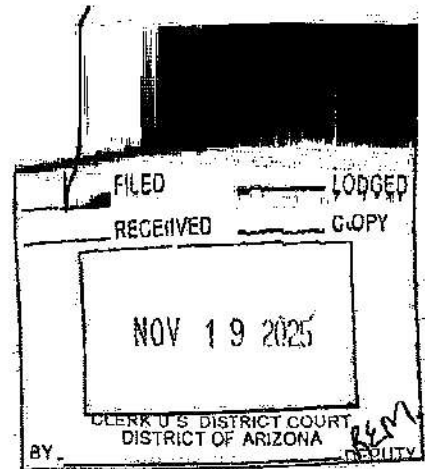
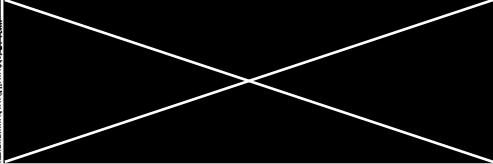


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CINDY LORENA POROJ SANTAY



CINDY LORENA POROJ SANTAY,

In Pro Per

(Next Friend of Petitioner, Maria Nicomedes Santay Poroj)

UNITED STATES DISTRICT COURT, DISTRICT OF ARIZONA

TUCSON DIVISION

MARIA NICOMEDES SANTAY POROJ,
by and through her Next Friend,
CINDY LORENA POROJ SANTAY,,

Petitioner,

vs.

WARDEN OF ELOY DETENTION CENTER,
and
KRISTI NOEM, Secretary, U.S. Department of
Homeland Security,
RODNEY S. SCOTT, Acting Commissioner,
U.S. Customs and Border Protection,
CHRISTOPHER D. MCGREGOR, Field
Office Director, ICE Phoenix Field Office,
and/or the current Acting Field Office Director
(if any)

Respondents.

) **Case No.: CV25-04328-PHX-DWL--CDB**
)
) **PETITION UNDER 28 U.S.C. § 2254 FOR A**
) **WRIT OF HABEAS CORPUS BY A**
) **PERSON IN FEDERAL CUSTODY**

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241
(Unlawful Prolonged Post-Order Detention – Zadvydas v. Davis)

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INTRODUCTION

1. Petitioner Maria Nicomedes Santay Poroj, is a 45-year-old citizen of Guatemala who has been detained by U.S. Immigration and Customs Enforcement (ICE) at Eloy Detention Center in Eloy, Arizona since April 2025, following a final order of removal. She has been detained for more than six months, yet ICE has been unable to remove her to Guatemala and has failed to secure travel documents from the Guatemalan Consulate. Her detention has become unlawful under *Zadvydas v. Davis*, 533 U.S. 678 (2001), because her removal is not reasonably foreseeable. She respectfully petitions this Court for a writ of habeas corpus ordering her immediate release under reasonable supervision.

CUSTODY

2. Petitioner is currently held in civil immigration detention by U.S. Immigration and Customs Enforcement (ICE) at the Eloy Detention Center, located at 1705 E. Hanna Road, Eloy, Arizona 85131, within the jurisdiction of this Court. Petitioner is being detained under the authority of the Department of Homeland Security (DHS) pursuant to the Immigration and Nationality Act (INA) § 241, 8 U.S.C. § 1231, following a final order of removal.

3. Petitioner is in the immediate physical custody of the Warden of Eloy Detention Center, who is a proper respondent in this habeas action. She is also in the legal custody and control of Lloyd Easterling, ICE Phoenix Field Office Director, who has ultimate authority over decisions relating to her continued detention, release, removal, and supervision under the post-order custody review process.

4. At all relevant times, Petitioner has remained in ICE custody without bond or opportunity for a custody redetermination hearing before an Immigration Judge. Her detention has exceeded six months and has become prolonged and unlawful under *Zadvydas v. Davis*, 533 U.S. 678 (2001), as her removal is not reasonably foreseeable. Therefore, this Court has the authority to grant relief pursuant to 28 U.S.C. § 2241, which permits challenges to unlawful federal detention.

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JURISDICTION AND VENUE

5. This Court has jurisdiction over this habeas corpus petition pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant relief to individuals who are “in custody in violation of the Constitution or laws or treaties of the United States.” Petitioner challenges the legality of her continued civil immigration detention, which has become prolonged and unconstitutional under the Due Process Clause of the Fifth Amendment and the Supreme Court’s decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Federal courts retain jurisdiction to review habeas petitions that challenge indefinite immigration detention. See *Zadvydas*, 533 U.S. at 687; *Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (affirming availability of habeas review in immigration custody cases).

6. This action properly arises under 28 U.S.C. § 2241(c)(3) because Petitioner has been detained for more than six months after a final order of removal, and her continued detention is not authorized by statute, nor justified by any showing that her removal is reasonably foreseeable, as required by *Zadvydas* and *Clark v. Martinez*, 543 U.S. 371 (2005).

7. Venue is proper in the United States District Court for the District of Arizona because Petitioner is detained within this judicial district at Eloy Detention Center in Pinal County, Arizona, which lies within the jurisdiction of this Court. See *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) (proper venue for habeas is where the petitioner is confined). The proper respondents—Petitioner’s immediate custodian, the Warden of Eloy Detention Center, and ICE Phoenix Field Office Director are located within this district, making venue appropriate under 28 U.S.C. § 1391(e).

PARTIES

Petitioner

8. Petitioner, Maria Nicomedes Santay Poroj (A# XXXXXXXXXX), is a 45-year-old citizen of Guatemala currently in the civil immigration custody of the United States Department of Homeland Security (DHS). She is detained at Eloy Detention Center, located in Eloy, Arizona, under the authority of ICE. Petitioner has been subject to a final order of removal but has remained detained for more than six months because ICE has been unable to remove her to Guatemala, and removal is not reasonably foreseeable. She has no criminal history, has fully complied with ICE, and poses no danger to the community or risk of flight. She brings this action to challenge her unlawful and

1 prolonged post-order detention in violation of *Zadvydas v. Davis*, 533 U.S. 678 (2001) and the Fifth
2 Amendment Due Process Clause.

3 **Respondent Christopher D. McGregor and/or the current Acting Field Office Director (if**
4 **any)**

5 9. Respondent **Christopher D. McGregor** is the ICE Phoenix Field Office Director for
6 Enforcement and Removal Operations (ERO), and/or the current Acting Field Office Director (if
7 any), located in the Phoenix Field Office. He is responsible for overseeing immigration detention
8 and enforcing final removal orders within Arizona, including decisions related to post-order custody
9 review and release under an Order of Supervision pursuant to 8 C.F.R. §§ 241.4 and 241.13. He is
10 sued in his official capacity as the DHS official with legal authority over Petitioner's continued
11 detention.

12 **Respondent Warden, Eloy Detention Center**

13 10. Respondent Warden of Eloy Detention Center is Petitioner's immediate physical custodian
14 and maintains day-to-day control over Petitioner's detention. The Warden is a proper respondent in
15 this habeas action pursuant to *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), which requires naming the
16 immediate custodian for "core" habeas challenges to physical detention. The Warden is sued in his
17 official capacity only.

18 EXHAUSTION OF REMEDIES

19 11. Petitioner has satisfied any obligation to exhaust administrative remedies prior to filing this
20 habeas petition, to the extent exhaustion is required. Although 28 U.S.C. § 2241 does not contain a
21 statutory exhaustion requirement, courts may require exhaustion as a prudential matter unless doing
so would be futile, cause irreparable harm, or where the agency has no power to grant the relief
sought. See *Singh v. Holder*, 638 F.3d 1196, 1203 n.3 (9th Cir. 2011) (exhaustion not required
where it would be futile); *Franco-Gonzalez v. Holder*, 767 F. Supp. 2d 1034, 1058 (C.D. Cal. 2010).

12 12. Petitioner has complied fully with ICE's Post-Order Custody Review (POCR) process under
13 8 C.F.R. § 241.4, has attended all interviews, and has never refused to cooperate with removal
14 efforts. Petitioner also submitted a Request for Release Under *Zadvydas v. Davis* to ICE on October
15 9, 2025, supported by legal basis, documentation, and proof of community ties (See Exhibit C). ICE

1 has not responded substantively to her request, has not produced any evidence that removal is likely
2 in the reasonably foreseeable future, and has not provided any written explanation for continued
detention as required by 8 C.F.R. § 241.13(g)(2).

3 13. Further administrative review would be futile because ICE has failed to act within a
4 reasonable time and has not demonstrated any progress toward removal. The Ninth Circuit has held
5 that exhaustion is excused where the agency “has predetermined the issue” or “lacks authority to
6 provide relief”. See *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004). ICE does not have lawful
authority to continue detention indefinitely and cannot cure the constitutional violation arising from
7 prolonged detention. Accordingly, this Court’s review is appropriate and necessary.

8 STATEMENT OF FACTS

9 14. Petitioner Maria Nicomedes Santay Poroj is a 45-year-old citizen of Guatemala who entered
the United States seeking protection and to provide safety and stability for her children.

10 15. Petitioner was placed in removal proceedings under INA § 240. On September 19, 2017, an
11 Immigration Judge issued an order of removal against her. She appealed that decision to the Board
of Immigration Appeals (BIA), which dismissed her appeal on February 27, 2019 (See Exhibit A,
12 BIA Decision).

13 16. Petitioner did not abscond after the removal order and continued to comply with ICE
14 supervision requirements. She consistently reported to ICE as instructed and never attempted to
evade immigration enforcement.

15 17. On August 19, 2025, Petitioner filed a Motion to Reconsider with the Board of Immigration
16 Appeals,(See Exhibit C). Her motion raises legal issues that remain unresolved, and she continues
to pursue her case in good faith. Subsequently, on November 10, 2025, *Motion to Reconsider BIA*
17 *Jurisdiction* was denied.

18 18. Despite her cooperation, Petitioner was taken into ICE custody in April 2025 during a
19 routine check-in and transferred to Eloy Detention Center in Eloy, Arizona, where she has now been
20 detained for over six months.

1 19. During detention, ICE has been unable to remove her to Guatemala. The Guatemalan
2 Consulate has not issued a travel document, and ICE has provided no evidence that removal is
likely in the reasonably foreseeable future.

3 20. Petitioner has no criminal history, has never posed any threat to public safety, and has fully
4 complied with all DHS and ICE instructions. She is eligible for release under an Order of
5 Supervision pursuant to 8 C.F.R. § 241.5.

6 21. Petitioner has strong family and community ties in the United States. She is the mother of
7 four children, including two U.S. citizen children, Cindy Lorena Poroj Santay (age 18) and Bryan
8 Alexander Poroj Santay (age 15) (See Exhibit E, Birth Certificates). If released, Petitioner will
reside at 537 S. Townsend St., Santa Ana, California, where she has a verified residence and
sponsor.

9 22. Continued detention is causing severe hardship to her family. Petitioner is the primary
10 emotional and parental support for her minor U.S. citizen child, Bryan. Her daughter, Cindy, gave
11 birth to a child on October 29, 2025, and is in need of her mother's support during this critical time
(See Exhibit E, Family Hardship Letter).

12 23. Petitioner also suffers from a speech disability (stuttering) and has experienced
13 psychological distress during detention. Prolonged detention has exacerbated her mental health
14 condition, and she has reported being mistreated by detention personnel and subjected to unsafe and
stressful conditions.

15 24. Petitioner submitted a formal Request for Release Under *Zadvydas v. Davis* to ICE on
16 October 12, 2025, but ICE has not provided any response or justification for continued detention
(See Exhibit H, Request to ICE).

17 25. Petitioner's ongoing detention exceeds the presumptively reasonable six-month period
18 established by the U.S. Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Because ICE
19 cannot demonstrate a significant likelihood of removal in the reasonably foreseeable future,
20 Petitioner's detention has become unlawful.
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LEGAL ARGUMENT

Legal Framework

Statutory and Constitutional Authority

26. This Petition is filed pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant habeas corpus relief to any person “in custody under or by color of the authority of the United States” in violation of the Constitution, laws, or treaties of the United States. Petitioner Maria Nicomedes Santay Poroj is detained under the authority of the Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE). Her detention—now exceeding six months after a final order of removal—falls squarely within the scope of § 2241 review.

27. This Court also has authority under the All Writs Act, 28 U.S.C. § 1651, to issue writs necessary to protect its jurisdiction and to remedy ongoing constitutional violations, as well as under the Suspension Clause of Article I, Section 9, Clause 2 of the U.S. Constitution, which guarantees the right to seek habeas relief from unlawful executive detention.

28. Petitioner’s continued confinement is challenged as unlawful under federal statute, the Fifth Amendment’s Due Process Clause, and binding Supreme Court precedent. The purpose of this petition is not to contest her underlying removal order, but to challenge the legality and constitutionality of her ongoing post-order detention by ICE when removal is not reasonably foreseeable.

Zadvydas v. Davis: Six-Month Limit on Post-Order Detention

29. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court construed 8 U.S.C. § 1231—the statute authorizing detention following a final order of removal—to include an implicit temporal limitation. The Court held that post-order detention is constitutionally permissible only for a period reasonably necessary to effectuate removal, and that a six-month period constitutes the presumptively reasonable limit. *Id.* at 701.

30. After that six-month period expires, detention becomes presumptively unlawful unless the Government affirmatively demonstrates that removal is significantly likely to occur in the

1 reasonably foreseeable future. The burden shifts squarely to the Government to make this showing;
2 it cannot rest on speculation or administrative delay. *Id.* at 701–02.

3 31. In this case, Petitioner has been detained well beyond six months—since April 1,
4 2025—without any evidence that her removal to Guatemala is imminent. ICE has failed to obtain a
5 travel document, and there is no indication that Guatemalan authorities have agreed to accept her.
6 Under *Zadvydas*, such continued detention violates both the statutory construction of § 1231 and the
7 Due Process Clause.

8 ***Clark v. Martinez: Uniform Application to All Noncitizens***

9 32. The Supreme Court reaffirmed and broadened the *Zadvydas* rule in *Clark v. Martinez*, 543
10 U.S. 371 (2005). There, the Court held that the six-month limitation applies equally to all
11 noncitizens detained under § 1231, including those deemed inadmissible at entry. *Id.* at 386. The
12 Court rejected the Government’s argument that some classes of noncitizens could be detained
13 indefinitely, emphasizing that the same statutory language must be given the same interpretation for
14 all who fall within it.

15 33. Thus, under *Clark*, ICE cannot justify Petitioner’s continued confinement on the basis of her
16 immigration status or procedural posture. The constitutional ceiling established in *Zadvydas* applies
17 universally: detention beyond six months is presumptively unlawful absent concrete evidence that
18 removal will occur soon.

19 ***Ninth Circuit Precedent: Due Process and Meaningful Review***

20 34. Within the Ninth Circuit, controlling precedent reinforces and strengthens *Zadvydas*’s
21 constitutional protections.

35. In *Nadarajah v. Gonzales*, 443 F.3d 1069 (9th Cir. 2006), the court ordered immediate
release of a detainee held for five years, holding that prolonged immigration detention without a
foreseeable end violates both statutory and constitutional limits. The court stressed that “a statute
permitting indefinite detention would raise serious constitutional concerns.” *Id.* at 1077.*

1 36. In *Diouf v. Napolitano* (*Diouf II*), 634 F.3d 1081 (9th Cir. 2011), the Ninth Circuit
2 reaffirmed that individuals detained longer than six months are entitled to a meaningful custody
3 review and may not be held absent a specific, evidence-based finding that removal is reasonably
4 foreseeable. The court held that prolonged detention without such justification violates procedural
5 and substantive due process.

6 37. Together, these authorities establish that prolonged or indefinite detention under 8 U.S.C. §
7 1231 is constitutionally impermissible. ICE must present credible, individualized evidence that
8 removal is likely in the reasonably foreseeable future. General assertions of cooperation with a
9 foreign government, bureaucratic backlog, or speculative timelines do not meet this standard.

10 COUNT 1

11 VIOLATION OF *ZADVYDAS* / UNLAWFUL PROLONGED DETENTION

12 38. The Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), held that immigration
13 detention following a final order of removal is constitutionally permissible only for a period
14 reasonably necessary to secure removal. The Court identified six months as the presumptively
15 reasonable period. *Id.* at 701. After that period, the Government must show that removal remains
16 “significantly likely in the reasonably foreseeable future.” *Id.* at 701–02.

17 39. Here, ICE has not made, and cannot make, such a showing. Petitioner has been detained
18 well beyond the six-month period, and no concrete steps have been taken to effectuate her removal.
19 Guatemala has not issued a travel document, and ICE has not provided any timeline, consular
20 correspondence, or evidence of acceptance by Guatemalan authorities. These facts confirm that
21 removal is not reasonably foreseeable.

22 40. Courts interpreting *Zadvydas* consistently order release where, as here, the Government
cannot demonstrate a realistic prospect of removal. See, e.g., *Nadarajah v. Gonzales*, 443 F.3d 1069
(9th Cir. 2006) (ordering immediate release after prolonged post-order detention without
foreseeable removal); *Diouf v. Napolitano*, 634 F.3d 1081 (9th Cir. 2011) (holding that detention
beyond six months requires individualized justification).

41. Moreover, the ongoing detention serves no legitimate governmental purpose. Petitioner
poses no danger to the community and no flight risk, given her family, residence, and compliance

1 history. She will reside with her U.S.-citizen daughter, Cindy Lorena Poroj Santay, at a verified
2 address in Santa Ana, California, and is willing to comply with all conditions of supervision,
3 including reporting and monitoring.

4 42. Because ICE has failed to rebut the *Zadvydas* presumption of unreasonableness and has
5 produced no credible evidence that removal is imminent, Petitioner's detention is unlawful and
6 unconstitutional. The proper remedy is her immediate release under supervision pursuant to 8
7 C.F.R. § 241.13 and the standards articulated in *Zadvydas* and *Clark v. Martinez*, 543 U.S. 371
8 (2005).

9 COUNT 2

10 DUE PROCESS VIOLATION — ARBITRARY AND UNJUSTIFIED DETENTION

11 43. Petitioner's continued confinement by ICE constitutes an arbitrary and unjustified
12 deprivation of liberty in violation of the **Fifth Amendment's Due Process Clause**. The Supreme
13 Court has long recognized that all persons within the United States, including noncitizens, are
14 entitled to due process protections against arbitrary government action. That protection extends to
15 immigration detention, which, though civil in form, implicates the same core constitutional liberty
16 interest in freedom from physical restraint.

17 44. Here, Petitioner's detention has persisted far beyond the six-month period deemed
18 presumptively reasonable in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and without any
19 individualized determination that her confinement serves a legitimate purpose. ICE has not provided
20 a written explanation, hearing, or meaningful review addressing why continued detention is
21 necessary in her case. Nor has ICE made any showing that she presents a danger to the community
or a risk of flight. Instead, her confinement continues by default, through bureaucratic inertia rather
than reasoned decision-making.

45. The **Ninth Circuit** has made clear that prolonged civil detention without a specific,
evidence-based justification violates due process. In *Diouf v. Napolitano*, 634 F.3d 1081 (9th Cir.
2011), the court held that extended post-order detention must be accompanied by a meaningful
custody review process in which the government bears the burden to justify detention through
individualized findings. Likewise, in *Nadarajah v. Gonzales*, 443 F.3d 1069 (9th Cir. 2006), the
court ruled that indefinite detention without such justification was unconstitutional, emphasizing

1 that “the Due Process Clause applies to all persons within the United States, including aliens,
2 whether their presence here is lawful, unlawful, temporary, or permanent.”

3 46. In Petitioner’s case, ICE has failed to engage in any such individualized assessment. Despite
4 her full cooperation, lack of criminal history, and clear family ties to U.S. citizens, she remains
5 confined with no explanation or foreseeable end. This ongoing detention is not tied to any
6 legitimate governmental interest. It is neither necessary to ensure removal, since removal is not
7 reasonably foreseeable, nor to protect public safety, as Petitioner poses no risk. The government’s
8 failure to act with transparency or provide notice of any review only compounds the constitutional
9 violation.

10 47. Moreover, the conditions of Petitioner’s confinement heighten the due process concerns. She
11 suffers from **stuttering and anxiety**, both of which have worsened due to prolonged detention and
12 reported mistreatment at the Elroy Detention Center. These conditions impose unnecessary
13 psychological harm on an individual who has complied fully with ICE’s requirements and whose
14 detention serves no lawful purpose.

15 48. Due process forbids such arbitrary detention. The Constitution requires that the
16 government’s deprivation of liberty be justified by a legitimate and individualized rationale,
17 supported by evidence and subject to periodic review. Because ICE has offered none, Petitioner’s
18 continued confinement constitutes an unlawful and arbitrary exercise of executive power, violating
19 the fundamental principles of fairness and proportionality embodied in the Due Process Clause.

20 49. Accordingly, the Court should find that Petitioner’s ongoing detention violates due process
21 and order her immediate release under appropriate supervision.

COUNT 3

FAILURE TO EXHAUST / ADMINISTRATIVE REMEDIES

1 50. Petitioner has diligently pursued every available administrative avenue to challenge her
2 continued detention and to facilitate review by the proper authorities. She appealed her removal
3 order to the Board of Immigration Appeals (BIA), which issued a decision on February 27, 2019,
4 and subsequently filed a Motion to Reconsider on August 19, 2025, which was denied. These
actions demonstrate that she has sought all available relief within the administrative framework
before turning to this Court for habeas review.

5 51. While exhaustion of administrative remedies is sometimes required as a prudential matter in
6 habeas proceedings, it is not a jurisdictional prerequisite under 28 U.S.C. § 2241. Courts have
7 consistently recognized that where further administrative pursuit would be futile or inadequate to
8 prevent irreparable harm, a petitioner is not barred from seeking judicial intervention. See *Singh v.*
9 *Holder*, 638 F.3d 1196, 1203 n.3 (9th Cir. 2011) (noting that prudential exhaustion is not required
where the administrative process cannot provide the relief sought); *Laing v. Ashcroft*, 370 F.3d 994,
1000 (9th Cir. 2004) (same).

10 52. In this case, ICE has already been given ample notice and opportunity to address Petitioner's
11 detention. The agency has failed to obtain travel documents from the Guatemalan consulate, has not
12 provided a removal timeline, and has offered no justification for the ongoing confinement. There are
13 no remaining internal remedies capable of securing Petitioner's release, nor any process through
which she could compel ICE to act. Thus, requiring her to continue seeking administrative review
would serve no purpose other than to prolong unlawful detention.

14 53. Moreover, the harm caused by continued detention is ongoing and severe. Petitioner has
15 already been confined well beyond the six-month presumptive limit established in *Zadydas v.*
16 *Davis*, 533 U.S. 678 (2001), and further delay would only deepen the constitutional injury. Under
17 these circumstances, judicial intervention is both necessary and appropriate to prevent continued
violation of Petitioner's liberty rights.

18 54. Accordingly, the Court should find that Petitioner has either exhausted all available remedies
19 or that exhaustion is excused as futile, and proceed to review the lawfulness of her detention under
20 28 U.S.C. § 2241.
21

COUNT 4

VIOLATION OF ICE'S REGULATIONS / ARBITRARY AGENCY ACTION

55. Petitioner's continued detention also violates ICE's own governing regulations and established administrative procedures. Under 8 C.F.R. § 241.13, ICE is required to conduct Post-Order Custody Reviews (POCRs) and to provide written explanations when determining whether a detainee may be released under an Order of Supervision. These procedures are designed to ensure that detention decisions are lawful, evidence-based, and periodically reassessed. ICE's failure to follow these mandatory safeguards renders Petitioner's ongoing confinement arbitrary, unlawful, and contrary to agency regulations.

56. The regulation specifically provides that where removal is not reasonably foreseeable, DHS "shall continue efforts to effect removal and shall release the alien under appropriate conditions of supervision." 8 C.F.R. § 241.13(g)(1). ICE must also document the basis for its custody determination, furnish written notice to the detainee, and periodically reassess custody as circumstances change. None of these procedural steps have occurred in Petitioner's case. She has received no written explanation, no notice of custody review, and no indication that ICE has made an individualized determination regarding the likelihood of her removal.

57. Even if ICE retains discretion in individual release decisions, that discretion is not absolute. Under the *Accardi* doctrine, an agency must follow the regulations it has promulgated. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). The Supreme Court in *Accardi* made clear that when an agency disregards its own rules in exercising discretionary authority, its actions are invalid and subject to judicial review. That principle has been repeatedly affirmed by the courts. See *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures."); *Montilla v. INS*, 926 F.2d 162, 166 (2d Cir. 1991) (agency's failure to follow regulations designed to protect due process rights is reversible error).

58. Here, ICE's deviation from its own regulatory framework has resulted in precisely the kind of arbitrary administrative action that the *Accardi* line of cases forbids. Petitioner's detention has persisted without documented justification, without formal review, and without any evidence that ICE has complied with the procedural requirements of § 241.13. This disregard for established

1 process is not only unlawful under the agency's own rules but also violates the Due Process Clause
2 by depriving Petitioner of the protections those regulations were designed to secure.

3 59. Accordingly, even if the Court were to conclude that ICE possesses discretion regarding
4 release under supervision, that discretion must be exercised in accordance with law and regulation.
5 ICE's failure to conduct a proper custody review or to issue a reasoned written decision constitutes
6 an arbitrary and capricious action subject to judicial correction under habeas jurisdiction. The Court
7 should therefore find that ICE's noncompliance with § 241.13 and its failure to adhere to the
8 procedural safeguards established by its own rules render Petitioner's continued detention unlawful.

7 **PRAYER FOR RELIEF**

8 For the reasons set forth above, Petitioner **Maria Nicomedes Santay Poroj** respectfully requests
9 that this Honorable Court:

10 **Assume jurisdiction** over this habeas corpus petition pursuant to 28 U.S.C. § 2241;

11 **Issue an Order to Show Cause** directing Respondents to explain why Petitioner's continued
12 detention is lawful and why she should not be immediately released;

13 **Grant the writ of habeas corpus** and order Petitioner's **immediate release from ICE custody**
14 under appropriate conditions of supervision, consistent with 8 C.F.R. § 241.13 and the standards set
15 forth in *Zadvydas v. Davis*, 533 U.S. 678 (2001);

16 In the alternative, **order a prompt custody review hearing** before this Court or a designated
17 immigration authority, with the burden placed on the Government to justify any further detention;
18 and

19 **Grant such other and further relief** as this Court deems just and proper in the interests of justice,
20 due process, and humanitarian fairness.

21 **NEXT FRIEND DECLARATION**

I, **Cindy Lorena Poroj Santay**, submit this Petition for Writ of Habeas Corpus as **Next Friend** on
behalf of my mother, **Maria Nicomedes Santay Poroj**.

1 Ms. Santay Poroj is currently detained at the Eloy Detention Center in Eloy, Arizona, and due to her
2 confinement and limited access to legal resources, she is unable to file this petition on her own
3 behalf. I am her U.S. citizen daughter, over the age of eighteen, and I maintain a close, loving, and

4 ongoing relationship with her.
5 I have personal knowledge of her detention, her health condition, and the impact her continued
6 confinement has had on our family. I am deeply committed to acting in her best interests and to
7 ensuring that her legal and constitutional rights are fully protected.


8 Accordingly, I respectfully appear in this proceeding as Next Friend and affirm that I am qualified
9 to do so under *Whitmore v. Arkansas*, 495 U.S. 149 (1990), having both a significant relationship
10 with the detainee and a genuine dedication to her well-being.

11 **VERIFICATION**

12 I, **Cindy Lorena Poroj Santay**, declare under penalty of perjury under the laws of the United States
13 of America that the facts stated in this Petition are **true and correct** to the best of my knowledge,
14 information, and belief.

15 Executed on this 12th day of November, 2025, at Santa Ana, California.

16 Maria Nicomedes Santay Poroj, Petitioner
17 Eloy Detention Center, Eloy, AZ

18 
19 Cindy Lorena Poroj Santay, Next Friend
20 537 S Townsend St, Santa Ana CA 92703
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3 XI. CERTIFICATE OF SERVICE

4 A copy of this petition was served by certified mail and email on:

5

Warden of Eloy Detention Center

6

1705 E Hanna Rd, Eloy AZ 85131

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Email: eaz-outreach@ice.dhs.gov

8

U.S. Attorney for the District of Arizona

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40 N. Central Ave., Suite 1800

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Phoenix, AZ 85004

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U.S. Attorney General

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U.S. Department of Justice

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950 Pennsylvania Ave NW

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Washington, DC 20530

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ICE Field Office Director

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2035 N. Central Ave.

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Phoenix, AZ 85004

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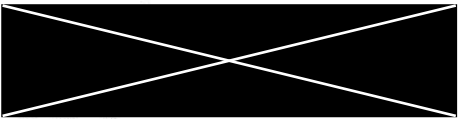
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DATED: November 12, 2025

Cindy Poroj

CINDY LORENA POROJ

SANTAY




In Pro Per

JS 44 (Rev. 08/18)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS MARIA NICOMEDES SANTAY POROJ,
 Alien Number: 

DEFENDANTS
DEPARTMENT OF HOMELAND SECURITY

(b) County of Residence of First Listed Plaintiff Pinal County, Arizona
 (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known) Unknown

RECEIVED NOV 19 2025

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff (For Diversity Cases Only))

Citizen of This State 1

Citizen of Another State 2

Citizen or Subject of a Foreign Country 3

PLT DEF PTE DEF PTE DEF PTE DEF PTE DEF

CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA

Incorporated or Principal Place of Business in This State 4

Incorporated and Principal Place of Business in Another State 5

Foreign Nation 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	PERSONAL PROPERTY	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 436 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 751 Family and Medical Leave Act		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 790 Other Labor Litigation		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	Habeas Corpus:	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (13951f)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input checked="" type="checkbox"/> 463 Alien Detainee		<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 530 General	<input type="checkbox"/> 463 Other Immigration Actions	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 850 Securities/Commodities Exchange
		<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 850 Securities/Commodities Exchange
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 540 Mandamus & Other			<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 555 Prison Condition		<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment				<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other				<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
	<input type="checkbox"/> 448 Education				<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from Another District (specify)

6 Multidistrict Litigation - Transfer

8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 2241 - Zadvydas v. Davis, 533 U.S. 678 (2001)

Brief description of cause:
Unlawful Prolonged Post-Order Detention

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 0.00

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE N/A

DOCKET NUMBER N/A

DATE Nov 12, 2025

SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING REF _____ JUDGE _____ MAG. JUDGE _____