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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MIRIAM FRANCISCA RUIZ DIAZ Petitioners v. CHRISTOPHER J. LAROSE, Senior Warden, Otay Mesa Detention Center; DANIEL A. BRIGHTMAN, San Diego Field Office Director, U.S. Immigration & Customs Enforcement (ICE); TODD LYONS, Acting Director, ICE; KRISTI NOEM, U.S. Secretary of Homeland Security; PAMELA BONDI, Attorney General of the United States Respondents.	Case No. '25CV3517 CAB SBC Agency No. [redacted] **PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS** Expedited Hearing Requested

I. INTRODUCTION

1. Petitioner, Miriam Francesca Ruiz Diaz, by and through their undersigned counsel, hereby files this Petition for Writ of Habeas Corpus to compel her immediate release from the immigration detention facility where she has been held by the U.S. Department of Homeland Security (DHS) since being detained on October 9, 2025, at an ICE check-in.

2. Ms. Ruiz Diaz is the subject of ongoing removal proceedings that were initiated in 2014, administratively closed by joint motion of the parties in 2015, and re-calendared by the Respondents ten years later, in September 2025.

3. Ms. Ruiz Diaz was released from ICE custody on her own recognizance over eleven (11) years ago, on September 26, 2014. She has never failed to appear for her court hearings or ICE check-ins. She has never been convicted of a crime.

4. On information and belief, Ms. Ruiz Diaz was arrested and re-detained pursuant to Executive Order No. 14165 which directs the Respondents to "take all appropriate actions to detain, to the fullest extent permitted by law, aliens apprehended for violations of immigration law until their successful removal from the United States." Exec. Order No. 14165 Sec. 5, 90 Fed. Reg. 8467 (Jan. 20, 2025). The Respondents did not, as the law requires, exercise discretion to

determine whether Ms. Ruiz Diaz herself had violated the conditions of her release on recognizance or had become a danger to the community or a flight risk.

II. JURISDICTION

5. This court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the U.S. Constitution because this action is a habeas corpus petition and under 28 U.S.C. § 1331 because this action arises under federal law, including the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (APA), 5 U.S.C. § 551 et seq.

6. The aid of this Court is further invoked under 28 U.S.C. §§ 2201-2, authorizing declaratory judgement and "further necessary or proper relief based on [such] declaratory judgment." and injunctive relief necessary to judgment and any further necessary and proper relief.

III. VENUE

7. Venue is properly with this court because Respondent Warden LAROSE is Petitioners' immediate custodian at the Otay Mesa Detention Facility in Otay Mesa, California. Venue is also proper pursuant to 28 U.S.C. § 1391(e) because the Defendants are all officers and agencies of the United States; the Plaintiff resides in this judicial district; and there is no real property involved in this action.

IV. PARTIES

8. Petitioner MIRIAM FRANCESCA RUIZ DIAZ is a native and citizen of Mexico who resides in the Southern District of California and is currently detained at the Otay Mesa Detention Center.

9. Respondent CHRISTOPHER J. LAROSE is the warden of Otay Mesa Detention Center. Respondent LaRose oversees the day-to-day operations of Otay Mesa Detention Center and acts at the direction of Respondents BRIGHTMAN, LYONS, NOEM, AND BONDI. He is a custodian of the Petitioner and is named in this official capacity.

10. Respondent DANIEL A. BRIGHTMAN is the San Diego Field Office Director of U.S. Immigration and Customs Enforcement (ICE). ICE is the component of the Department of Homeland Security (DHS) which is responsible for detaining and removing noncitizens according to immigration law and oversees custody determinations. Mr. Brightman is named in his official capacity. In his official capacity, he is a legal custodian of the petitioner.

11. Respondent TODD LYONS is the Acting Director of ICE and is named in his official capacity. In his official capacity, he is a legal custodian of the petitioner.

12. Respondent KRISTI NOEM is the Secretary of the DHS and is named in her official capacity. DHS is the federal agency of which ICE is a component

part. DHS is responsible for the administration and enforcement of the Immigration and Nationality Act (INA) and all other laws pertaining to the immigration of noncitizens. In her capacity as Secretary of the DHS, Respondent NOEM has responsibility for the administration and enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); see also 8 U.S.C. § 1103(a). Respondent NOEM is the ultimate legal custodian of Petitioner.

13. Respondent PAM BONDI is the Attorney General of the United States and the most senior official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She has the authority to interpret the immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals (BIA).

V. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

14. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." Id.

15. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." Fay v. Niola, 372 U.S. 391, 400 (1963).

16. The Petitioner is "in custody" for the purpose of § 2241 because she was arrested and remains detained by the Respondents.

VI. FACTS

17. The Petitioner, Ms. Miriam Ruiz Diaz, has lived in the United States since the age of ten. She was brought to the United States by her mother, who entered without inspection. Ms. Ruiz Diaz graduated from high school in San Diego and earned two college-level certificates: one in culinary arts and the other in office professional training. This second certificate led to her employment at a local accounting firm as an administrator and tax processor. She held this position from April 2021 until her detention forced the firm to terminate her employment.

18. Ms. Ruiz Diaz first encountered the Respondents in September 2014 after her neighbors called the police during a fight with her first husband. She was arrested and taken to jail, but after two days, the San Diego City Attorney's office determined that it would not be filing charges. Instead of being released from jail,

Ms. Ruiz Diaz was handed over to Respondent ICE who took her into custody on September 26, 2014.

19. ICE then placed Ms. Ruiz Diaz in removal proceedings pursuant to 8 U.S.C. § 1229a., charging her with inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection. After issuing a Notice to Appear in immigration court, ICE released Ms. Ruiz Diaz on her own recognizance. Her release was conditioned on her appearing at her immigration court hearings, reporting to ICE when requested, keeping ICE apprised of any change in address, and not violating any laws. Ms. Ruiz Diaz was not placed in a GPS wrist or ankle shackle or subject to any other form of electronic monitoring.

20. In 2015, Ms. Ruiz Diaz, through her immigration counsel, requested that the ICE Office of the Principal Legal Advisor (OPLA) grant prosecutorial discretion and join a motion to administratively close her removal proceedings. OPLA agreed, and the joint motion was filed on September 10, 2015. The immigration court granted the motion to administratively close on September 15, 2015.

21. For the next eleven years, Ms. Ruiz Diaz continued to live, attend school, and work in San Diego. She divorced her first husband and re-married her current husband last year. She and her husband are raising his four-year-old

daughter from a previous relationship. Ms. Ruiz Diaz also has a 27-year-old daughter born in the United States and her husband has a 20-year old U.S. citizen son. Ms. Ruiz Diaz and her husband teach Sunday school at Ministerios Ebenezer in Lemon Grove.

22. In late summer 2025, the immigration court notified Ms. Ruiz Diaz that her removal proceedings were being reopened. She was scheduled for a master calendar hearing on September 23, 2025. Before that date, her first hearing was rescheduled to December 2025. Ms. Ruiz Diaz then received a letter from ICE requesting that she check in with a "non-detained deportation officer" to update her information.

23. When Ms. Ruiz Diaz appeared for her ICE appointment on October 9, 2025 she was escorted into a room where two masked ICE officers were waiting. They told her that she was going to be detained and handcuffed her. She asked if she could call her attorney and they told her that she could not. Despite repeated requests, Ms. Ruiz Diaz was not allowed to call anyone until the next morning when her assigned deportation officer arrived for work. Ms. Ruiz Diaz has now been detained for two months and has never received an explanation for the revocation of her release on recognizance and re-detention by the Respondents.

VII. LEGAL FRAMEWORK

24. Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." Addington v. Texas, 441 U.S. 418, 423 (1979). Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. Reno v. Flores, 507 U.S. 292, 306 (1993). Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or are a danger to the community. Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

25. Removal proceedings described in section 240 of the INA are used to determine whether individuals, such as Petitioner, should be removed from the United States. See, 8 U.S.C. § 1229a. The Immigration and Nationality Act establishes various procedures through which individuals may be detained pending a decision on whether or not the noncitizen is to be removed. 8 U.S.C. § 1226(a).

26. Custody determinations for individuals in 1229a removal proceedings are governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if she does not present a danger to persons or property and is not a flight risk. Zadvydas v. Davis, 533 U.S. 678, 690 (2001); Matter of Guera, 24 I&N Dec. 37 (BIA 2006). Custody determinations under § 1226(a) are individualized and based

on the facts presented in those cases. Unlike § 1226(c), which can provide for categorical determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the facts and circumstances.

27. Once a determination to release an individual from custody is made pursuant to 8 U.S.C. § 1226, the release order may be revisited only if the facts and circumstances warrant revocation or reconsideration. 8 U.S.C. § 1226(b). Revocation of release and return to custody is authorized only based on the individualized facts and circumstances. 8 CFR § 1236.1(c)(9). "In practice, the DHS re-arrests individuals only after a 'material' change in circumstances. To satisfy due process, those changed circumstances must represent individualized legal justification for detention." Sanchez v. Larose, No. 25cv2396-JES-MMP (S.D. Cal. Sep. 26, 2025)(internal citations omitted); Tran v. Noem, No. 25cv2334-JES-MSB, at *6-7 (S.D. Cal. Sep. 29, 2025)(citing Ying Fong v. Ashcroft, 317 F.Supp. 2d 398, 403 (S.D.N.Y. 2004). "This standard prevent[s] arbitrary revocations and ensure[s] that detention decisions rest[] on individualized assessments of changed circumstances rather than categorical assumptions. Gonzalez v. Bostock, No. 2:25cv01404-JNW-GJL at *13 (W.D. Wash. Oct. 7, 2025)(discussing Vargas v. Jennings, No. 20-cv-5785, 2020 WL 5074312, at *2 (N.D. Cal. Aug. 23, 2020) (quoting Ortega v. Bonnar, 415 F.Supp.3d 963, 968 (N.D. Cal. 2019) (quoting Matter of Sugay, 17 I.&N. Dec. 637, 640 (B.I.A.

1981))); Saravia v. Sessions, 280 F.Supp.3d 1168, 1197 (N.D. Cal. 2017). Cf., Matter of Sugay, 17 I&N Dec. 637, 640 (BIA 1981)("Where a previous bond determination has been made by an immigration judge, no change should be made by a District Director absent a change in circumstance[.]"). By regulation, revocation decisions are limited in nature and may only be made by certain authorized individuals. Id.

VIII. EXHAUSTION OF ADMINISTRATIVE REMEDIES

28. No statutory exhaustion requirements apply to Petitioner's claim of unlawful custody in violation of her due process rights, and there are no administrative remedies that she needs to exhaust. See, American-Arab Anti-Discrimination Comm. v. Reno, 70 F.l3d 1045, 1058 (9th Cir. 1995 (Finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review constitutional claims); In re Indefinite Det. Cases, 83 F. Supp. 2d 1098, 1099 (C.D. Cal 2000)(same).

29. Exhaustion of administrative remedies is prudential, not jurisdictional, in habeas proceedings. Hernandez v. Sessions, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive the prudential exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." Id. (quoting Liang v. Ashcroft, 370 F.3d 994, 1000

(9th Cir. 2004). Petitioner asserts that exhaustion should be waived because administrative remedies have been rendered futile by the Respondents' refusal to follow district court orders.

30. Despite the fact that Ms. Ruiz Diaz entered without inspection and was arrested within the United States, she has been prevented from receiving a bond hearing by the Board of Immigration Appeals decision in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA Sept. 5, 2025) which holds that immigration judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without having been admitted, no matter when or how they arrived in the United States. Id. at 228.

31. On November 20, 2025, the U.S. District Court for the Central District of California certified a nationwide class of those who (1) do not have lawful status in the United States and are currently detained by immigration authorities; (2) entered the United States without inspection and was not apprehended upon arrival; and (3) are not detained under 8 U.S.C. §§ 1226(c), 1225(b)(1), or § 1231. Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment). The district court then extended

declaratory judgment to the certified class, ordering the government to hold bond hearings for them. Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners). Ms. Ruiz Diaz is a member of this class.

32. However, following the district court's order, Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in Maldonado Bautista is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency's prior decision in Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025).

33. Because Respondents will refuse to grant a bond hearing to Petitioner in violation of the declaratory judgment issued in Maldonado Bautista, seeking a bond hearing before an Immigration Judge would be a futile endeavor.

VIII. CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process
Substantive Due Process

34. "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Civil detention,

including that of a non-citizen, violates due process in the absence of a "special justification" sufficient to outweigh one's "'constitutionally protected interest in avoiding physical restraint.'" *Id.* (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)) (internal quotation marks omitted).

35. This interest in freedom from detention is particularly strong for individuals who are facing termination of previous release conditions and re-detention. In Morrissey v. Brewer, the Supreme Court held that an individual who is re-detained after being released- has a "valuable" liberty interest notwithstanding the "indeterminate" nature of his freedom. 408 U.S. 471, 482 (1972). Subject to the conditions of his release, a noncitizen released on bond "can be gainfully employed and is free to be with family and friends and to form the other enduring attachments of normal life." Id. The noncitizen's liberty therefore "includes many of the core values of unqualified liberty and its termination inflicts a 'grievous loss' on the noncitizen and often others." Id. See, Carballo v. Andrews, No. 1:25-CV-00978- KES-EPG (HC), 2025 WL 2381464, at *4 (E.D. Cal. Aug. 15, 2025)(There is "a meaningful distinction between a challenge to an initial period of detention . . . and a challenge to *re-detention* after a court has previously granted release on bond pending immigration proceedings.")(emphasis in original).

36. The Respondents have violated Ms. Ruiz Diaz's protected liberty interest in freedom from arbitrary imprisonment.

COUNT TWO
Violation of Fifth Amendment Right to Due Process
Procedural Due Process

37. Due process requires that government action be rational and non-arbitrary. See, U.S. v. Trimble, 487 F.3d 752, 757 (9th Cir. 2007).While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not "unlimited" and must comport with constitutional due process. See, Zadvydas, 533 U.S. at 698.

38. Here, Respondents have chosen to revoke Petitioner's release in an arbitrary manner, not based on a rational and individualized determination of whether she is a safety or flight risk, but based on a sweeping categorical order from Washington. Because no individualized custody revocation determination has been made and no circumstances have changed to make the Petitioner a flight risk or a danger to the community, Respondents' actions are violations of procedural due process.

COUNT THREE
Violation of the Administrative Procedure Act—5 U.S.C. § 706(2)(A)
Not in Accordance with Law and in Excess of Statutory Authority
Violation of 8 U.S.C. § 1226(b), 8 CFR § 1236.1(c)(9)

39. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

40. Under the APA, a court "shall [...] hold unlawful [...] agency action" that is "not in accordance with law;" "contrary to constitutional right;" "in excess of statutory jurisdiction, authority, or limitations;" or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A-D).

41. It is a well-established administrative principle that "agency action taken without lawful authority is at least voidable if not void *ab initio*." L.M.-M. v. Cuccinelli, 442 F.Supp. 3d 1, 35 (D.D.C. 2020), citing SW General, Inc. v NLRB, 796 F.3d 67, 79 (D.C. Cir. 2015); see also, Hooks v. Kitsap Tenant Support Servs., Inc., 816 f.3d 550, 555 (9th Cir. 2016)(invalidating agency action because it was taken by an unauthorized official).

42. 8 U.S.C. § 1226(b) states that "[t]he Attorney General at any time may revoke a bond or parole authorized under 8 U.S.C. § 1226(a)" and rearrest a noncitizen under the initial warrant. The regulations, however, require that such revocations may only be carried out in the "discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign)." 8 CFR § 1236.1(c)(9).

43. On information and belief, Respondents have revoked Petitioner Miriam Ruiz Diaz's prior custody determination as a result of a categorical policy prepared by and implemented by unidentified government officials in Washington

D.C., not by the individuals designated by regulation to exercise discretion within the bounds of the law. Respondent's re-detention of Petitioner is not in accordance with law and in excess of statutory authority.

COUNT FOUR
Violation of the Administrative Procedure Act—5 U.S.C. § 706(2)(A)
Abuse of Discretion
Violation of 8 U.S.C. § 1226(b), 8 CFR § 1236.1(c)(9)

44. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

45. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

46. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." Nat'l Ass'n of Home Builders v. Defs. of Wildlife, 551 U.S. 644, 658 (2007)(quoting Motor Vehicle Mfrs. Ass'n of U.S. Inc. v. State Farm Mut. Auto Ins. Co., 463 U.S. 29, 43 (1983).

47. To prevail against such a claim, the agency must articulate "a satisfactory explanation for its action, including a rational connection between the facts found and the choice made." Dept. of Com. v. New York, 139 S. Ct. 2551, 2569 (2019)(citation omitted).

48. Respondents considered Petitioner's individual facts and circumstances in September 2014 and determined that she was not a flight risk or danger to the community. There have been no changes to the Petitioner's circumstances that justify this revocation of release and re-detention. The fact that the Petitioner has already been granted release by Respondents under the same facts and circumstances that continue to exist at this time, shows that the Respondents do not consider her a flight risk or danger to the community and have not for the last eleven years.

49. By categorically revoking Petitioner's release and re-detaining her without consideration of her individualized facts and circumstances, Respondents have violated the APA by failing to exercise discretion at all, let alone find facts and make a rational choice based on those facts.

IX. PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Issue an order prohibiting Respondents from transferring Petitioner outside the jurisdiction of the San Diego Field Office and/or the Southern District of California pending the resolution of this case;

(3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days;

(4) Declare that revocation of Petitioner's release from custody on her own recognizance was done in violation of statute and regulation;

(5) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

(6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from their custody immediately and return her custody conditions to the status quo ante: release on her own recognizance;

(7) Enjoin Respondents from adding additional requirements to Petitioner's release conditions, including but not limited to enrollment in an "alternatives to detention" program that requires GPS or any other electronic monitoring;

(8) In the alternative, conduct an immediate bond hearing before this Court where DHS bears the burden of justifying Petitioner's continued detention by clear and convincing evidence;

(9) In the alternative, order an immediate bond hearing before a neutral decisionmaker where DHS bears the burden of justifying Petitioner's continued detention by clear and convincing evidence;

(10) Award costs and reasonable attorney's fees pursuant to the Equal Access to Justice Act, and on any other basis justified under law; and

(11) Grant such other relief as the Court deems just and proper.

Respectfully submitted on this 10th day of December 2025.

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Dated: December 10, 2025

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