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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

YOSSELINE MELISSA PINEDA
GUADAMUZ,

Petitioner,

v.

KRISTI NOEM, in her official capacity,
Secretary of Homeland Security; PAM BONDI,
in her official capacity, Attorney General of the
United States; CHRISTOPHER CHESTNUT,
in his official capacity, Warden, California City
Detention Facility; SERGIO ALBARRAN, in
his official capacity, Field Office Director of
the San Francisco Field Office, U.S.
Immigration and Custom Enforcement (ICE);
TODD M. LYONS, in his official capacity,
Acting Director of ICE,

Respondents.

Case No. 1:25-CV-01794-JLT-SKO

**REPLY TO RESPONSE TO OSC
REGARDING WHY THE COURT
SHOULD NOT GRANT MOTION
FOR A PRELIMINARY
INJUNCTION**

I. Introduction

Yosseline Melissa Pineda Guadamuz (“Petitioner”) respectfully requests that this Court issue a preliminary injunction to prevent the ongoing violation of her due process and statutory rights. Respondents’ Response to Order to Show Cause Regarding Why The Court Should Not Grant Motion For A Preliminary Injunction (“OSC Response,” Dkt. No. 10) fails to address the due process and statutory violations that resulted in Petitioner’s summary re-arrest and detention without notice or an opportunity to contest the basis for her re-detention after she had been paroled into the United States for several years. *See* Exh. D to the Declaration of Deportation Officer Marbella Pano (“Pano Decl.,” Dkt. No 10). Nor does the OSC Response address the inconsistencies in the official immigration records that confirmed to Petitioner that she had been paroled pursuant to 8 U.S.C. § 1226(a).

While Respondents contend that Petitioner is subject to expedited removal and mandatory detention on the grounds that she entered the United States without valid travel documents, she received an Order of Release on Recognizance pursuant to 8 U.S.C. § 1226(a) and was paroled for approximately four years in a manner and pursuant to official immigration notices that are inconsistent with the expedited removal statutory scheme and mandatory detention without the possibility of bond. Respondents cannot simply re-classify Petitioner as subject to mandatory detention and expedited removal to meet the current administration’s aggressive deportation agenda. *See Coalition For Humane Immigrant Rights, v. Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986, at *22 (D.D.C. Aug. 1, 2025) (holding that expedited removal does not apply to noncitizens paroled into the United States); *see also, Espinoza, et al., v. Kaiser, et al.*, 2025 WL 2675785, at *8-9 (E.D. Cal. Sep. 18, 2025).

II. Statutory Framework

Immigration law provides two distinct paths for removing noncitizens deemed ineligible to enter or remain in the United States. The first, commonly known as “Section 240” or “Section 1229a” proceedings, is the standard mechanism for removing inadmissible noncitizens. *See generally* 8 U.S.C. § 1299a. “Section 240 removal proceedings take place

1 before an [Immigration Judge (IJ)], an employee of the Department of Justice (DOJ) who must
 2 be a licensed attorney and has a duty to develop the record in cases before them.” *Coalition For*
 3 *Humane Immigrant Rights, v. Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986, at *3 (D.D.C.
 4 Aug. 1, 2025) (citing 8 U.S.C. § 1229a(a)(1), (b)(1)). Alternatively, a noncitizen may be placed
 5 in “expedited removal” proceedings for specific reasons, including that the person entered the
 6 United States without valid entry documents. *See generally* 8 U.S.C. § 1225. In expedited
 7 removal, the process is truncated and overseen by an immigration officer, rather than an IJ. *See*
 8 8 C.F.R. § 235.3(b)(2)(i). Noncitizens must first establish a “credible fear” of persecution to the
 9 satisfaction of an asylum officer, who then refers them to proceedings in immigration court to
 10 prove that they meet the higher standard of “well-founded fear” necessary to claim asylum
 11 status. *See* 8 C.F.R. § 208.30.

12 In *Coalition*, the District of Columbia District Court explained the limits of expedited
 13 removal classification under 8 U.S.C. § 1225(b)(1)(A)(iii)(II) as follows:

14 Noncitizens may be eligible for expedited, rather than section 240, removal only if they
 15 are inadmissible on the basis that they either lack proper entry documents or falsified or
 16 misrepresented their application for admission. 8 U.S.C. § 1225(b)(1)(A)(i); *see id.* §
 17 1182(a)(6)(C), (a)(7) (grounds of inadmissibility). Among that set, only two categories
 18 of noncitizens are eligible for expedited removal: (1) noncitizens “arriving in the United
 19 States,” and (2) noncitizens who “ha[ve] not been admitted or paroled into the United
 20 States” and cannot affirmatively show that they have been “physically present in the
 21 United States continuously for the 2-year period immediately prior to the date of the
 22 determination of inadmissibility.” 8 U.S.C. § 1225(b)(1)(A)(i)–(iii). The statute permits
 the Attorney General (who has since delegated this authority to the DHS Secretary) to
 designate the population of noncitizens within that second category who will be subject
 to expedited removal. And that designation lies within the Secretary’s “sole and
 unreviewable discretion.” *Id.* § 1225(b)(1)(A)(iii); *see* 8 C.F.R. § 235.3(b)(ii) . . .
 2025 WL 2192986, *5 (footnote omitted).

23 The *Coalition* court held that § 1225(b)(1)(A)(iii) “forbids the expedited removal of noncitizens
 24 who have been, at any point in time, paroled into the United States.” 2025 WL
 25 2192986, at *22. *Coalition* at *22-*27 conducts a thorough analysis of § 1225(b)(1)(A)(iii), §
 26 235.3(b)(1), legislative history, relevant directives and case authority to reach its holding,
 27 which is relevant to Petitioner’s case.

1 **III. Petitioner is Not Subject to Expedited Removal or Mandatory Detention**

2 While Petitioner may have been eligible for expedited removal when she initially
3 arrived in the United States over four years ago on September 27, 2021, she does not presently
4 meet the statutory requirements for expedited removal. Specifically, even if she arrived without
5 proper travel documents over four years ago, she is not now an “arriving alien” or a noncitizen
6 who “has not been admitted or paroled into the United States.” 8 U.S.C. § 1225(b)(1)(A)(i)–
7 (iii).
8

9 Petitioner is not an “arriving alien” because when she arrived in 2021, she was paroled
10 into the United States. For the reasons set forth in *Coalition*, she is not four years later after
11 being paroled into the United States “an arriving alien.” See *Coalition* at *29 (rejecting the
12 government’s position that an “arriving alien,” includes those who have been paroled into the
13 United States).
14

15 Respondents concede that Petitioner was paroled into the United States on September
16 27, 2021. See Exh. D to the Pano Decl., Dkt. No 10. Respondents also take the position that
17 Petitioner nonetheless remains an “applicant for admission” who is “present in the United States
18 without being admitted or paroled[.]” 8 U.S.C. § 1182(a)(6)(A)(i).” OSC Response at 2. If
19 Petitioner was paroled on September 27, 2021, she no longer qualifies as a noncitizen who has
20 not been paroled under 8 U.S.C. § 1182(a)(6)(A)(i).
21

22 Even if Petitioner remains an “applicant for admission,” after approximately four years of
23 parole and her receipt of work authorization from the Department of Homeland Security valid
24 through 2029 (the Declaration of Carrie LeRoy (“LeRoy Decl.”) at ¶ 4, Dkt. 2-2), Respondents’
25 records demonstrate that Petitioner is subject to the discretionary detention framework of 8 U.S.C.
26 § 1226 rather than §1225. While Respondents contend that Petitioner is subject to mandatory
27 detention under 8 U.S.C. § 1225(b)(1)(B)(ii), they fail to explain why she was issued Form I-
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1 220A (Order of Release on Recognizance), which applies to individuals paroled under 8 U.S.C. §
2 1226. *See* Exh. F to the Pano Decl., Dkt. No 10 (noting that on September 25, 2025, “Pineda-
3 Guadamuz identified herself by her complete full name and *presented a Form I-220A*, Order of
4 Release on Recognizance.”) (emphasis added). Although Respondents have not produced a copy
5 of such Form I-220A, which they confiscated from Petitioner on September 25, 2025, they do
6 not dispute its existence or claim that the deportation officers who re-arrested Petitioner on
7 September 25, 2025 did not review such Form I-220A. Moreover, Respondents provided further
8 evidence of the fact that they classified Petitioner as subject to 8 U.S.C. § 1226. On September
9 27, 2021, they provided Petitioner with a Notice of Custody Determination that stated she was
10 being released “[p]ursuant to the authority contained in section 236 of the Immigration and
11 Nationality Act and part 236 of title 8, Code of Federal Regulations,” which is 8 U.S.C. § 1226
12 and its corresponding regulations. *See* Exh. D to the Pano Decl., Dkt. No 10.

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14 Respondents state in conclusory fashion in their OSC Response that “Petitioner’s prior
15 release in the discretion of DHS, even if the release document cited 8 U.S.C. § 1226, does not
16 have the effect of having converting petitioner’s presence in the United States into an
17 ‘admission.’” OSC Response at 4-5. Release under § 1226(a) and release under § 1182(d)(5)(A),
18 however, “are distinct procedures.” *Espinoza*, 2025 WL 2675785, at *6 (citing *Ortega-Cervantes*
19 *v. Gonzales*, 501 F.3d 1111, 1115–16, 1119–20 (9th Cir. 2007)). Once immigration authorities
20 “elect to proceed with full removal proceedings under § 1226, [they] cannot [] reverse course
21 and institute § 1225 expedited removal proceedings.” *Ramirez Clavijo v. Kaiser*, No. 25-CV-
22 06248-BLF, 2025 WL 2419263, at *4 (N.D. Cal. Aug. 21, 2025). Petitioner reasonably relied on
23 the official notices that she received from the immigration authorities in 2021 indicating that she
24 had been paroled pursuant to 8 U.S.C. § 1226. *See* Exh. D to the Pano Decl., Dkt. No 10.

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27 Finally, Respondents acknowledge that the negative fear determination in Petitioner’s

case was vacated by an immigration judge on November 18, 2025. *See* Pano Decl., at ¶ 11, Dkt. No 10. Petitioner understood in such proceedings that the immigration judge determined that she indeed has a credible fear of persecution in Nicaragua. *See* the LeRoy Decl., at ¶ 11, Dkt. 2-2. Thus, Petitioner’s case since November 18, 2025 is subject to standard Section 240 proceedings and the discretionary detention framework of 8 U.S.C. § 1226 referenced in Respondents’ official records.

IV. Petitioner’s Parole Was Unlawfully Revoked

ICE may choose to release a noncitizen on parole. The decision is discretionary and is made on a case-by-case basis. An immigrant who has been detained at the border may be paroled for humanitarian reasons or due to it providing a significant public benefit (8 U.S.C. § 1182(d)(5)(A)), or she may be conditionally released (8 U.S.C. § 1226(a)). In either case, to release a noncitizen from custody requires a case-by-case determination, where the noncitizen must “demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons” and that the noncitizen is “likely to appear for any future proceeding.” 8 C.F.R. § 1236.11(8); *see also Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007); *Fernández López v. Wofford*, 2025 WL 2959319, *2 (E.D. Cal. 2025).

In *Y-Z-H-L v. Bostock*, 2025 WL 1898025, at *10–12 (D. Or. July 9, 2025), the court explained the parole process in immigration cases and noted that before parole may be revoked, the parolee must be given written notice of the impending revocation, which must include a cogent description of the reasons supporting the revocation decision. The *Y-Z-H-L* court determined that under the Administrative Procedure Act, immigration parolees are entitled to determinations related to their parole revocations that are not arbitrary, capricious or an abuse of discretion. *Id.* at *10. An agency acts arbitrarily and capriciously by failing to make a reasoned determination or failing to “articulate[] a satisfactory explanation for its action

including a rational connection between the facts found and the choice made.” *Id.*

In considering *Y-Z-H-L* and § 212.5I, other courts have found that the statute requires a case-by-case analysis as to the decision to revoke parole and that written notice without individualized reasons for the revocation of parole is insufficient for compliance with 8 C.F.R. § 212.5I(2)(i). In *Mata Velasquez v. Kurzdorfer*, No.25-CV-493-LJV, 2025 WL 1953796, at *11 (W.D. N.Y. July 16, 2025), the court held similarly, in the context of humanitarian parole:

This Court agrees that both common sense and the words of the statute require parole revocation to be analyzed on a case-by-case basis and that a decision to revoke parole “must attend to the reasons an individual [noncitizen] received parole.” *See Doe. V. Noem*, 778 F.Supp.3d 311, 339 (D. Mass. April 14, 2025)]. There is no indication in the record that the government conducted any such analysis here. On the contrary, the letter Mata Velasquez received merely stated summarily that DHS had “revoked [his] parole.” Docket Item 62-1 at 5. Thus, there is no indication that—as required by the statute and regulations—an official with authority made a determination specific to Mata Velasquez that either “the purpose for which [his] parole was authorized” has been “accomplish[ed]” or that “neither humanitarian reasons nor public benefit warrants [his] continued presence...in the United States.” *See* 8 C.F.R. § 212.5I(2)(i). As a result, DHS’s revocation of Mata Velasquez’s parole violated his rights under the statute and regulations. *See Y-Z-L-H*, 2025 WL 1898025, at *13.

Respondents do not dispute that Petitioner was not provided individualized reasons for the revocation of her parole or an opportunity to contest such revocation when she was re-arrested on September 25, 2025. *See generally*, Response to OSC. While Respondents allege in their internal records that Petitioner missed a single appointment in four years, this alleged incident was not the stated basis for the revocation of her parole. *See* Exh. F to Pano Decl., Dkt. No 10.

Rather, Respondents’ re-arrest records provide that on September 25, 2025:

Deportation Officers (DO) A. Velastegui and DOK. Louie identified themselves as Officers with ICE and conducted an interview with Pineda-Guadamuz. During the interview, Pineda-Guadamuz identified herself by her complete full name and presented a Form I-220A, Order of Release on Recognizance, and an Interim Notice Authorizing Parole bearing her picture and name. DO Velastegui and DO Louie informed Pineda-Guadamuz that she is going to be taken into custody and that her case will be referred to USCIS Asylum Office. Pineda-Guadamuz was placed in handcuffs, double locked, and

checked for tightness. Pineda-Guadamuz along with her property was then transferred to the Detention unit located on the 6th floor for further processing. Exh. F to the Pano Decl., Dkt. No 10.

Informing Petitioner that “she is going to be taken into custody and that her case will be referred to USCIS Asylum Office” and checking her handcuffs “for tightness” do not constitute notice of the individualized reasons for the revocation of Petitioner’s parole or an opportunity to contest the basis for such re-arrest. Exh. F to the Pano Decl., Dkt. No 10.

Petitioner was not provided any prior notice of alleged non-compliance and upon her arrest, she was not afforded an opportunity to contest the alleged basis for her arrest and detention. *See* LeRoy Decl. at ¶¶ 8-9, Dkt. 2-2. Moreover, even if there were a minor violation, such as a single missed appointment, that alone would not be sufficient to demonstrate a material change of circumstances or that Petitioner is a flight risk or danger to others. *See Bernal v. Albarran*, No. 25-cv-09772-RS, 2025 U.S. Dist. LEXIS 232122, at *19 (N.D. Cal. Nov. 25, 2025) (granting injunctive relief and holding that “detention is permitted under section 1226(a) only if [petitioner] is dangerous or a flight risk,” and that “minor, technical violations” of her release conditions are insufficient to establish danger or flight risk). *Id.* The idea that Petitioner is a flight risk does not square with the fact that she attended her ICE check-in appointment on September 25, 2025 and otherwise demonstrated full compliance with the conditions of her parole for a period of approximately four years. LeRoy Decl., at ¶¶ 6-7, Dkt. 2-2.

While Petitioner is subject to 8 U.S.C. § 1226, regardless of the statutory authority, as explained by the court in *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, F. Supp. 3d, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025), a noncitizen’s re-arrest without cause and an opportunity to contest the revocation of parole violates the Due Process Clause. *See also, Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 WL 691664, at *4 (E.D. Cal. Mar. 3, 2025);

1 see also *Padilla v. U.S. Immigr. & Customs Enf't*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash.
2 2023) (“The Supreme Court has consistently held that non-punitive detention violates the
3 Constitution unless it is strictly limited, and, typically, accompanied by a prompt individualized
4 hearing before a neutral decisionmaker to ensure that the imprisonment serves the
5 government’s legitimate goals.”); *See also, J.O.L.R. v. Wofford*, No. 1:25-cv-01241-KES-SKO,
6 2025 U.S. Dist. LEXIS 202706, at *15-16 (E.D. Cal., Oct. 14, 2025); *Singh v. Andrews*, 2025
7 WL 1918679, *10 (E.D. Cal. July 11, 2025) (granting preliminary injunction).

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9 Finally, Petitioner objects to Respondents’ request to hold in “abeyance” “further
10 briefing deadlines” in her case pending the Ninth Circuit’s decision in *Rodriguez v. Bostock*,
11 779 F.Supp.3d 1239 (W.D. Wash. 2025). *See* OTC Response at 5. Without this Court’s prompt
12 issuance of a preliminary injunction, Petitioner will continue to suffer immense irreparable
13 injury. She faces such injury each and every day that she is detained in violation of her due
14 process and statutory rights. Unlawful deprivation of physical liberty is the quintessential
15 irreparable harm. *See Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017).

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17 Respondents do not address in their OSC Response the fact that Petitioner’s release in
18 2021 created an invaluable liberty interest upon which she reasonably relied. *See Guillermo M.*
19 *R. v. Kaiser*, No. 25-CV-05436-RFL, 2025 WL 1983677, at *4 (N.D. Cal. July 17, 2025)
20 (recognizing that “the liberty interest that arises upon release [from immigration detention] is
21 inherent in the Due Process Clause”); *Ortega v. Kaiser*, No. 25-cv-05259-JST, 2025 WL
22 1771438, at *3 (N.D. Cal. June 26, 2025) (collecting cases finding that noncitizens who have
23 been released have a strong liberty interest). Under *Mathews v. Eldridge*, 424 U.S. 319, 335
24 (1976)), this Court should issue a preliminary injunction requiring Petitioner’s prompt release
25 from detention.
26

27 **V. Conclusion**

1 For the foregoing reasons, Petitioner respectfully requests the Court issue a preliminary
2 injunction to restore the *status quo ante* that (1) orders Petitioner's immediate release from
3 Respondents' custody pending these proceedings, without requiring bond or electronic
4 monitoring, or, in the alternative, (2) orders Petitioner's immediate release from Respondents'
5 custody and barring her re-detention unless Respondents prove at a hearing before a neutral
6 arbiter by clear and convincing evidence that Petitioner is a flight risk or danger to others. To
7 preserve this Court's jurisdiction, Petitioner further seeks an order enjoining Respondents from
8 transferring Petitioner out of this District or deporting her from the United States during the
9 pendency of these proceedings.

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11 Date: January 5, 2026

Respectfully submitted,

12 /s/Carrie LeRoy
13 Carrie LeRoy
14 Pro Bono Attorney for Petitioner
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