
LYONS, Acting Director of United States
Immigration and Customs Enforcement; and
DOES 1-5

Defendants-Respondents

Case No.:

Hon:

WRIT OF HABEAS CORPUS
AND COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

AND

EX PARTE REQUEST FOR
TEMPORARY RESTRAINING
ORDER

WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND EX PARTE REQUEST FOR TEMPORARY RESTRAINING ORDER - 1

INTRODUCTION

1. This case challenges the unlawful and punitive detention of Plaintiff-Petitioner, who is currently in the custody of Immigration and Customs Enforcement (“ICE”) at the Adelanto Detention Center, Adelanto, California. Petitioner is neither a flight risk nor a danger to the community.

2. Unless the Court orders Petitioner’s immediate release, she will continue to be subjected to unlawful and punitive detention.

3. Plaintiff-Petitioner is not challenging or seeking judicial review of the initiation of removal proceedings, the way her respective removal proceedings are or would be conducted, or the adjudication of immigration relief by the EOIR or USCIS.

4. Through their uniform practices Respondents violate the rights of Petitioner under the due process and equal protection guarantees of the U.S. Constitution, the INA and its regulations, and the Administrative Procedure Act.

JURISDICTION AND VENUE

5. This action arises under the Constitution of the United States; the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570 [hereinafter ‘INA’]; and Administrative Procedure Act, 5 U.S.C. §§ 701 et seq [hereinafter “APA”].

6. This Court has further jurisdiction under 28 U.S.C. § 2241, 2243, 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 color of the authority of the

1 United States based on the service of a Notice to Appear, and such custody is in
2 violation of the Constitution, laws, or treaties of the United States.

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5 7. This Court also may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. §
6 702, and the All Writs Act, 28 U.S.C. § 1651.

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9 8. This court has further remedial authority pursuant to the Declaratory
10 Judgment Act, 28 U.S.C. § 2201 et seq..

11
12
13 9. The use of the Writ of Habeas Corpus to challenge detention by ICE is not
14 foreclosed by the REAL ID Act. The REAL ID Act of 2005, Pub. L. 109-13, 119
15 Stat. 231 (May 11, 2005), Title I, Section 106(c), amending INA §§ 242(a)(2)(A),
16 (B), (C) and § 242(g), only deprives the district court of habeas jurisdiction to
17 review orders of removal, not challenges to detention or the denial of constitutional
18 rights. *See INS v. St. Cyr*, 533 U.S. 289, 364-65 (2001) (“The writ of habeas corpus
19 has always been available to review the legality of executive detention.”).
20
21
22

23 10. This Court could enjoin federal officials pursuant to *Ex Parte Young*, 209
24 U.S. 123 (1908). *See Philadelphia Co. v. Stimson*, 223 U.S. 605, 619-21 (1912)
25 (applying *Ex Parte Young* to federal official); *Goltra v. Weeks*, 271 U.S. 536, 545
26 (1926) (same).

27 11. Plaintiff-Petitioner has exhausted all administrative remedies to the extent
28 available and required by law.

12. Venue properly lies within the Central District of California, because each
named Defendant-Respondent is present in this district and a substantial part of the
events or omissions giving rise to this action occurred and continue to occur in this
District. *See 28 U.S.C. §1391(b)*. Moreover, Petitioner is currently detained within

1 this district to wit, at the Adelanto Detention Facility located at 10400 Rancho
2 Road, Adelanto, CA 92301. Accordingly, the “restraint complained of” is
3 occurring within the Court’s territorial jurisdiction. *See* 28 U.S.C. § 2241(a)
4

5
6
7 13. No petition for habeas corpus has previously been filed in any court to
8 review this the named Plaintiff-Petitioner’s detention.
9

10 **PARTIES**

11
12
13 14. Plaintiff-Petitioner Beatriz A Flores Mota is a 44-year-old national and
14 citizen of Mexico who was violently arrested by ICE on or about 22 October 2025
15 after she dropped her two United States citizen children to school. She was arrested
16 without a probable cause or a warrant, and detained without Respondents
17 providing her an opportunity to be heard, and/or to be represented by counsel.
18
19

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21
22 15. The U.S. Department of Homeland Security (“DHS”) is a cabinet
23 department of the United States federal government with the primary mission of
24 securing the United States.
25
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16. ICE is an agency within DHS with the primary mission of arresting,
detaining, and removing non-citizens physically present within the territory of the
United States. ICE is also responsible for the custody and care of all detained non-
citizens awaiting resolution of their immigration cases or removal after a final
order of removal had been entered.

17. Defendant Kristi Noem is the Secretary for DHS. In this capacity, Ms. Noem
has responsibility for the administration of immigration laws pursuant to 8 U.S.C.

1 §1103(a), has authority over ICE and its field offices, and has authority to order the
2
3 release of Plaintiff-Petitioner. At all times relevant to this Complaint,
4
5 Defendant Noem was acting within the scope and course of her position as the
6
7 Secretary for DHS. Defendant Noem is sued in her official capacity.
8

9 18. Defendant-Respondent Todd Lyons is the Acting Director and Senior
10
11 Official Performing the Duties of the Director of ICE. Defendant Lyons is
12
13 responsible for the implementation of all ICE's policies, practices, and procedures,
14
15 including those relating to detention of non-citizens. Defendant Lyons is a legal
16
17 and immediate custodian of Plaintiff. At all times relevant to this Complaint,
18
19 Defendant Lyons was acting within the scope and course of his position as an ICE
20
21 official. He is sued in his official capacity.
22

23 19. Defendant-Respondent Ernesto Santacruz is the Acting Director of the Los
24
25 Angeles Field Office of ICE, which has immediate custody of Plaintiff-Petitioner.
26
27 He is sued in his official capacity.
28

20. Defendant James Janecka is the warden of the Adelanto Detention Facility in
San Bernardino County, where Plaintiff-Petitioner is currently detained. Defendant
Janecka is the immediate, physical custodian of Plaintiff. He is named in his
official capacity.

21. The true names or capacities, whether individual, corporate, associate or
otherwise, of the Defendants-Respondents named herein as Does 1 through 5 are
unknown to Plaintiff-Petitioner, who therefore sues said Respondents by such
fictitious names, and Plaintiff will amend this Complaint to show their true names

1 and capacities when ascertained. Does 1 through 5 are the immediate, physical
2
3 custodians of Plaintiff
4

5 **FACTS RELEVANT TO ALL CAUSES OF ACTIONS**
6

7 22. Plaintiff-Petitioner Beatriz A Flores Mota is a national and citizen of Mexico
8
9 who last entered the United States without inspection approximately 14 years ago
10
11 and has resided in the Southern California area ever since. Exhibit A. Her husband
12
13 has an application for asylum pending and is employment authorized November of
14
15 2018. See Exhibit C. Petitioner is a derivative applicant of her husband application
16
17 for asylum.
18
19

20
21 23. Petitioner has two United States citizen children born in 2010 and 2016
22
23 respectively who are severely autistic. See Exhibit A & B. Petitioner is their
24
25 primary caregiver. *Id.*
26
27

28 24. In December 2024 Petitioner filed a Form 918, Application for T Visa. See
Exhibit D. Upon examination, on 31 January 2025 USCIS determined that
Petitioner's application for T nonimmigrant status is bona fide. *Id.* In the bona fide
determination notice USCIS notified Petitioner that "any final order of removal,
deportation, or exclusion is automatically stayed because your application has been
determined to be bona fide" as of the date of the Notice. *Id.* Thus, even if a final
order of removal is ultimately issued, Respondent cannot execute said order. *See*
Id.

1 25. The current processing times for T visa ranges from 17.5 to 38 months and
2
3 often much longer depending of the complexity of the application. See
4
5 www.uscis.gov
6

7
8 26. Neither USCIS nor Respondents imposed any restrictions on Petitioner's
9
10 liberty since 24 December 2024 and did not even require Petitioner to appear for
11
12 check-ins.
13

14
15 27. With full knowledge that Petitioner's I-918 had been deemed *bona fide* and
16
17 while her request for deferred action was under consideration by USCIS, exhibit E,
18
19 on 22 October 2025 Respondents targeted Petitioner for a violent arrest.
20

21
22 28. On 22 October 2025 after Petitioner dropped her son Eathan to his school
23
24 Petitioner walked peacefully towards her car parked two blocks from the school.
25
26 Exhibit A at ¶ 12. Petitioner was suddenly accosted by three masked individuals
27

28 who demanded that she provide her ID. *Id.* The individuals did not identify
themselves but Petitioner saw a POLICE ICE insignia on their military vests. *Id.*

29. Petitioner showed the officers her T-visa bona fide determination which had
been carrying on her at all times. The officers disregarded the notice and forced
Petitioner's "car door open and grabbed her out of my car" because the officer saw
Petitioner videotaping the incident. *Id.* at para 13. The officers forcefully took
Petitioner's phone, restrained her, and took her into custody. *Id.*

1 30. Petitioner was not allowed to call her husband nor her immigration lawyer.

2
3 31. After been held incommunicado for 3 days, Petitioner was transferred to the
4
5 Adelanto detention facility where she remains in detention.
6

7
8 32. Plaintiff-Petitioner was not charged with any crime.
9

10 33. Plaintiff-Petitioner was not interviewed prior to being deprived on her
11
12 liberty nor did Respondents allow Petitioners to contact her counsel of record, or to
13
14 provide a response and rebut the grounds of flight risk or dangerousness.
15
16

17 34. In Adelanto an ICE officer threatened Petitioner in an effort to scare and
18
19 silence her and then attempted to force her to sign what Petitioner believed to be a
20
21 'self-deportation' paper.
22
23

24 35. Petitioner refused to sign and expressed a fear of return to Mexico.
25

26 36. Petitioner was not allowed to post a bond and remains in custody.
27

28 37. The Respondents have refused to release Petitioner from custody
asserting that she is subject to mandatory detention under section 1225(b)(2).

RELEVANT IMMIGRATION STATUTORY SCHEME

Immigration Detention

38. The INA governs the use of immigration detention both pre- and post-final order. Post-final-order immigration detention is governed by 8 U.S.C. § 1231(a); pre-final-order detention by 8 U.S.C. § 1226.

1 39. In 8 U.S.C. §§ 1226 and 1231 Congress created different, but interrelated,
2 comprehensive frameworks for detaining criminal and non-criminal non-citizens.
3

4
5 40. Section 1226 authorizes the detention of non-citizens during removal
6 proceedings: section 1226(a) controls non-criminal aliens' detentions, while
7 section 1226(c) controls criminal aliens' detentions. *See* 8 U.S.C. § 1226(a)&(c).
8
9 Once a non-citizen's removal proceedings are completed ICE's detention authority
10 is controlled by section 1231, which also distinguishes between non-criminal and
11 criminal non-citizens. *See* 8 U.S.C. § 1231.
12
13
14
15

16
17 *Section 1226(a) and Non-Criminal Non-citizens*
18 *During Removal Proceedings*
19

20 41. The Attorney General has discretion to detain a non-criminal non-citizen
21 "pending a decision on whether the alien is to be removed from the United States."
22 *See* 8 U.S.C. § 1226(a). The Attorney General may detain the non-citizen for the
23 duration of the removal proceedings or release him on bond or conditional parole.
24
25 *See* 8 U.S.C. § 1226(a)(1)-(2).
26
27
28

42. In connection with § 1226(a), the DHS promulgated regulations setting out
the process by which a non-criminal non-citizen may obtain release. The
regulations provide that, in order to obtain bond or conditional parole, the "alien
must demonstrate to the satisfaction of the officer that such release would not pose
a danger to property or persons, and that the alien is likely to appear for any future
proceeding." *See* 8 C.F.R. § 1236.1(c)(8).

Section 1226(c) and Criminal Non-citizens
During Removal Proceedings

1 43. Although the Attorney General has broad discretion to release non-criminal
2 non-citizens during the pendency of their removal proceedings, the INA limits the
3 Attorney General's discretion in the case of criminal non-citizens. Specifically,
4
5 section 1226(c) mandates that "[t]he Attorney General shall take into custody any
6
7 alien who . . . is deportable by reason of having committed [certain specified
8
9 offenses]." *See* 8 U.S.C. § 1226(c)(1)(B).
10
11

12
13 44. Section 1226(c) provides that the Attorney General may release a criminal
14 non-citizen "only if" necessary for narrow witness protection purposes. *See* 8
15 U.S.C. § 1226(c)(2). Under § 1226(c), custody is mandatory for criminal non-
16
17 citizens throughout the entirety of their removal proceedings, and there is no
18
19 statutory possibility for release on bond.
20
21

22
23 45. Petitioner was never detained under the authority of section 1226(c) as she
24
25 has no criminal record of any kind.
26

27 *Detention Pursuant to 8 U.S.C. § 1225(b)(2) and Respondents New Detention*
28

Practices

46. Under § 1225(b)(2), "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained." 8 U.S.C. § 1225(b)(2). By contrast, an alien arrested on a warrant issued by the Attorney General "may" be detained but is also eligible for release on bond. 8 U.S.C. § 1226(a). Courts have repeatedly held that § 1225 applies to arriving aliens, while § 1226 governs detention of "aliens already in the country."

Jennings v. Rodriguez, 583 U.S. 281, 281 (2018). Petitioner is not an arriving alien
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1 nor is she seeking an entry to the US under § 1225 but has resided continuously in
2 the United States for the last 14 years.

3
4
5 47. For decades, long-term residents of the U.S. who entered without inspection
6 and were subsequently apprehended by ICE in the interior of the country have been
7 detained pursuant to § 1226 and entitled to bond hearings before an IJ, unless
8
9 barred from doing so due to their criminal history.
10

11
12
13 48. In July 2025, however, ICE began asserting that all individuals who entered
14 without inspection should be considered “seeking admission” and therefore subject
15 to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
16

17
18
19 49. On September 5, 2025, the BIA issued a precedential decision adopting this
20 interpretation, departing from the INA’s text, federal precedent, and existing
21 regulations. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
22

23
24
25 50. Respondents’ new legal interpretation is plainly contrary to the statutory
26 framework and its implementing regulations. Indeed, for decades, Respondents had
27 applied § 1226(a) to people like the Petitioner. Defendants’ new policies are thus
28 not only contrary to law, but are arbitrary and capricious in violation of the
Administrative Procedure Act (“APA”). They were also adopted without
complying with the procedural requirements of the APA.

51. The Courts to have addressed the issue have found the Government
invocation of the mandatory detention provision under section 1225 unlawful and
have ordered release of non-citizens held in detention based of such erroneous
reading of the Immigration and Nationality Act and application of § 1225(b) to

noncitizens who, like Petitioner, are not apprehended upon arrival in the United
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1 States. *See Rodriguez Vasquez v. Bostock*, No. 3:25-CV-05240-TMC,---F.Supp.3d-
2 --, [2025 WL 1193850](#) (W.D.Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No.
3 1:25-CV- 11571-JEK, [2025 WL 1869299](#), at *8 (D. Mass. July 7, 2025)
4 granting habeas based on same ground); *Diaz Alartinez v. Hyde*, No. CV 25-
5 11613-BEM,---F.Supp. 3d---[2025 WL 2084238](#), at *9 (D. Mass. July 24, 2025)
6 (ordering release where noncitizen was redetained based on ICE's assertion of
7 detention authority under§ 1225(b)); *Sampiao v. Hyde*, [2025 WL 2607924](#) (D.
8 Mass. Sept. 9, 2025) (noting court's disagreement with BIA's analysis in *Yajure*
9 *Hurtado*); *see also Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H.
10 Sept. 8, 2025); *Kostak v. Trump*, [2025 WL 2472136](#) (W.D. La. Aug. 27, 2025);
11 *Cuevas Guzman v. Andrews*, [2025 WL 2617256](#), at *3 n.4 (E.D. Cal. Sept. 9,
12 2025).

13 52. Under *Loper Bright v. Raimondo*, this Court should independently interpret
14 the statute and give the BIA's expansive interpretation of § 1225(b)(2) no weight,
15 as it conflicts with the statute, regulations, and precedent. [603 U.S. 369](#) (2024).

16 53. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of
17 the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of
18 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, [110 Stat. 3009-546](#), [3009–582](#) to
19 [3009–583](#), [3009–585](#). Following IIRIRA, the Executive Office for Immigration
20 Review ("EOIR") issued regulations clarifying that individuals who entered the
21 country without inspection were not considered detained under § 1225, but rather
22 under § 1226(a). *See Inspection and Expedited Removal of Aliens; Detention and*
23 *Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed.
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28

1 Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission, aliens
2 who are present without having been admitted or paroled (formerly referred to as
3 aliens who entered without inspection) will be eligible for bond and bond
4 redetermination”).
5
6
7

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9 54. The statutory context and structure also make clear that § 1226 applies to
10 individuals who have not been admitted and entered without inspection. In 2025,
11 Congress added new mandatory detention grounds to § 1226(c) that apply only to
12 noncitizens who have not been admitted. *See* The Laken Riley Act, Pub. L. No. 119-1,
13 § 2, 139 Stat. 3, 3 (2025) (8 U.S.C. § 1226(c)(1)(E)).
14
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19 55. By specifically referencing inadmissibility for entry without inspection under 8
20 U.S.C. § 1182(6)(A), Congress made clear that such individuals are otherwise covered
21 by § 1226(a). Thus, § 1226 plainly applies to noncitizens charged as inadmissible,
22 including those present without admission or parole.
23
24
25

26
27 56. The Supreme Court has explained that § 1225(b) is concerned “primarily [with
28 those] seeking entry,” and is generally imposed “at the Nation’s borders and ports of
entry, where the Government must determine whether [a noncitizen] seeking to enter
the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 297, 2987 (2018). In
contrast, Section 1226 “authorizes the Government to detain certain aliens *already in*
the country pending the outcome of removal proceedings.” *Id.* at 289 (emphases
added).

57. Furthermore, § 1225(b)(2) specifically applies only to those “seeking
admission,” and the implementing regulations at 8 C.F.R. § 1.2 address noncitizens
who are “coming or attempting to come into the United States.” The use of the present
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1 progressive tense would exclude noncitizens like Petitioner who are apprehended in
2 the interior years after they entered, as they are no longer “seeking admission” or
3 “coming [...] into the United States.” *See Martinez v. Hyde*, 2025 WL 2084238 at *6
4
5 (D. Mass. July 24, 2025) (citing the use of present and present progressive tense to
6 support conclusion that INA § 1225(b)(2) does not apply to individuals apprehended
7 in the interior); *see also Al Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168, 1200
8 (S.D. Cal. 2019) (construing “is arriving” in INA § 235(b)(1)(A)(i) and observing that
9 “[t]he use of the present progressive, like use of the present participle, denotes an
10 ongoing process”).
11
12

13 58. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply
14 to Petitioner, who had entered the U.S. approximately 14 years ago.
15
16

17 *Statutory Scheme for T Visa*
18

19 59. Petitioner’s pending T-visa application with USCIS provides protection
20 against ICE effectuating any removal order.
21
22

23 60. 8 C.F.R. § 214.204(b)(2)(i) is clear that “[t]he filing of an Application for T
24 Nonimmigrant Status has no effect on DHS authority or discretion to execute a final
25 order of removal....”). *See also Nicholas L. L. v. Barr*, No. 19-cv-02543-ECTTNL,
26 2019 WL 4929795, at *5 (D. Minn. Oct. 7, 2019) (Explaining that “Federal
27 regulations say the opposite” as to a claim that “a T-visa applicant cannot be
28 removed before a bona fide determination has been made concerning his
application.”).

1 61. Instead, by regulation, a stay of removal is automatically granted only once
2
3 USCIS determines that T-visa application is bona fide. 8 C.F.R. §
4
5 214.204(b)(2)(iii).

6
7 62. USCIS has made a bona fide determination on Petitioner's T-visa
8
9 application triggering the automatic and mandatory stay of any removal. See
10
11 Exhibit D.

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13
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15 **COUNT ONE**

16
17 **Detention in Violation of the Fifth Amendment**
18 **(substantive due process)**
19 **Against all Defendants**

20 63. Petitioner repeats and incorporates by reference all allegations in paragraphs
21
22 1 to 62 above.

23
24 64. The Fifth Amendment guarantees that no person shall be deprived of liberty
25
26 without due process of law. U.S. Const. Amend. V. "Freedom from
27
28 imprisonment—from government custody, detention, or other forms of physical
restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*,
533 U.S. 678, 690 (2001).

65. "Government detention violates the Due Process Clause unless it is ordered
in a criminal proceeding with adequate procedural safeguards, or in certain special
and non-punitive circumstances 'where a special justification, . . . outweighs the
individual's constitutionally protected interest in avoiding physical restraint.'"
Zavala v. Ridge, 310 F. Supp. 2d 1071, 1076 (N.D. Cal. 2004) (quoting *Kansas v.*
Hendricks, 521 U.S. 346, 356 (1997)).

1 66. Respondents cannot show any “special justification” or compelling
2 governmental interest which would outweigh Petitioner’s constitutional liberty.
3

4
5 67. The governmental interest in the continued detention of these least-
6 dangerous individuals does not and cannot outweigh the liberty interest at stake.
7

8
9 **COUNT TWO**
10 **Violation of Fifth Amendment Right**
11 **Procedural Due Process**
12 **Against All Defendants**
13

14
15 68. Petitioner repeats and incorporates by reference all allegations in paragraphs
16 1 to 62 above.
17

18
19 69. The Fifth Amendment’s Due Process Clause prohibits the federal government
20 from depriving any person of “life, liberty, or property, without due process of law.”
21

22 U.S. Const. Amend. V.
23

24
25 70. The Supreme Court has repeatedly emphasized that the Constitution generally
26 requires a hearing before the government deprives a person of liberty or property.
27

28 *Zinerman v. Burch*, 494 U.S. 113, 127 (1990).

71. Under the *Mathews v. Eldridge* framework, the balance of interests strongly
favors Petitioner’s release.

72. Petitioner’s private interest in freedom from detention is profound. The interest
in being free from physical detention is “the most elemental of liberty interests.” *Hamdi*
v. Rumsfeld, 542 U.S. 507, 529 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 690
(2001) (“Freedom from imprisonment—from government custody, detention, or other
forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause
protects.”).

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1 73. The risk of erroneous deprivation is exceptionally high. Petitioner has never
2
3 been arrested and has deep ties to the community.

4
5 74. The government's interest in detaining Petitioner without due process is
6
7 minimal. Immigration detention is civil, not punitive, and may only be used to prevent
8
9 danger to the community or ensure appearance at immigration proceedings. *See*
10
11 *Zadvydas*, 533 U.S. at 690.

12
13 75. Furthermore, the "fiscal and administrative burdens" of providing Petitioner
14
15 with a bond hearing are minimal, particularly when weighed against the significant
16
17 liberty interests at stake. *See Mathews*, 424 U.S. at 334–35.

18
19 76. Considering these factors, Petitioner respectfully requests that this Court order
20
21 her immediate release from custody or in the alternative order that she be provided with
22
23 a bond hearing before an immigration judge where Respondents bear the burden of
24
25 proof.

26
27 **COUNT THREE**
28 **Violation of Fifth Amendment Right to Due Process**
(Right to Counsel and to a Full and Fair Hearing)
Against all Defendants

77. Petitioner repeats and incorporates by reference all allegations in paragraphs
1 to 62 above.

78. The Due Process Clause of the Fifth Amendment guarantees the right to the
effective assistance of counsel during removal proceedings at no cost to the
government and to a full and fair hearing.

1 79. At all relevant times to this Complaint Petitioner was represented by counsel
2 before the ICE and USCIS.

3
4
5 80. Respondents knew that Petitioner was represented by counsel but
6 Respondents detained Petitioner –despite a pending I-918 Application and a bona
7 fide determination-- and took Petitioner into custody without allowing her the
8 opportunity to respond, present evidence before a neutral decision maker, and to be
9 represented by counsel **before** the deprivation of their liberty.
10
11
12

13
14
15 81. Respondents' policies, practices, and omissions of indiscriminate arrests,
16 frequent transfers between facilities without updates, and detention in places away
17 from the person's residence, family, counsel, and community have further created
18 substantial barriers to Petitioner's efforts to access retained counsel and prepare her
19 claims, including but not limited no free phone calls, no private unmonitored legal
20 calls, no procedure to receive documents from counsel via fax or email, or send
21 documents to their attorneys.
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82. Petitioner has a substantial interest in avoiding prolonged detention.

83. Petitioner has suffered and will imminently suffer irreparable injury as a
result of Respondents' policies, practices, and omissions and are entitled to
injunctive relief to avoid any further injury.

COUNT FOUR
Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond
Against All Respondents

84. Petitioner repeats and incorporates by reference all allegations in paragraphs
1 to 62 above.

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1 85. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a). Under §
2 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8
3 C.F.R. 236.1(d) & 1003.19(a)-(f).
4

5
6
7 86. Petitioner has not been, and will not be, provided with a bond hearing by
8 Respondents as required by law unless the Court so order.
9

10
11 87. Petitioner's continuing detention is therefore unlawful.
12

13
14 **COUNT FIVE**
15 **Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19**
16 **Against All Respondents**
17

18
19 88. Petitioner repeats and incorporates by reference all allegations in paragraphs
20 1 to 62 above.
21

22 89. In 1997, after Congress amended the INA through IIRIRA, EOIR and the
23 then-Immigration and Naturalization Service ("INS") issued an interim rule to
24 interpret and apply IIRIRA. Specifically, under the heading of "Apprehension,
25 Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite
26 being applicants for admission, [noncitizens] who are present without having been
27 admitted or paroled (formerly referred to as [noncitizens] who entered without
28 inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at
10323. The agencies thus made clear that individuals who had entered without
inspection were eligible for consideration for bond and bond hearings before IJs
under 8 U.S.C. § 1226 and its implementing regulations.

90. The application of § 1225(b)(2) to Petitioner unlawfully mandates her
continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT SIX

**Non-Statutory Ultra Vires Action/Accardi Doctrine Violation
Against all Respondents**

91. Petitioner repeats and incorporates by reference all allegations in paragraphs 1 to 62 above.

92. There is no statute, constitutional provision, or other source of law that authorizes Respondents to detain Petitioner under the circumstances of this case.

93. Petitioner has a non-statutory right of action to declare unlawful, set aside, and enjoin Respondents' ultra vires actions.

94. Under the *Accardi* doctrine, Petitioners also have a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 ("If petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing").

95. Respondents violated agency regulations governing who and upon what findings could be detained.

SUBSTANTIAL LIKELIHOOD OF SUCCESS

96. Petitioner repeats and incorporates by reference all allegations in paragraphs 1 to 95 above.

97. As shown above Petitioner has shown substantial likelihood of success on her statutory and constitutional claims.

NOTICE AND IRREPARABLE HARM

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1 **98.** Pursuant to Federal Rule of Civil Procedure 65(b)(1) and Local Rules 7-19
2 and 65-1, immediately after filing this Petition, Petitioners' Counsel will provide a
3 copy of the Petition and notice of this ex parte application by providing copies to
4 the United States Attorneys Office for the Central District of California via email
5 to monitored email addresses. Petitioner counsel will file notice of proof of service
6 when notice is completed.
7

8 **99.** Petitioner has resided in the United States for over 14 years and have
9 established deep roots in the communities. Because of her unlawful arrests and
10 detention she has been separated from her autistic children, family members, and
11 friends. She is experiencing severe emotional distress. See Exhibit A.
12

13 **100.** "It is well established that the deprivation of constitutional rights
14 unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990,
15 1002 (9th Cir. 2012). "When an alleged deprivation of a constitutional right is
16 involved, most courts hold that no further showing of irreparable injury is
17 necessary." *Warsoldier v. Woodford*, 418 F.3d 989, 1001–02 (9th Cir. 2005)
18 (cleaned up). Permitting continued violations of federal law would serve "neither
19 equity nor the public interest." *Galvez v. Jaddou*, 52 F.4th 821, 832 (9th Cir. 2022).
20 Thus, the public interest weighs in favor of the Petitioner because continued
21 detention without the legal protections afforded by the INA, Due Process, and the
22 prohibition against non-refoulement potentially violates his due process and
23 statutory rights. See *Xuyue Zhang v. Barr*, 612 F.Supp.3d 1005, 1017 (C.D. Cal.
24 2019) ("Generally, public interest concerns are implicated when a constitutional
25
26
27
28

1 right has been violated, because all citizens have a stake in upholding the
2
3 Constitution.”).

4
5 **PRAYER FOR RELIEF**
6

7 WHEREFORE, Petitioner prays that this Court grant the following relief:
8

- 9 (1) Assume jurisdiction over this matter;
10
11 (2) Issue a Temporary Restraining Order ordering release of Petitioner pending
12 resolution of this case or in the alternative that Respondents provide her with
13 a constitutionally valid bond hearing before an Immigration Judge;
14
15 (3) Issue a Writ of Habeas Corpus on the ground that each named Petitioner’s
16 continued detention violates the Due Process Clause and order Petitioner’s
17 immediate release;
18
19 (4) In the alternative, issue injunctive relief ordering Respondents to
20 immediately release Petitioners, on the ground that their continued detention
21 violates Plaintiffs’ constitutional due process rights;
22
23 (5) Issue an injunction ordering Respondents not to arrest and detain Petitioner
24 without a proper finding that she has committed a violation of the conditions
25 of release;
26
27 (6) Issue an injunction ordering Respondents not revoke Petitioners’ grant of
28 release without providing prior written notice, an opportunity to respond, and
be represented by counsel prior to deprivation of liberty when the individual
is not yet subject to a final order of removal;

(7) Issue an injunction prohibiting the transfer of Petitioner outside of the
jurisdictional limits of this Court;

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1 (8) Enter a judgment declaring that Respondents' detention of Petitioners
2
3 is and will be unauthorized by statute and contrary to law;
4

5 (9) Award Petitioner reasonable costs and attorney fees.
6

7 Date: 11/15/2025
8

9 Verified and Submitted by
10

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