

1 Robert E. Coughlon, Jr.
2 Coughlon Law Firm, PLLC.
3 531 E. Thomas Rd., Ste. 101
4 Phoenix, AZ 85012
5 Phone: (602) 636-0800
6 Arizona State Bar No. 020415
7 Email: Robert@coughlonlaw.com
8 Attorney for Petitioner

9
10 **UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12 _____)
13)
14)
15)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

Case No. _____

Petitioner

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

v.

Kristi Noem, Secretary of the
U.S. Department of Homeland Security;

Pamela Bondi,
Attorney General of the United States;

Todd M. Lyons, Acting Director of
Immigration and Customs Enforcement;

Christopher Howard, Assistant Warden
Of the Eloy Detention Center;

Christopher McGregor, Field Office
Director for Enforcement and Removal
Operations,
U.S. Department of Homeland Security;
In their official capacities,

Respondents

I. INTRODUCTION

1
2 1. Petitioner, Michell Godoy Ruiz, [REDACTED], is being detained
3 unlawfully at the Eloy Detention Center in the custody of U.S. Immigration Customs
4 and Enforcement (“ICE”). Petitioner is a citizen of Venezuela. In Venezuela, she
5 was the victim of an unlawful violent raid by [REDACTED]

6 [REDACTED]. Petitioner fled and sought protection and asylum in the United States.

7 2. Petitioner entered the United States on March 15, 2024, at or near
8 El Paso, Texas. She was detained by DHS for two days. On March 17, 2024, DHS
9 commenced removal proceedings. Also on March 17, 2024, DHS made a Custody
10 Determination, and DHS released Petitioner on her own recognizance pursuant to
11 section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of
12 Federal Regulations, pending a final administrative determination in her removal
13 proceedings. DHS issued form I-220A Order of Release on Recognizance.

14 3. Respondent attended non-detained immigration court and filed her
15 I-589 asylum application with the Phoenix Immigration Court on September 26, 2024.
16 The Phoenix Immigration Court scheduled Petitioner’s case for an Individual hearing
17 on her asylum application for a date in 2026. Petitioner complied with all of the
18 conditions of her release.

19 4. On November 17, 2025, Petitioner presented herself for a check-in
20 at the DHS office, as a condition of her release. DHS arrested Petitioner on November
21 17, 2025, without any cause to do so or any process required by law.

22 5. Petitioner brings this habeas corpus action pursuant to 28 U.S.C.
23 § 2241 to challenge his continued unlawful detention by Immigration and Customs
24 Enforcement (ICE) in violation of the Immigration and Nationality Act (INA) and the
25 Fifth Amendment to the U.S. Constitution.

26 6. Absent an Order from this Court, Petitioner will continue to be
27 unlawfully held in detention by ICE.
28

1 7. Petitioner asks this Court to find that Petitioner is being unlawfully
2 detained by ICE and order that Petitioner be immediately released from unlawful
3 detention.

4 **II. REQUIREMENTS OF 28 U.S.C. § 2243**

5 8. The Court must grant the petition for writ of habeas corpus or issue
6 an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is
7 not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court
8 must require respondents to file a return “within *three days* unless for good cause
9 additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

10 9. Courts have long recognized the significance of the habeas statute
11 in protecting individuals from unlawful detention. The Great Writ has been referred to
12 as “perhaps the most important write known to the constitutional law of England,
13 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
14 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

15 **III. JURISDICTION**

16 10. Petitioner is in the physical custody of Respondents and is detained
17 at the Eloy Detention Center in Eloy, Arizona.

18 11. Petitioner’s case arises under 28 U.S.C. §2241, and her claims
19 further arise under the INA, 8 U.S.C. § 1101-1538, and its implementing regulations;
20 the APA, 5 U.S.C. §§ 500-596, 701-706; and the U.S. Constitution.

21 12. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, as this is a
22 civil action arising the laws of the United States, and under 28 U.S.C. §2241 as the
23 case challenges Petitioner’s unlawful detention.

24 13. The Court may grant relief pursuant to 28 U.S.C. § 2241; the
25 Declaratory Judgment Act, 28 U.S.C. § 2201; the APA, 5 U.S.C §§ 702, 706; the All
26 Writs Act, 28 U.S.C § 1651; Federal Rules of Civil Procedure 65; and the Court’s
27 inherent equitable powers.

28

1 **IV. VENUE**

2 14. Venue properly lies in the District of Arizona under 28 U.S.C §
3 1391(e), because Petitioner is detained in this District.

4 15. In addition, venue is proper in this District because Respondents are
5 officers, employees, or agencies of the United States and because a substantial part of
6 the events or omissions giving rise to the claims occurred in the District of Arizona.

7 **V. PARTIES**

8 16. Petitioner, Michell Godoy Ruiz, is a native and citizen of
9 Venezuela who is present in the state of Arizona as of the time of the filing of this
10 petition.

11 17. Respondent, Christopher Howard, is the legal custodian of
12 Petitioner. Christopher Howard is an employee of CoreCivic which is the company
13 that owns and operates the Eloy Detention Center. Christopher Howard is the
14 Assistant Warden of the Eloy Detention Center where Petitioner is being held in
15 custody, and is sued in his official capacity. Petitioner has been informed and believes
16 that the office of Warden of the Eloy Detention Center is currently vacant.

17 18. Respondent Christopher McGregor is the Acting Field Office
18 Director of Enforcement and Removal Operations for Immigration and Customs
19 Enforcement within the State of Arizona, an agency of the Department of Homeland
20 Security, and is sued in his official capacity.

21 19. Respondent Pamela Bondi is the Attorney General of the United
22 States. She is responsible for the Department of Justice, of which the Executive Office
23 for Immigration Review and the immigration court system it operates is a component
24 agency. She is sued in her official capacity.

25 20. Respondent Kristi Noem is the Secretary of Homeland Security of
26 the United States. She is responsible for the implementation and enforcement of the
27 INA, and oversees ICE, which is responsible for Petitioner's detention. Respondent
28

1 Noem has ultimate custodial authority over Petitioner and is sued in her official
2 capacity.

3 21. Respondent Todd M. Lyons is the Acting Director of U.S.
4 Immigration and Customs Enforcement and is sued in his official capacity.

5 VI. LEGAL FRAMEWORK

6 22. Several district courts have held that individuals have a protected
7 liberty interest in their release from immigration detention and, after the *Mathews v.*
8 *Eldridge*, 424 U.S. 319, 348 (1976), three-part test, must receive a pre-deprivation
9 hearing before rearrest and detention. *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970
10 (N.D. Cal 2019) (“If the government wishes to re-arrest Ortega at any point, it has the
11 power to take steps toward doing so; but its interest in doing so without a hearing is
12 low.”); see also *Y.M.M. v. Wamsley*, No. 2:25-02075 2025 WL 3101782, at *3 (W.D.
13 Wash. Nov. 6, 2025); *Ramirez Tesara v. Wamsley*, No. 2:25-cv-01723-MJP-TLF, 2025
14 WL 2637663, at *5, __ F.Supp 3d __ (W.D. Wash. Sep. 12, 2025); *E.A. T.-B v.*
15 *Wamsley*, No. C25-1192-KKE, 2025 WL 2402130, at *2-6, __ F. Supp. 3d __ (W.D.
16 Wash. Aug. 19, 2025); *Guillermo M.R. v. Kaiser*, No. 25-CV-05436-RFL, 2025 WL
17 1983677, at *4 (N.D. Cal. July 17, 2025) (recognizing that “the liberty interest that
18 arises upon release [from immigration detention] is inherent in the Due Process
19 Clause”); *Ortega v. Kaiser*, No. 25-cv-05259-JST, 2025 WL 1771438, at *3 (N.D. Cal.
20 June 26, 2025) (collecting cases finding that noncitizens who have been released have
21 a strong liberty interest).

22 23. Once a determination to release an individual from custody is
23 made, the release order may be revisited when the facts or circumstances warrant
24 revocation or reconsideration. 8 U.S.C. § 1226(b). Revocation and return to custody
25 is authorized only based on the individualized facts and circumstances. 8 C.F.R. §
26 1236.1(c)(9).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VII. FACTS

24. Petitioner is currently detained at the Eloy Detention Center in Eloy, Arizona. Petitioner entered the United States without inspection on March 15, 2024.

25. Petitioner entered the United States on March 15, 2024, at or near El Paso, Texas, for the purpose of applying for asylum. She was detained by DHS for two days. On March 17, 2024, DHS commenced removal proceedings. Also on March 17, 2024, DHS made a Custody Determination, and DHS released Petitioner on her own recognizance pursuant to section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, pending a final administrative determination in her removal proceedings.

26. On March 17, 2024, DHS issued form I-220A Order of Release on Recognizance. The I-220A states that in accordance with section 236 of the INA, “you are being released on your own recognizance provided you comply with the following conditions:

You must report for any hearing or interview as directed by the Department of Homeland Security or the Executive Office for Immigration Review;

You must surrender for removal from the United States if so ordered;

You must report in (person) to [show proof of address] at 2035 N. Central Ave. on July 9, 2024, at 8:30 AM;

You must not change your place of residence without first securing written permission from the immigration officer listed above;

You must not violate any local, State, or Federal laws or ordinances;

You must assist the Department of Homeland Security in obtaining any necessary travel documents.”

27. The I-220A also advised Petitioner that if she did not comply with these above conditions that DHS may revoke her release.

1 F.3d 550, 555 (9th Cir. 2016) (invalidating agency action because it was taken by an
2 unauthorized official).

3 40. On information and belief, Respondents have revoked Petitioner's
4 prior custody determination as a result of a categorical policy prepared by and
5 implemented by unidentified government officials in Washington, D.C., not through
6 the individual exercise of discretion required by law or by the individuals enumerated
7 by regulation to do so.

8 41. Because Petitioner's revocation of release from custody has been
9 made or categorically directed by government officials not authorized by law to make
10 this determination, Respondents' detention of Petitioner is not in accordance with law
11 and is in excess of statutory authority.

12 **COUNT II**

13 **Violation of the Fifth Amendment Right to Due Process**

14 **Procedural Due Process**

15 42. Petitioner restates and realleges all paragraphs as if fully set forth
16 here.

17 43. The Due Process Clause of the Fifth Amendment to the U.S.
18 Constitution prohibits the federal government from depriving any person of "life,
19 liberty, or property, without due process of law." U.S. Const. Amend V. Due process
20 protects "all 'persons' within the United States, including [non-citizens], whether their
21 presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533
22 U.S. 678, 698 (2001).

23 44. Due process requires that government action be rational and non-
24 arbitrary. See *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

25 45. While the government has discretion to detain individuals under 8
26 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this
27 discretion is not "unlimited" and must comport with constitutional due process. See
28 *Zadvydas*, 533 U.S. at 698.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Email: Robert@coughlonlaw.com

Attorney for Petitioner