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14 **IN THE UNITED STATES DISTRICT COURT**  
15 **FOR THE DISTRICT OF ARIZONA**

16 Michell Godoy Ruiz,

17 Petitioner,

18 v.

19 Kristi Noem, *et al.*,

20 Respondents.

No. CV-25-04561-PHX-DJH (CDB)

**RESPONSE TO PETITION FOR  
WRIT OF HABEAS CORPUS**

21 **I. INTRODUCTION**

22 Respondents, by and through counsel, respond to the Petition for a Writ of Habeas  
23 Corpus (Doc. 1). Petitioner Michell Godoy Ruiz is a citizen of Venezuela who entered the  
24 United States unlawfully, and she was arrested by immigration officials in 2024. At that  
25 time, U.S. Immigration and Customs Enforcement (“ICE”) began removal proceedings  
26 against her and released her from custody under its Alternatives to Detention program.  
27 Petitioner was most recently detained by U.S. Immigration and Customs Enforcement  
28 (“ICE”) on November 17, 2025, because ICE determined that she violated the conditions  
of her release. In this habeas petition, Petitioner seeks a Court order directing ICE to release  
her immediately from immigration detention or else grant her a bond hearing under 8  
U.S.C. § 1226. Respondents respectfully request that this Court deny the Petition because

1 Petitioner has not been unconstitutionally detained, and her detention was rationally related  
2 to her violation of the terms of her release.

3 **II. FACTUAL BACKGROUND**

4 Petitioner entered the United States at an unknown time and place, but she was first  
5 encountered by immigration officials on March 17, 2024. *See* Declaration of Shadd  
6 Hoffman, Deportation Officer, Enforcement and Removal Operations, attached as Exhibit  
7 A, at ¶ 5. At that time, immigration officials determined that Petitioner had entered without  
8 inspection, so they began removal proceedings against her. *Id.* at ¶¶ 6–7. Petitioner was  
9 released from immigration custody on March 18, 2024, pursuant to ICE’s Alternatives to  
10 Detention program. *Id.* at ¶ 7. Petitioner was most recently placed into immigration custody  
11 on November 17, 2025, because ICE determined that she had violated the conditions of her  
12 release. *Id.* at ¶ 9. The next hearing in Petitioner’s removal proceedings will take place  
13 December 30, 2025. *Id.* at ¶ 13.

14 **III. THE HABEAS PETITION SHOULD BE DENIED**

15 **A. Petitioner was detained lawfully.**

16 Petitioner argues that her detention because she “did not violate any condition of  
17 [her] release.” Petition at ¶ 29. Generally, an alien may be released from custody pending  
18 the conclusion of their removal proceedings, either on bond or conditional parole. 8 U.S.C.  
19 § 1226(a). An alien released in this manner may have their release revoked “at any time”  
20 and may accordingly be detained. 8 U.S.C. § 1226(b). Neither the statute nor the  
21 regulations entitle an alien to any procedure if their parole is revoked, nor do they place  
22 any restrictions on the circumstances in which immigration authorities may revoke it. *See*  
23 *id.*; 8 C.F.R. § 236.1(c)(9) (allowing revocation of parole “in the discretion” of various  
24 immigration officials).

25 Petitioner argues, essentially, that her detention is unlawful because nothing  
26 changed between when ICE originally granted her release from custody in 2024 and when  
27 it redetained her this year. *See* Petition at ¶¶ 34–35, 46. However, Petitioner’s argument  
28 fails because Petitioner created a change in circumstances by failing to comply with the

1 conditions of her release.

2 Even taking for granted that ICE may not revoke Section 1226 parole absent a  
3 change in circumstances,<sup>1</sup> Petitioner's claim must fail because there *was* a change in  
4 circumstances: her violation of the conditions of her release. *See* Exhibit A at ¶ 9. A parolee  
5 who violates the terms of their supervised release may certainly be redetained. *See*  
6 *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). The Supreme Court has held that an alien  
7 who is granted supervised release from custody "may no doubt be returned to custody upon  
8 a violation of those conditions." *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). Because  
9 Petitioner created a change in circumstances by violating the terms of her release, she is  
10 not entitled to release from custody on that ground.

11 Petitioner also argues baldly that Respondents violated their own regulations  
12 because the official who revoked her parole was not authorized to do so by statute.  
13 However, Petitioner does not state who the official is who revoked her parole, much less  
14 provide any specific evidence that the official was not authorized to revoke her parole.  
15 Further, seeking judicial review under the Administrative Procedure Act (APA) is not  
16 properly sought through a habeas petition. *See Flores-Miramontes v. INS.*, 212 F.3d 1133,  
17 1140 (9th Cir. 2000) ("For purposes of immigration law, at least, 'judicial review' refers  
18 to petitions for review of agency actions, which are governed by the Administrative  
19 Procedure Act, while habeas corpus refers to habeas petitions brought directly in district  
20 court to challenge illegal confinement.").

21 The APA permits judicial review of an agency action only if "there is no other  
22 adequate remedy in a court[,]" *see* 5 U.S.C. § 704, which means that a federal court lacks  
23 jurisdiction over an APA claim if another statute would allow a court to review the  
24 allegedly unlawful agency action, *See Coos Cty. Bd. of Cty. Comm'rs v. Kempthorne*, 531  
25 F.3d 791, 810 (9th Cir. 2008) (citing 5 U.S.C. § 704); *Brem-Air Disposal v. Cohen*, 156

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27 <sup>1</sup> Neither Section 1226 itself nor 8 C.F.R. § 1236.1(c)(9) impose any such requirement. *See*  
28 *F-G. v. Noem*, 2025 U.S. Dist. LEXIS 111539 at \*24–25 (N.D. Okla. June 12, 2025)  
("Nothing in the statute or the regulation even hints at a change in circumstances  
requirement").

1 F.3d 1002, 1004–05 (9th Cir. 1998) (“Under APA § 10(c), codified at 5 U.S.C. § 704,  
2 federal courts lack jurisdiction over APA challenges whenever Congress has provided  
3 another ‘adequate remedy.’ \* \* \* ‘If a plaintiff can bring suit against the responsible federal  
4 agencies under [another statute], this action precludes an additional suit under the APA.’”  
5 (quoting *Envtl. Def. Fund v. Tidwell*, 837 F. Supp. 1344, 1356 (E.D.N.C. 1992))).

6 Petitioner’s challenge to the revocation of her parole is quintessentially a challenge  
7 to her detention now that her parole has been revoked, and the relief she seeks is release  
8 from detention. An adequate alternative to this APA challenge to her alleged illegal  
9 confinement has been brought with this petition for writ of habeas corpus. Because her  
10 petition for writ of habeas corpus is adequate to challenge her detention, there exists no  
11 APA jurisdiction to challenge her detention pursuant to the revocation of her previously  
12 granted discretionary parole into the United States. See *Lucas R. v. Azar*, No.  
13 CV185741DMGPLAX, 2018 WL 10483438, at \*6 (C.D. Cal. Sept. 6, 2018).

14 Finally, to the extent Petitioner’s challenge under the Administrative Procedure Act  
15 (“APA”) is not barred under 8 U.S.C. § 1226(e) or otherwise improper, it must fail because  
16 Petitioner was not prejudiced by the procedural error that she alleges. Petitioner argues that  
17 ICE’s failure to follow its procedures in revoking her parole justifies her release. However,  
18 to prevail on an APA challenge, a petitioner must show that the alleged error was not  
19 harmless. *Cal. Wilderness Coalition v. Dep’t of Energy*, 631 F.3d 1072, 1108 (9th Cir.  
20 2011). Here, Petitioner has made no such showing. Even supposing that the official who  
21 revoked her parole did not have the authority to do so, Petitioner’s decision to violate her  
22 parole justifies the parole’s revocation. Petitioner signed her Order of Release under a  
23 statement which reads “I understand that if I do not comply with these conditions [i.e., the  
24 ones listed on the form], the Department of Homeland Security may revoke my release  
25 without further notice.” Doc. 1-1 at 1. By the release’s own terms, a violation of the  
26 conditions is *per se* justification for its revocation. Thus, Petitioner could not prevail on  
27 her APA challenge even if it were proper, and even if she had provided sufficient  
28 allegations to support it.



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**CERTIFICATE OF SERVICE**

I hereby certify that on this 29th day of December, 2025, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing.

s/B. Chupp  
United States Attorney's Office