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8 Attorneys for Respondents

9  
10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 LUZ ELSA CRUZ, *also known as*  
EDGAR OMAR CHAVEZ CRUZ,

13  
14 Petitioner,

15 v.

16 CHRISTOPHER G. LAROSE, in his  
official capacity as Warden of CCA  
17 Detention facility, *et al.*,

18 Respondents.  
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22  
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Case No.: 25-cv-03742-CAB-KSC

**RESPONSE IN OPPOSITION TO  
PETITIONER'S HABEAS PETITION  
AND APPLICATION FOR  
TEMPORARY RESTRAINING  
ORDER**

24 **I. Introduction**

25 Petitioner has filed a habeas petition and a motion for a temporary restraining  
26 order. As the petition and motion assert the same claims and relief, Respondents respond  
27 to both herein for the sake of judicial efficiency. For the reasons set forth below,  
28 Respondents ask the Court to deny the habeas petition and request for interim relief.

1 **II. Factual and Procedural Background<sup>1</sup>**

2 Petitioner is a native and citizen of Mexico. Declaration of La'Shaniece Wilson  
3 (Wilson Decl.) at ¶ 3; *see* ECF 1 at ¶ 2. On June 30, 2004, Petitioner was convicted of  
4 false personation under California Penal Code § 529(a)(3) and was sentenced to  
5 probation and 68 days in jail. *Id.* at ¶ 4. On or about August 24, 2004, Petitioner was  
6 taken into ICE custody. *Id.* at ¶ 5. On that date, she was served with a Notice to Appear  
7 and placed in removal proceedings. *Id.* On August 31, 2004, an Immigration Judge (IJ)  
8 ordered Petitioner removed to Mexico and Petitioner was removed through a port of  
9 entry on the same day. *Id.* at ¶ 6.

10 Petitioner subsequently re-entered the United States. On April 12, 2010,  
11 Petitioner was arrested for resisting arrest under California Penal Code § 148(a) and for  
12 public intoxication under California Penal Code § 647(f). Petitioner was released from  
13 state criminal custody to ICE custody without prosecution. *Id.* at ¶ 6. On April 14, 2010,  
14 ICE reinstated Petitioner's prior removal order. Wilson Decl. at ¶ 8. Petitioner was  
15 subsequently provided with a reasonable fear interview. *Id.* at ¶ 9. The asylum officer  
16 made a positive reasonable fear finding. Petitioner was then placed in withholding only  
17 proceedings. *Id.* On November 8, 2010, the IJ granted withholding of removal to  
18 Mexico under INA § 241(b)(3). Wilson Decl. at ¶ 10; ECF 1 at ¶ 4. On November 18,  
19 2010, Petitioner was released from ICE custody on Order of Supervision. *Id.* On  
20 November 20, 2025, ICE enrolled Petitioner in the Alternatives to Detention (ATD)  
21 program. *Id.* at ¶ 11.

22 On December 18, 2025, Petitioner was re-detained by ICE. *Id.* at ¶ 12; ECF 1 at  
23 ¶ 10. On that date, Petitioner was provided a notice of revocation of release and an  
24 informal interview. *Id.*

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<sup>1</sup> The attached exhibits are true copies, with redactions of private information, of  
28 documents obtained from ICE counsel.

1 Since Petitioner’s re-detention in December 2025, ICE has worked as  
2 expeditiously as possible to identify a third country to which Petitioner may be  
3 removed. Wilson Decl. at ¶ 13. At this time, ICE is still in the process of identifying  
4 third countries that may be willing to accept Petitioner for removal. *Id.* at ¶ 14. Should  
5 ICE identify a third country for removal, Petitioner will be notified in writing of the  
6 third country at least 24 hours prior to removal. *Id.* at 15. If Petitioner claims a fear of  
7 removal to the identified country, she will be referred to an asylum officer for  
8 processing of the fear-based claim. *Id.*

### 9 III. Argument

#### 10 A. Petitioner’s Claims and Requests are Barred by 8 U.S.C. § 1252

11 Petitioner bears the burden of establishing that this Court has subject matter  
12 jurisdiction over her claims. *See Ass’n of Am. Med. Coll. v. United States*, 217 F.3d 770,  
13 778-79 (9th Cir. 2000); *Finley v. United States*, 490 U.S. 545, 547-48 (1989). To the  
14 extent Petitioner’s claims arise from—or seek to enjoin—the decision to execute her  
15 removal order, they are jurisdictionally barred under 8 U.S.C. § 1252(g). *See* 8 U.S.C.  
16 § 1252(g) (“Except as provided in this section and *notwithstanding any other provision*  
17 *of law* (statutory or nonstatutory), *including section 2241 of Title 28, or any other*  
18 *habeas corpus provision*, and sections 1361 and 1651 of such title, no court shall have  
19 jurisdiction to hear any cause or claim by or on behalf of any alien arising from the  
20 decision or action by the Attorney General to commence proceedings, adjudicate cases,  
21 or *execute removal orders* against any alien under this chapter.”) (emphasis added);  
22 *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) (“There was  
23 good reason for Congress to focus special attention upon, and make special provision  
24 for, judicial review of the Attorney General’s discrete acts of “commenc[ing]  
25 proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders”—which represent  
26 the initiation or prosecution of various stages in the deportation process.”). In other  
27 words, § 1252(g) removes district court jurisdiction over “three discrete actions that the  
28

1 Attorney may take: [his] ‘decision or action’ to ‘commence proceedings, adjudicate  
2 cases, or execute removal orders.’” *Reno*, 525 U.S. at 482 (emphasis removed).  
3 Petitioner’s claims necessarily arise “from the decision or action by the Attorney  
4 General to . . . execute removal orders,” over which Congress has explicitly foreclosed  
5 district court jurisdiction. 8 U.S.C. § 1252(g). Accordingly, to the extent Petitioner’s  
6 claims arise from—or seek to enjoin—the decision to execute her removal order, the  
7 Court should deny and dismiss those claims for lack of jurisdiction under 8 U.S.C.  
8 § 1252.

9 **B. Petitioner Fails to Establish Entitlement to Interim Injunctive Relief**

10 Petitioner’s motion should be denied because she has not established that she is  
11 entitled to interim injunctive relief. Petitioner cannot establish that she is likely to  
12 succeed on the underlying merits, there is no showing of irreparable harm, and the  
13 equities do not weigh in her favor.

14 In general, the showing required for a temporary restraining order is the same as  
15 that required for a preliminary injunction. *See Stuhlberg Int’l Sales Co., Inc. v. John D.*  
16 *Brush & Co., Inc.*, 240 F.3d 832, 839 (9th Cir. 2001). To prevail on a motion for a  
17 temporary restraining order, a plaintiff must “establish that he is likely to succeed on  
18 the merits, that he is likely to suffer irreparable harm in the absence of preliminary  
19 relief, that the balance of equities tips in his favor, and that an injunction is in the public  
20 interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *accord Nken v.*  
21 *Holder*, 556 U.S. 418, 426 (2009). Plaintiffs must demonstrate a “substantial case for  
22 relief on the merits.” *Leiva-Perez v. Holder*, 640 F.3d 962, 967–68 (9th Cir. 2011).  
23 When “a plaintiff has failed to show the likelihood of success on the merits, we need  
24 not consider the remaining three [*Winter* factors].” *Garcia v. Google, Inc.*, 786 F.3d  
25 733, 740 (9th Cir. 2015).

26 The final two factors required for preliminary injunctive relief—balancing of the  
27 harm to the opposing party and the public interest—merge when the Government is the  
28

1 opposing party. *See Nken*, 556 U.S. at 435. “Few interests can be more compelling than  
2 a nation’s need to ensure its own security.” *Wayte v. United States*, 470 U.S. 598, 611  
3 (1985).

4 **1. No Likelihood of Success on the Merits**

5 Likelihood of success on the merits is a threshold issue. *See Garcia*, 786 F.3d at  
6 740. Petitioner cannot establish that she is likely to succeed on the underlying merits of  
7 her claims because she is properly detained under 8 U.S.C. § 1231(a).

8 An alien ordered removed must be detained for 90 days pending the  
9 government’s efforts to secure the alien’s removal through negotiations with foreign  
10 governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall detain” the alien  
11 during the 90-day removal period). The statute “limits an alien’s post-removal detention  
12 to a period reasonably necessary to bring about the alien’s removal from the United  
13 States” and does not permit “indefinite detention.” *Zadvydas v. Davis*, 533 U.S. 678,  
14 689 (2001). The Supreme Court has held that a six-month period of post-removal  
15 detention constitutes a “presumptively reasonable period of detention.” *Id.* at 683.  
16 Release is not mandated after the expiration of the six-month period unless “there is no  
17 significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

18 In *Zadvydas*, the Supreme Court held: “[T]he habeas court must ask whether the  
19 detention in question exceeds a period reasonably necessary to secure removal. It should  
20 measure reasonableness primarily in terms of the statute’s basic purpose, namely,  
21 *assuring the alien’s presence at the moment of removal.*” *Id.* at 699 (emphasis added).  
22 In so holding, the court recognized that detention is presumptively reasonable pending  
23 efforts to arrange travel, because the noncitizen’s assistance is needed to obtain the  
24 travel documents, and a noncitizen who is subject to an imminent, executable warrant  
25 of removal becomes a significant flight risk, especially if he or she is aware that it is  
26 imminent.

1 The court also held that the detention could exceed six months: “This 6-month  
2 presumption, of course, does not mean that every alien not removed must be released  
3 after six months. To the contrary, an alien may be held in confinement until it has been  
4 determined that there is no significant likelihood of removal in the reasonably  
5 foreseeable future.” *Id.* at 701. “After this 6-month period, once the alien provides good  
6 reason to believe that there is no significant likelihood of removal in the reasonably  
7 foreseeable future, the Government must respond with evidence sufficient to rebut that  
8 showing and that the noncitizen has the initial burden of proving that removal is not  
9 significantly likely.” *Id.* The Ninth Circuit has emphasized, “*Zadvydas* places the  
10 burden on the alien to show, after a detention period of six months, that there is ‘good  
11 reason to believe that there is no significant likelihood of removal in the reasonably  
12 foreseeable future.’” *Pelich v. INS*, 329 F. 3d 1057, 1059 (9th Cir. 2003) (quoting  
13 *Zadvydas*, 533 U.S. at 701); *see also Xi v. INS*, 298 F.3d 832, 840 (9th Cir. 2003).

14 Here, there is a likelihood that Petitioner will be removed in the reasonably  
15 foreseeable future. Since Petitioner’s detention on December 18, 2025, ICE has worked  
16 expeditiously to identify a country to which Petitioner may be removed. *See Wilson*  
17 Decl. at ¶ 13. ICE is currently in the process of identifying a country willing to accept  
18 Petitioner for removal. *Id.* at ¶ 14.

19 Petitioner may complain that the government did not make such arrangements  
20 before taking her back into detention. But *Zadvydas* does not require the government to  
21 pre-arrange a noncitizen’s removal before arresting them, which would often be  
22 extremely difficult if not impossible. The constitutional standard is whether there is “a  
23 significant likelihood of removal” in the “reasonably foreseeable future”—not whether  
24 a removal will occur “imminently.” The law does not require that “every [noncitizen]  
25 not removed must be released after six months.” *Zadvydas*, 533 U.S. at 701. Instead,  
26 the Supreme Court was clear that the Constitution prevents only “indefinite” or  
27 “potentially permanent” detention. *Id.* at 689–91.

1 Courts therefore properly deny *Zadvydas* claims under such circumstances. *See*  
2 *Malkandi v. Mukasey*, 2008 WL 916974, at \*1 (W.D. Wash. Apr. 2, 2008) (denying  
3 *Zadvydas* petition where petitioner had been detained more than 14 months post-final  
4 order); *Nicia v. ICE Field Off. Dir.*, 2013 WL 2319402, at \*3 (W.D. Wash. May 28,  
5 2013)(holding petitioner “failed to satisfy his burden of showing that there is no  
6 significant likelihood of his removal in the reasonably foreseeable future” where he had  
7 been detained more than seven months post-final order). That Petitioner does not yet  
8 have a specific date of anticipated removal does not make her detention indefinite. *See*  
9 *Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008) (explaining that a demonstration  
10 of “no significant likelihood of removal in the reasonably foreseeable future” would  
11 include a country’s refusal to accept a noncitizen or that removal is barred by our own  
12 laws).

13 On this record, it would be premature to reach a conclusion that Petitioner has  
14 sustained her burden before permitting ICE an opportunity to complete its diligent  
15 efforts to effect her removal. “[E]vidence of progress, albeit slow progress, in  
16 negotiating a petitioner’s repatriation will satisfy *Zadvydas* until the petitioner’s  
17 detention grows unreasonably lengthy.” *Kim v. Ashcroft*, Case No. 02cv1524-J (LAB)  
18 slip op., at 7 (S.D. Cal. June 2, 2003) (finding that petitioner’s one-year and four-month  
19 detention does not violate *Zadvydas* given respondent’s production of evidence showing  
20 governments’ negotiations are in progress and there is reason to believe that removal is  
21 likely in the foreseeable future) [Exs. 22-30.]; *see also Sereke v. DHS*, Case No.  
22 19cv1250 WQH AGS, ECF No. 5 at \*5 (S.D. Cal. Aug. 15, 2019) (“the record at this  
23 stage in the litigation does not support a finding that there is no significant likelihood  
24 of Petitioner’s removal in the reasonably foreseeable future.”) [Exs. 31-35.]; *Marquez*  
25 *v. Wolf*, Case No. 20-cv-1769-WQH-BLM, 2020 WL 6044080 at \*3 (denying petition  
26 because “Respondents have set forth evidence that demonstrates progress and the  
27 reasons for the delay in Petitioner’s removal”).

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1 Petitioner does not have a protected liberty interest in remaining free from  
2 detention where ICE has exercised its discretion under a valid removal order and its  
3 regulatory authority. *See Moran v. U.S. Dep't of Homeland Sec.*, 2020 WL 6083445, at  
4 \*9 (C.D. Cal. Aug. 21, 2020) (dismissing petitioners' claim that § 241.4(l) was a  
5 violation of their procedural due process rights and noting, "[Petitioners] fail to point to  
6 any constitutional, statutory, or regulatory authority to support their contention that they  
7 have a protected interest in remaining at liberty in the United States while they have  
8 valid removal orders."). "While the regulation provides the detainee some opportunity  
9 to respond to the reasons for revocation, it provides no other procedural and no  
10 meaningful substantive limit on this exercise of discretion as it allows revocation  
11 "when, in the opinion of the revoking official ... [t]he purposes of release have been  
12 served ... [or] [t]he conduct of the alien, or *any other circumstance*, indicates that release  
13 would no longer be appropriate." *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir.  
14 2009), *opinion amended and superseded*, 591 F.3d 1105 (9th Cir. 2010), citing §§  
15 241.4(l)(2)(i), (iv) (emphasis in original).

16 Petitioner does not challenge her removal order—nor could she. With Petitioner's  
17 removal likely to occur in the reasonably foreseeable future, no purpose would be  
18 served by this Court's ordering her release—other than frustrating "the statute's basic  
19 purpose, namely, assuring the alien's presence at the moment of removal." *Zadvydas*,  
20 533 U.S. at 699. Thus, Petitioner is unlikely to succeed on the merits of her claim that  
21 her detention is unlawful.

## 22 2. Irreparable Harm Has Not Been Shown

23 To prevail on her request for interim injunctive relief, Petitioner must  
24 demonstrate "immediate threatened injury." *Caribbean Marine Services Co., Inc. v.*  
25 *Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *Los Angeles Memorial Coliseum*  
26 *Commission v. National Football League*, 634 F.2d 1197, 1201 (9th Cir. 1980)). Merely  
27 showing a "possibility" of irreparable harm is insufficient. *See Winter*, 555 U.S. at 22.

1 And detention alone is not an irreparable injury. *See Reyes v. Wolf*, No. C20-0377JLR,  
2 2021 WL 662659, at \*3 (W.D. Wash. Feb. 19, 2021), *aff'd sub nom. Diaz Reyes v.*  
3 *Mayorkas*, No. 21-35142, 2021 WL 3082403 (9th Cir. July 21, 2021). Further,  
4 “[i]ssuing a preliminary injunction based only on a possibility of irreparable harm is  
5 inconsistent with [the Supreme Court’s] characterization of injunctive relief as an  
6 extraordinary remedy that may only be awarded upon a clear showing that the plaintiff  
7 is entitled to such relief.” *Winter*, 555 U.S. at 22.

8 Petitioner suggests that being subjected to unjustified detention itself constitutes  
9 irreparable injury.<sup>2</sup> But this argument “begs the constitutional questions presented in  
10 [his] petition by assuming that [P]etitioner has suffered a constitutional injury.” *Cortez*  
11 *v. Nielsen*, 2019 WL 1508458, at \*3 (N.D. Cal. Apr. 5, 2019). Moreover, Petitioner’s  
12 “loss of liberty” is “common to all [noncitizens] seeking review of their custody or bond  
13 determinations.” *See Resendiz v. Holder*, 2012 WL 5451162, at \*5 (N.D. Cal. Nov. 7,  
14 2012). She faces the same alleged irreparable harm as any habeas corpus petitioner in  
15 immigration custody, and she has not shown extraordinary circumstances warranting a  
16 mandatory preliminary injunction.

17 Importantly, the purpose of this civil detention is facilitating removal and the  
18 government is working to timely remove Petitioner. Here, because Petitioner’s alleged  
19 harm “is essentially inherent in detention, the Court cannot weigh this strongly in favor  
20 of Petitioner.” *Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK, 2018 WL 7474861, at  
21 \*10 (N.D. Cal. Dec. 24, 2018).

### 22 3. Balance of Equities Does Not Tip in Petitioners’ Favor

23 It is well settled that “the public interest in enforcement of the immigration laws  
24 is significant.” *Blackie’s House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir.  
25 1981) (collecting cases); *see Nken*, 556 U.S. at 436 (“There is always a public interest  
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27 <sup>2</sup> Detention is different than removal. But a removal is also not an inherently irreparable  
28 injury. *See Nken v. Holder*, 556 U.S. 418, 435 (2009).

1 in prompt execution of removal orders: The continued presence of an alien lawfully  
2 deemed removable undermines the streamlined removal proceedings IIRIRA  
3 established, and permits and prolongs a continuing violation of United States law.”)  
4 (simplified). And ultimately, “the balance of the relative equities ‘may depend to a large  
5 extent upon the determination of the [movant’s] prospects of success.’” *Tiznado-Reyna*  
6 *v. Kane*, Case No. C 12-1159-PHX-SRB (SPL), 2012 WL 12882387, at \* 4 (D. Ariz.  
7 Dec. 13, 2012) (quoting *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987)).

8 Here, as explained above, Petitioner cannot succeed on the merits of her claims  
9 and the public interest in the prompt execution of removal orders is significant. The  
10 balancing of equities and the public interest thus weigh heavily against granting  
11 equitable relief in this case.

12 **D. Conditions of Confinement Allegations are Not Proper Habeas Claims**

13 To the extent Petitioner asserts claims regarding conditions of her confinement,  
14 ECF No. 1 at ¶ 34, the Court lacks jurisdiction over such claims because they do not  
15 challenge the lawfulness of her custody. An individual may seek habeas relief under 28  
16 U.S.C. § 2241 if she is “in custody” under federal authority “in violation of the  
17 Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c). But habeas  
18 relief is available to challenge only the legality or duration of confinement. *Pinson v.*  
19 *Carvajal*, 69 F.4th 1059, 1067 (9th Cir. 2023); *Crawford v. Bell*, 599 F.2d 890, 891 (9th  
20 Cir. 1979); *Dep’t of Homeland Security v. Thraissigiam*, 591 U.S. 103, 117 (2020) (The  
21 writ of habeas corpus historically “provide[s] a means of contesting the lawfulness of  
22 restraint and securing release.”). The Ninth Circuit squarely explained how to decide  
23 whether a claim sounds in habeas jurisdiction: “[O]ur review of the history and purpose  
24 of habeas leads us to conclude the relevant question is whether, based on the allegations  
25 in the petition, release is *legally required* irrespective of the relief requested.” *Pinson*,  
26 69 F.4th at 1072 (emphasis in original); *see also Nettles v. Grounds*, 830 F.3d 922, 934  
27 (9th Cir. 2016) (The key inquiry is whether success on the petitioner’s claim would  
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1 “necessarily lead to immediate or speedier release.”). Here, Petitioner’s claims  
2 regarding the conditions of her confinement do not arise under § 2241. *See Nettles*, 830  
3 F.3d at 933 (“We have long held that prisoners may not challenge mere conditions of  
4 confinement in habeas corpus.”); *Giron Rodas v. Lyons*, No. 25cv1912-LL-AHG, 2025  
5 WL 2300781, at \*3 (S.D. Cal. Aug. 1, 2025) (“Like in *Pinson*, the Court lacks  
6 jurisdiction over Petitioner’s § 2241 habeas petition since it cannot be fairly read as  
7 attacking ‘the legality or duration of confinement.’”) (quoting *Pinson*, 69 F.4th at 1065);  
8 *Guselnikov v. Noem*, No. 25-cv-1971-BTM-KSC, 2025 WL 2300873, at \*1 (S.D. Cal.  
9 Aug. 8, 2025) (finding petitioners’ claims did not arise under § 2241 because they were  
10 not arguing they were unlawfully in custody and receiving the requested relief would  
11 not entitle them to release). Thus, Petitioner’s claims regarding the conditions of her  
12 custody do not arise under § 2241 and should be dismissed.

13 **V. CONCLUSION**

14 For the foregoing reasons, Respondents respectfully request that the Court deny  
15 the application for a temporary restraining order and dismiss the habeas petition.

16 DATED: January 6, 2026

17 Respectfully submitted,

18 ADAM GORDON  
19 United States Attorney

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21 *s/ Tom Merritt*  
22 TOM MERRITT  
23 Assistant United States Attorney  
24 Attorney for Respondents  
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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

LUZ ELSA CRUZ, AKA  
EDGAR OMAR CHAVEZ CRUZ,  
  
Petitioner,  
  
v.  
  
CHRISTOPHER G. LAROSE, et al.,  
  
Respondents.

Case No. 25-cv-3742-CAB-KSC  
**DECLARATION OF  
LA'SHANIECE WILSON**

I, La'Shaniece Wilson, pursuant to 28 U.S.C. § 1746, hereby declare under penalty of perjury that the following statements are true and correct, to the best of my knowledge, information, and belief:

1. I am a Deportation Officer (DO) with the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), in the Otay Mesa suboffice of the San Diego Field Office. I have been with ICE as a DO since December 29, 2024.

2. This declaration is based on my personal knowledge and experience as a law enforcement officer and information provided to me in my official capacity as a DO at the ICE ERO San Diego Field Office, as well as my review of government

1 databases and documentation relating to Petitioner Luz Elsa Cruz, aka Edgar Omar  
2 Chavez Cruz.

3 3. Petitioner, a transgender female, is a native and citizen of Mexico.

4 4. On June 30, 2004, Petitioner was convicted of false personation under  
5 California Penal Code § 529(a)(3) and was sentenced to probation and 68 days in jail.

6 5. On or about August 24, 2004, Petitioner was taken into ICE custody. On  
7 that date, she was served with a Notice to Appear and placed in removal proceedings.

8 6. On August 31, 2004, an Immigration Judge (IJ) ordered Petitioner  
9 removed to Mexico. Petitioner was removed through a port of entry on the same day.

10 7. On April 12, 2010, Petitioner was arrested for resisting arrest under  
11 California Penal Code § 148(a) and for public intoxication under California Penal Code  
12 § 647(f). Petitioner was released to ICE custody without prosecution.

13 8. On April 14, 2010, ICE reinstated Petitioner's prior removal order.

14 9. Petitioner was subsequently provided with a reasonable fear interview. The  
15 asylum officer made a positive reasonable fear finding. Petitioner was then placed in  
16 withholding only proceedings.

17 10. On November 8, 2010, the IJ granted withholding of removal to Mexico  
18 under INA § 241(b)(3). On November 18, 2010, Petitioner was released from ICE  
19 custody on Order of Supervision.

20 11. On November 20, 2025, ICE enrolled Petitioner in the Alternatives to  
21 Detention (ATD) program.

22 12. On December 18, 2025, Petitioner was re-detained by ICE. On that date,  
23 Petitioner was provided a notice of revocation of release and an informal interview.

24 13. Since Petitioner's re-detention in December 2025, ICE has worked as  
25 expeditiously as possible to identify a third country to which Petitioner may be removed.

26 14. At this time, ICE is still in the process of identifying third countries that  
27 may be willing to accept Petitioner for removal.

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1 15. Should ICE identify a third country for removal, Petitioner will be notified  
2 in writing of the third country at least 24 hours prior to removal. If Petitioner claims a  
3 fear of removal to the identified country, she will be referred to an asylum officer for  
4 processing of the fear-based claim.

5 I declare under penalty of perjury of the laws of the United States of America that  
6 the foregoing is true and correct.

7 Executed this 2nd day of January 2026.

8 **LASHANIEC** Digitally signed by  
LASHANIECE M WILSON  
9 **E M WILSON** Date: 2026.01.02 08:43:57  
-08'00'

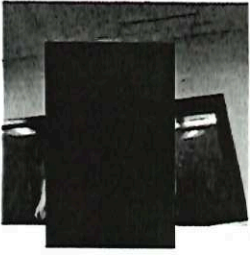


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11 La' Shaniece Wilson  
12 Deportation Officer  
13 San Diego Field Office  
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# Exhibit A

U.S. Department of Homeland Security

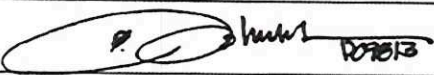
Subject ID : [REDACTED]

Record of Deportable/Inadmissible Alien

Family Name (CAPS) <b>CRUZ, OMAR</b>		First	Middle	Sex	Hair	Eyes	Complexion
Country of Citizenship <b>MEXICO</b>	Passport Number and Country of Issue		[REDACTED]	Height	Weight	Occupation	
U.S. Address [REDACTED]				Scars and Marks			
Date, Place, Time, and Manner of Last Entry <b>11/01/2004 Unknown Time, OTM, WI-Without Inspection</b>			Passenger Boarded at				
Number, Street, City, Province (State) and Country of Permanent Residence				F.B.I. Number [REDACTED]			
Date of Birth [REDACTED] <b>Age: 46</b>		Date of Action <b>12/18/2025</b>	Location Code <b>SND/SND</b>	<input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Married <input type="checkbox"/> Widower <input type="checkbox"/> Separated			
City, Province (State) and Country of Birth <b>TIJUANA, BAJA CALIFORNIA, MEXICO</b>		AR <input checked="" type="checkbox"/>	Form (Type and No.) Lifted <input type="checkbox"/> Not Lifted <input type="checkbox"/>	Method of Location/Apprehension <b>NCA</b>			
NIV Issuing Post and NIV Number		Social Security Account Name		At/Near <b>See I-831</b>		Date/Hour <b>12/18/2025 16:32</b>	
Date Visa Issued		Social Security Number		By <b>D7549 A. CORDERO</b>			
Immigration Record <b>POSITIVE - See Narrative</b>			Criminal Record				
Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate)				Number and Nationality of Minor Children <b>None</b>			
Father's Name, Nationality, and Address, if Known <b>UNKNOWN, UNKNOWN NATIONALITY: UNKNOWN</b>		Mother's Present and Maiden Names, Nationality, and Address, if Known <b>[REDACTED] NATIONALITY: MEXICO</b>					
Monies Due/Property in U.S. Not in Immediate Possession <b>None Claimed</b>		Fingerprinted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Systems Checks <b>See Narrative</b>		Charge Code Word(s) <b>See Narrative</b>		
Name and Address of (Last/Current) U.S. Employer		Type of Employment <b>Unemployed or Retired</b>	Salary	Employed from/to <b>llr</b>			
Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)							
<b>FIN: 15785048</b>		<b>Left Index fingerprint</b>			<b>Right Index fingerprint</b>		
							
<b>Family Information</b>							
Father: UNKNOWN, UNKNOWN is a citizen of UNKNOWN.							
Mother: [REDACTED] is a citizen of MEXICO.							
Spouse: Subject is not married.							
Child: Subject does not have children or dependents.							
<b>OTHER ALIASES KNOWN BY:</b>							
<b>CRUZ, LUZ ELSA ... (CONTINUED ON I-831)</b>							
Alien has been advised of communication privileges <b>12/18/2025</b> <b>JA</b> (Date/Initials)				<b>J D09813 ALMARIA</b> Deportation Officer <b>[Signature]</b> <b>D09813</b> (Signature and Title of Immigration Officer)			
Distribution:		Received: (Subject and Documents) (Report of Interview)					
<b>FILE</b>		Officer: <b>J D09813 ALMARIA</b> <b>[Signature]</b> <b>D09813</b>					
<b>EARM</b>		on: <b>December 18, 2025</b> (time)					
<b>STATS</b>		Disposition: <b>Bag and Baggage</b>					
		Examining Officer: <b>SAMANIEGO, J. 9482</b> <b>[Signature]</b>					

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name CRUZ, OMAR	File Number [REDACTED] Event No: [REDACTED]	Date 12/18/2025
<p><b>IMMIGRATION RECORD</b></p> <p>-----</p> <p>History was expected but not provided</p> <p><b>Subject Health Status</b></p> <p>-----</p> <p>The subject claims good health.</p> <p><b>Current Administrative Charges</b></p> <p>-----</p> <p>12/18/2025 - [REDACTED] - PREVIOUSLY ORDERED REMOVED AND ENTERED OR ATTEMPTED TO ENTER WITHOUT BEING ADMITTED</p> <p><b>RECORDS CHECKED</b></p> <p>-----</p> <p>CIS checked on 12/18/2025 with Positive result. EARM checked on 12/18/2025 with Positive result. O checked on 12/18/2025 with Positive result.</p> <p><b>Arrested At/Near</b></p> <p>-----</p> <p>185 West F Street, Suite 300 San Diego CA 92101 USA</p> <p><b>Record of Deportable/Excludable Alien:</b></p> <p>-----</p> <p>NAME: CRUZ, Omar  A#: [REDACTED]  DOB: [REDACTED]  COB: MEXICO  FBI: N/A  SID: N/A  CASE TYPE: Bag and Baggage  AGENCY: ICE</p> <p>I, Deportation Officer, Rogelio Nunez, am currently assigned to the San Diego Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), Alternatives to Detention (ATD) Unit with an area of operational enforcement to include, but not limited to, the San Diego County area. This unit is responsible, in part, for locating and identifying aliens, including out-of-status nonimmigrants and deportable immigrants, and, when applicable under the law, processing them for removal proceedings.</p> <p><b>ENCOUNTER DATA</b></p> <p>On December 18, 2025, at approximately 2:00 PM, San Diego ICE/ERO Deportation Officers (DO) Nunez and Ebba, responded to the Intensive Supervision Appearance Program (ISAP) San Diego Office, located at 185 West F Street, Suite 300, San Diego, CA 92101. Officers were notified by ISAP that CRUZ, Omar DOB: [REDACTED], A# [REDACTED], reported in person for an interview, and using Department of Homeland Security databases, ICE determined that CRUZ did not possess valid immigration documents authorizing him to be or remain in the United States legally.</p> <p>On December 18, 2025, CRUZ was arrested by ICE/ERO San Diego Deportation Officers Ebba and Nunez at his scheduled office appointment at ISAP, located at 185 West F Street Suite 300, San Diego, CA 92101, pursuant to the immigration judge's order of removal. CRUZ was an ICE/ERO ATD program participant. ICE/ERO Officers positively identified the intended</p>		
Signature J D09813 ALMARIA		
	Title Deportation Officer	

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name CRUZ, OMAR	File Number [REDACTED] Event No: [REDACTED]	Date 12/18/2025
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target, CRUZ and placed him under arrest per the Warrant for Arrest of Alien, Form I-200 and transported him without incident to the San Diego ICE/ERO San Diego Field Office for processing.

CRUZ will remain in DHS custody pending his removal from the United States.

\*\*\*\*\*

Name: CRUZ, Omar, AKA: CRUZ, Luz Elsa  
A# [REDACTED]  
DOB: [REDACTED] (46 years old, male)  
FBI# [REDACTED]  
FINS: [REDACTED]  
COB/COC: Mexico  
Event# [REDACTED]

ENCOUNTER AND CUSTODY

On December 18, 2025, ERO San Diego, Non-Detained Unit took custody of Omar CRUZ. On the same date, at 1730 hours, at the Field Office, Criminal Alien Program (CAP) Deportation Officer (DO) Almaria, J., was assigned to process and serve CRUZ with a Bag and Baggage.

CRIMINAL HISTORY

CRUZ has no record of criminal conviction and has no record of Wants, Warrants or Lookouts.

IMMIGRATION HISTORY

On August 31, 2004, ERO San Diego removed CRUZ as Warrant of Arrest/ Notice to Appear via Otay Mesa, California, Port of Entry.  
On November 8, 2010, an Immigration Judge in San Diego, California granted CRUZ a Withholding of Removal to Mexico.  
On December 18, 2025, ERO San Diego, Non-Detainer Unit served CRUZ a Notice of Revocation of Release and was taken into custody.

CONSULAR NOTIFICATION, LEGAL AND PHONE RIGHTS

CRUZ was advised to make contact to the Consulate of Mexico and to make a free phone call. A copy of the signed consular notification and phone call was placed on file.  
CRUZ was provided with the list of free legal service providers.

MEDICAL/HEALTH


CRUZ claimed to be in good health and taking the following medication.  
\*\*\*Biktarvy  
CRUZ claimed to be positive with [REDACTED]  
CRUZ claimed to legally change gender to female.

LAST KNOWN US ADDRESS

CRUZ claimed to have a current address in the United States at [REDACTED] California [REDACTED].

DISPOSITION

CRUZ is found to be inadmissible under Section 212(a)(9)(C)(i)(II) of the Immigration and Nationality Act, as amended, as an alien who has been ordered removed under section 235(b)(1), section 240, or any other provision of law, and who enters or attempts to reenter the United States without being admitted.  
CRUZ will be remanded to DHS custody and be processed as Bag and Baggage and be transferred to Otay Mesa Detention Center (OMDC) pending removal to any designated third country of removal.

Signature J D09813 ALMARIA 	Title Deportation Officer
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U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name CRUZ, OMAR	File Number [REDACTED] Event No: [REDACTED]	Date 12/18/2025
Other Identifying Numbers ----- ALIEN-[REDACTED]		
Signature J D09813 ALMARIA 	Title Deportation Officer	

# Exhibit B




U.S. Department of Homeland Security

Continuation Page for Form I-200

Alien's Name CRUZ, OMAR	File Number [REDACTED] Event No: [REDACTED]	Date 12/18/2025
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OTHER ALIASES KNOWN BY

CRUZ, LUZ ELSA

Signature SAMANIEGO, J. 9482 	Title Deportation Officer
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# Exhibit C

Office of Enforcement and Removal Operations

U.S. Department of Homeland Security  
880 Front Street, Suite 3200  
San Diego, CA, 92101



U.S. Immigration  
and Customs  
Enforcement

Cruz, Omar Aka Luz Elsa

A [REDACTED]

### Notice of Revocation of Release

This letter is to inform you that your order of supervision has been revoked, and you will be detained in the custody of U.S. Immigration and Customs Enforcement (ICE) at this time. This decision has been made based on a review of your official alien file and a determination that there are changed circumstances in your case.

ICE has determined that you can be expeditiously removed from the United States pursuant to the outstanding order of removal against you. ICE will attempt removal to a third country.

Based on the above, and pursuant to 8 C.F.R. § 241.13(i)(2), your release on an order of supervision will be revoked today and you will be taken into ICE custody. You will be afforded an informal interview today at which you will be given an opportunity to respond to the reasons for the revocation. You may submit any evidence or information you wish to be reviewed in support of your release.

You are advised that you must demonstrate that you are making reasonable efforts to comply with the order of removal and that you are cooperating with ICE's efforts to remove you by taking whatever actions ICE requests to affect your removal. You are also advised that any willful failure or refusal on your part to make timely application in good faith for travel or other documents necessary for your departure, or any conspiracy or actions to prevent your removal or obstruct the issuance of a travel document, may subject you to criminal prosecution under 8 U.S.C. Section 1253(a).

A handwritten signature in black ink, appearing to read "D. Cordero".

D. Cordero | SDDO

Signature and Title of Authorized Official

12/18/2025

Date

Notice to Alien of Revocation of Release

A [REDACTED]

Page 2

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PROOF OF SERVICE

(1) Personal Service

*Supervisory Detention and*

(a) I, John Barik, Deportation Officer,  
Name of ICE Officer Title

certify that I served CRUZ, Omar AKA Luz Elsa with a copy of  
Name of detainee

this document at San Diego, CA ICE/ERO Non-Detained Office on 12/18/2025 at 1726  
Institution Date Time

Detainee Signature: Refused to sign Date: 12/18/2025

( ) cc: Attorney of Record or Designated Representative

( ) cc: A-File

ALIEN INFORMAL INTERVIEW

UPON REVOCATION OF ORDER OF SUPERVISION UNDER

8 C.F.R. § 241.4(l); 8 C.F.R. § 241.13(i)

STATEMENT OF: Cruz, Omar Aka Luz Elsa

A File # [REDACTED]

Detention Location: San Diego, CA

INTERVIEWING ICE OFFICER: John Berle, SDDO SND  
[Print Name, Title & Duty Station]

On 12/18/25 I conducted an initial informal interview of the detainee listed above in order to afford the alien an opportunity to respond to the reasons for revocation of his or her order of supervision stated in the notification letter. At the interview, the alien made the following oral response regarding the reasons for revocation:

*Nothing to say*

The detainee [did]  [did not] provide a written statement. The detainee [did]  [did not] provide any documents. Any documents provided are attached.

  
\_\_\_\_\_  
Signature of Interviewing Officer

FOR INTERNAL USE ONLY

# Exhibit D

DEPARTMENT OF HOMELAND SECURITY  
U.S. Immigration and Customs Enforcement

**WARRANT OF REMOVAL/DEPORTATION**

Subject ID: [REDACTED]  
File No: [REDACTED]  
Event No: [REDACTED]  
Date: December 18, 2025

To any immigration officer of the United States Department of Homeland Security:

OMAR CRUZ AKA: CRUZ, LUZ ELSA

(Full name of alien)

who entered the United States at OTAY MESA, CALIFORNIA on November 1, 2004  
(Place of entry) (Date of entry)

is subject to removal/deportation from the United States, based upon a final order by:

- an immigration judge in exclusion, deportation, or removal proceedings
- a designated official
- the Board of Immigration Appeals
- a United States District or Magistrate Court Judge

and pursuant to the following provisions of the Immigration and Nationality Act:

212a9CiII; INA241(a) (5)

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Secretary of Homeland Security under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of:

Salaries and Expenses, Department of Homeland Security

J. 9482 SAMANIEGO

 (A) 5000

(Signature of immigration officer)

Deportation Officer

(Title of immigration officer)

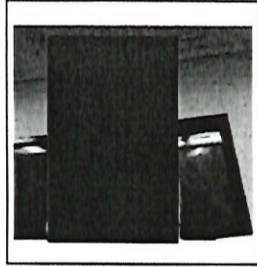
December 18, 2025, SAN DIEGO, CALIFORNIA

(Date and office location)

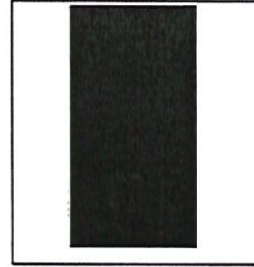
To be completed by immigration officer executing the warrant: Name of alien being removed:

OMAR CRUZ

Port, date, and manner of removal: \_\_\_\_\_



Photograph of alien removed



Right index fingerprint of alien removed

*[Handwritten signature]*

(Signature of alien being fingerprinted)

J D09813 ALMARIA - Deportation Officer

*[Handwritten signature]* D09813

(Signature and title of immigration officer taking print)

Departure witnessed by: \_\_\_\_\_

(Signature and title of immigration officer)

If actual departure is not witnessed, fully identify source or means of verification of departure:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If self-removal (self-deportation), pursuant to 8 CFR 241.7, check here.

Departure Verified by: \_\_\_\_\_

(Signature and title of immigration officer)