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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

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11 BRAULIA AZUCENA ALVAREZ
RODRIGUEZ

Petitioner,

vs.

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15 KRISTI NOEM, Secretary of the U.S. Department
of Homeland Security; PAMELA BONDI,
Attorney General of the United States; TODD M.
16 LYONS, Acting Director, U.S. Immigration and
Customs Enforcement; JESUS ROCHA, Acting
17 Field Office Director, San Diego Field Office;
CHRISTOPHER J. LAROSE, Warden, Otay
18 Mesa Detention Center,

Respondents.

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Case No.: **'25CV3799 LL MMP**

**PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. §2241**

IMMIGRATION HABEAS CASE

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1 Ms. Alvarez Rodriguez submits that her detention violates her constitutional rights.
2 Petitioner seeks an order from this Court declaring her detention unlawful and ordering
3 Respondents to release Ms. Alvarez Rodriguez from their custody.
4

5 **II. CUSTODY**

6 Ms. Alvarez Rodriguez is in the physical custody of Respondent Todd M. Lyons, Acting
7 Director, U.S. Immigration and Customs Enforcement (USICE), the Department of Homeland
8 Security (DHS), Respondent Jesus Rocha, Acting Field Office Director, San Diego Field Office,
9 ICE, and Respondent Christopher J. LaRose, Warden of the Otay Mesa Detention Center (OTM) in
10 San Diego, California. At the time of the filing of this petition, Petitioner is detained at the OTM in
11 San Diego, California. The Otay Mesa Detention Center contracts with the DHS to detain aliens
12 such as Petitioner. Ms. Rodriguez Alvarez is under the direct control of Respondents and their
13 agents.
14

15 **III. JURISDICTION**

16 This action arises under the Constitution of the United States, the Immigration and
17 Nationality Act ("INA"), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform
18 and Immigrant Responsibility Act of 1996 ("IIRAIRA"), Pub. L. No. 104-208, 110 Stat. 1570. This
19 Court has jurisdiction under 28 U.S.C. 2241, art. I, § 9, cl. 2 of the United States Constitution
20 ("Suspension Clause") and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of
21 authority of the United States and such custody is in violation of the U.S. Constitution, laws, or
22 treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241 and the All-
23 Writs Act, 28 U.S.C. § 1651.

24 **IV. VENUE**

25 Venue lies in the United States District Court for the Southern District of California under
26 28 U.S.C. §1391(b) and (e) because at least one Respondent, Christopher J. LaRose, the legal
27 custodian of Ms. Alvarez Rodriguez, is in this district, and it is where Petitioner is detained.
28

1 Additionally, all material decisions regarding Ms. Rodriguez Alvarez's detention have been made at
2 the San Diego Field Office of ICE, located in San Diego, California.

3
4 **V. PARTIES**

5 Petitioner, Braulia Azucena Alvarez Rodriguez, is a national and citizen of Guatemala who
6 has resided in the United States since October 2007. She is currently detained at the Otay Mesa
7 Detention Center in San Diego, California, under Respondents' legal custody.

8
9 Respondent Todd M. Lyons is the Acting Director, U.S. Immigration and Customs
10 Enforcement, a component of the Department of Homeland Security, and maintains his office in
11 San Diego, California, within this judicial district. Respondent Lyons is a custodial official acting
12 within the boundaries of the judicial district of the United States Court for the Southern District of
13 California, San Diego Division. Pursuant to Respondent Lyon's orders, Petitioner remains detained.
14 He is sued in his official capacity.

15
16 Respondent Jesus Rocha is the Acting Field Office Director of the San Diego Field Office,
17 U.S. Immigration and Customs Enforcement. Respondent Rocha is responsible for ICE's policies,
18 practices, and procedures, including those relating to the detention of noncitizens. Respondent
19 Rocha is a legal custodian of Petitioner. He is sued in his official capacity.

20
21 Respondent Kristin Noem is the Secretary of the U.S. Department of Homeland Security, an
22 agency of the United States. She is responsible for the administration and enforcement of the
23 immigration laws. See 8 U.S.C. § 1103(a). Respondent Noem is a legal custodian of Petitioner. She
24 is sued in her official capacity.

25
26 Respondent Pamela Bondi is the Attorney General of the United States. As Attorney
27 General, Respondent Bondi has the authority to interpret the immigration laws and adjudicate
28 removal cases and bond hearings. See 8 U.S.C. § 1103(g). The Attorney General delegates this

1 responsibility to the Executive Office for Immigration Review, which administers the immigration
2 courts and the BIA. Respondent Bondi is a legal custodian of Petitioner. She is sued in her official
3 capacity.

4 Respondent Christopher J. LaRose is the warden of the Otay Mesa Detention Center in San
5 Diego, California. He is Petitioner's immediate custodian and resides in the judicial district of the
6 United States Court for the California Southern District Court.

7 VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES

8 Ms. Alvarez Rodriguez has exhausted her administrative remedies to the extent required by
9 law. She has fully cooperated with Respondents and has not delayed or obstructed her detention.
10 Ms. Alvarez Rodriguez's only remedy is by way of this judicial action.

11 VII. STATEMENT OF THE FACTS

12 Ms. Alvarez Rodriguez is a national and citizen of Guatemala who entered the United States
13 in 2007, after she had been [REDACTED]

14 [REDACTED] *Id. at* ¶ 2. She was detained in
15 September 2011 and released by ICE in February 2012 due to health reasons. She was granted
16 Withholding of Removal under the Convention Against Torture on February 27, 2014, by the San
17 Diego Immigration Court. *Exhibit A, Declaration of Braulia A. Alvarez Rodriguez* ¶ 1 and 4, and
18 *the Immigration Court Order, Exhibit C.*

19 Ms. Alvarez Rodriguez dutifully reported to and checked in with ICE every year from 2012,
20 when she was released from detention, to the present. *Id. at* ¶ 5. She also applied for and received
21 Employment Authorization under her Withholding Order. *Id. at* ¶ 6. Ms. Alvarez Rodriguez's
22 Employment Authorization is current with an expiration date of July 10, 2030, under the A10
23 category. *Id. at* ¶ 6.

24 She was granted Deferred Action on April 7, 2025, by the United States Citizenship and
25 Immigration Service, pursuant to her U non-immigrant Petition. *Id. at* 8 and *Exhibit D.*

26 On July 23, 2018, Ms. Alvarez Rodriguez applied for a U non-immigrant visa, a special
27 visa under the Immigration and Naturalization Act for victims of certain crimes and therefore has a
28 priority date of July 23, 2018. *Exhibit D.*

1 Ms. Alvarez Rodriguez' U non-immigrant visa Petition was approved, but there were no
2 visas available at the time. *Exhibit A at ¶ 8, and Exhibit D.*

3 On October 1, 2025, the Department of State released 10,000 visas and Ms.
4 Alvarez Rodriguez is hoping to receive her U visa soon. *Exhibit A at ¶ 9.*

5 On December 18, 2025, Respondent Lyons and his agents arrested Ms. Alvarez Rodriguez
6 at their San Diego, California, offices during a check-in. The reason for the arrest was to remove
7 Ms. Alvarez Rodriguez to a third country without proper notice and an opportunity to challenge that
8 removal in direct violation of due process. *Id. at 11.*

9 Respondents failed to provide Ms. Alvarez Rodriguez with written notice of the reasons for
10 her re-detention. *Exhibit A at ¶ 11.* Ms. Alvarez Rodriguez is not a danger to the community or a
11 flight risk. She has no pending criminal cases.

12 Ms. Alvarez Rodriguez has deep roots in this community. She has four United States citizen
13 children and one lawful permanent resident child. *Exhibit A at ¶ 12.*

14 Prior to her detention, Ms. Alvarez Rodriguez was caring for her children. She suffers from
15 depression and anxiety as a result of being 

16 
17 which is the basis for her deferred status as a victim of a qualified crime under the U visa statutes.
18 She is also blind in one eye. *Exhibit A at ¶ 2.*

19 Respondents' decision to detain Ms. Alvarez Rodriguez is no longer justifiable and is
20 capricious and arbitrary.

21 **VIII. CLAIMS FOR RELIEF**

22 **A. COUNT ONE: ICE failed to comply with its own regulations before re-**
23 **detaining Ms. Alvarez Rodriguez, violating her rights under applicable regulations and the**
24 **Fifth Amendment.**

25 Two regulations establish the process due to someone who is re-detained in immigration
26 custody following a period of release. 8 C.F.R. § 241.4(l) applies to re-detention generally. 8 C.F.R.
27 § 241.13(i) applies to persons released after providing good reason to believe that they will not be
28 removed in the reasonably foreseeable future, as Ms. Alvarez Rodriguez was.

1 These regulations establish important substantive limitations before a noncitizen's re-
2 detention. Officials are allowed to "return [the person] to custody "only when the person" violate[d]
3 any of the conditions of release," 8 C.F.R. §§ 241.13(i)(1), 241.4(l)(1), or, in the alternative, if an
4 appropriate official "determines that there is a significant likelihood that the alien may be removed
5 in the reasonably foreseeable future," and makes that finding "on account of changed
6 circumstances," § 241.13(i)(2). Section "241.13(i)(2) requires that this determination is made before
7 the removable alien has had his release revoked." *Quoc Anh Nguyen*, No. 25-cv-2792-LL, ECF No.
8 10 at 3 (quoting *Tran*, 2025 WL3005347 at *2).

9 No matter the reason for re-detention, the re-detained person is also entitled to certain
10 procedural protections during and after re-detention.

11 First, "[u]pon revocation," the noncitizen "will be notified of the reasons for revocation of
12 his or her release or parole." *Phan*, 2025 WL 2898977 at *3, *4 (quoting §§ 241.4(l)(1),
13 241.13(i)(3)). A noncitizen must receive "adequate notice of the basis for the revocation decision
14 such that he c[an] meaningfully respond at the post-detention informal interview." *Rasakhamdee v.*
15 *Noem*, No. 25-cv-2817-RBM, ECF No. 10 at 7 (S.D. Cal. Nov. 6, 2025) (quoting *Diaz v. Wofford*,
16 No. 25-cv-1079-JLT, 2025 WL 2581575, *8 (E.D. Cal. Sept. 5, 2025)).

17 Second, the person "will be afforded an initial informal interview promptly after his or her
18 return" to be given "an opportunity to respond to the reasons for revocation stated in the
19 notification." 8 C.F.R. §§ 241.13(i)(3), 241.4(l)(1). "[P]romptly," commonly understood, "means
20 '[q]uickly; without delay' or '[a]s soon as practicable.'" *Soryadvongsa*, No. 25-cv-2663-AGS, ECF
21 No. 11 at 4 (quoting *Promptly*, *Black's Law Dictionary* (12th ed. 2024)). "The chance to advocate
22 for release must ordinarily come within days of a criminal arrest. Surely, it must happen at least that
23 quickly in the more constitutionally protected civil-arrest arena, too." *Id.*

24 Third, in the case of someone released under § 241.13(i), the regulation also explicitly
25 requires the interviewer to allow the re-detained person to "submit any evidence or information that
26 he or she believes shows there is no significant likelihood he or she be removed in the reasonably
27 foreseeable future, or that he or she has not violated the order of supervision." § 241.13(i)(3). ICE is
28 required to follow its own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260,

1 268 (1954); see *Alcaraz v. INS*, 384 F.3d 1150, 1162 (9th Cir. 2004) (“The legal proposition that
2 agencies may be required to abide by certain internal policies is well-established.”). A court may
3 review a re-detention decision for compliance with the regulations, and “where ICE fails to follow
4 its own regulations in revoking release, the detention is unlawful and the petitioner’s release must
5 be ordered.” *Rokhfirooz*, 2025 WL 2646165 at *4 (collecting cases); accord *Phan*, 2025 WL
6 2898977 at *5. ICE followed few to none of its substantive or procedural regulatory prerequisites to
7 re-detention or continued detention here.

8 First, ICE did not make a determination that it had a proper reason to re-
9 detain Ms. Alvarez Rodriguez: there is no reason to think that there is “a significant likelihood that
10 [she] may be removed in the reasonably foreseeable future.” § 241.13(i)(2), and she has not
11 “violate[d] any of the conditions of release,” § 241.13(i)(1). There is no reason to think that having
12 been unable to remove Ms. Alvarez Rodriguez for the last 11 years, ICE is likely to do so in the
13 foreseeable future.

14 Second, ICE did not notify Ms. Alvarez Rodriguez of the “reasons” for her re-
15 detention “upon revocation” of release. See 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(3). She was re-
16 detained on December 18, 2025, at a check-in. *Exhibit A ¶ 11*. ICE told her only that she was being
17 arrested “because [she] was going to be deported.” *Id.* That information alone is not sufficient—
18 actual “reasons”— explaining why her detention was being revoked. “Simply to say that
19 circumstances had changed . . . is not enough.” *Sarail A. v. Bondi*, __ F. Supp. 3d __, 2025 WL
20 2533673, *10 (D. Minn. 2025). “Petitioner must be told what circumstances had changed or why
21 there was now a significant likelihood of removal in order to meaningfully respond to the reasons
22 and submit evidence in opposition.” *Id.* The “notice” Ms. Alvarez Rodriguez received apparently
23 included no information about what had changed or why. *Exhibit A ¶ 11*.

24 Third, it is unclear whether Ms. Alvarez Rodriguez received the informal interview required
25 by regulation. §§ 241.13(i)(2); 241.4(l)(1).

26 Fourth, even if she did, she was not been afforded a meaningful opportunity to respond to
27 the reasons for revocation. §§ 241.13(i)(2); 241.4(l)(1); see *Exhibit A ¶ 11*. ICE did not give him “a
28

1 chance to fight [his] arrest” during that interview, and “[n]o one has told [her] what changed to
2 make it possible to deport her.” Id. ¶ 14.

3 Numerous courts have released re-detained immigrants after finding that ICE failed to
4 comply with some or all of the applicable regulations this summer and fall. See, e.g., *Villanueva v.*
5 *Tate*, __ F. Supp. 3d __, 2025 WL 2774610 (S.D. Tex. Sept. 26, 2025); *Ceesay v. Kurzdorfer*, 781
6 F. Supp. 3d 137, 166 (W.D.N.Y. 2025); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL
7 2452352, at *7–9 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL
8 2430267, at *10–12 (D. Or. Aug. 21, 2025); *Escalante v. Noem*, No. 9:25-CV-00182-MJT, 2025
9 WL 2491782, at *2–3 (E.D. Tex. July 18, 2025); *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP,
10 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025); *Liu v. Carter*, 2025 WL 1696526, *2 (D. Kan.
11 June 17, 2025); *M.Q. v. United States*, 2025 WL 965810, at *3, *5 n.1 (S.D.N.Y. Mar. 31, 2025);
12 *Bui v. Warden*, No. 25-cv-2111-JES, ECF No. 18 (S.D. Cal. Oct. 23, 2025); *Thai v. Noem*, No. 25-
13 cv-2436-RBM, ECF No. 10, 12 (S.D. Cal. Oct. 17, 2025); *Constantinovici v. Bondi*, __ F. Supp. 3d
14 __, 2025 WL 2898985, No. 25-cv-2405-RBM (S.D. Cal. Oct. 10, 2025); *Phan v. Noem*, 2025 WL
15 2898977, No. 25-cv-2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025); *Truong v. Noem*, No. 25-
16 cv-02597-JES, ECF No. 10 (S.D. Cal. Oct. 10, 2025); *Khambounheuang v. Noem*, No. 25-cv-
17 02575-JO-SBC, ECF No. 12, 17 (S.D. Cal. Oct. 9, 2025); *Sun v. Noem*, 2025 WL 2800037, No. 25-
18 cv-2433-CAB (S.D. Cal. Sept. 30, 2025); *Van Tran v. Noem*, 2025 WL 2770623, No. 25-cv-2334-
19 JES, *3 (S.D. Cal. Sept. 29, 2025); *Rokhfirooz v. Larose*, No. 25-cv-2053-RSH, 2025 WL 2646165
20 (S.D. Cal. Sept. 15, 2025).

21 Because officials did not properly revoke petitioner’s release pursuant to the applicable
22 regulations, that revocation has no effect and Ms. Alvarez Rodriguez is entitled to her release.

23

24 **B. COUNT TWO: ICE may not remove Ms. Alvarez Rodriguez to a third country**
25 **without adequate process.**

26 In addition to unlawfully detaining him, ICE’s currently operative policies threaten her
27 removal to a third country without adequate notice and an opportunity to be heard. These policies
28 violate the Fifth Amendment, the Convention Against Torture, and implementing regulations.

1 **1. Legal Background**

2 U.S. law enshrines protections against dangerous and life-threatening removal decisions. By
3 statute, the government is prohibited from removing an immigrant to any third country where they
4 may be persecuted or tortured, a form of protection known as withholding of removal. See 8 U.S.C.
5 § 1231(b)(3)(A).

6 The government “may not remove [a noncitizen] to a country if the Attorney General
7 decides that the [noncitizen’s] life or freedom would be threatened in that country because of the
8 [noncitizen’s] race, religion, nationality, membership in a particular social group, or political
9 opinion.” *Id.*; see also 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is a mandatory
10 protection.

11 Similarly, Congress codified protections enshrined in the CAT prohibiting the government
12 from removing a person to a country where they would be tortured. See FARRA 2681-822 (codified
13 as 8 U.S.C. § 1231 note) (“It shall be the policy of the United States not to expel, extradite, or
14 otherwise effect the involuntary return of any person to a country in which there are substantial
15 grounds for believing the person would be in danger of being subjected to torture, regardless of
16 whether the person is physically present in the United States.”); 28 C.F.R. § 200.1; *id.* §§ 208.16-
17 208.18, 1208.16-1208.18. CAT protection is also mandatory.

18 To comport with the requirements of due process, the government must
19 provide notice of the third country’s removal and an opportunity to respond. Due process requires
20 “written notice of the country being designated” and “the statutory basis for the designation, i.e., the
21 applicable subsection of § 1231(b)(2).” *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash.
22 2019); see *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (laying out this requirement).

23 The government must also “ask the noncitizen whether he or she fears persecution or harm
24 upon removal to the designated country and memorialize in writing the noncitizen’s response. This
25 requirement ensures DHS will obtain the necessary information from the noncitizen to comply with
26 section 1231(b)(3) and avoids [a dispute about what the officer and noncitizen said].” *Aden*, 409 F.
27 Supp. 3d at 1019. “Failing to notify individuals who are subject to deportation that they have the
28 right to apply for asylum in the United States and for withholding of deportation to the country to

1 which they will be deported violates both INS regulations and the constitutional right to due
2 process.” *Andriasian*, 180 F.3d at 1041.

3 If the noncitizen claims fear, measures must be taken to ensure that the noncitizen can seek
4 asylum, withholding, and relief under CAT before an immigration judge in reopened removal
5 proceedings. The amount and type of notice must be “sufficient” to ensure that “given [a
6 noncitizen’s] capacities and circumstances, he would have a reasonable opportunity to raise and
7 pursue his claim for withholding of deportation.” *Aden*, 409 F. Supp. 3d at 1009 (citing *Mathews v.*
8 *Eldridge*, 424 U.S. 319, 349 (1976) and *Kossov v. I.N.S.*, 132 F.3d 405, 408 (7th Cir. 1998)). “[L]ast
9 minute” notice of the country of removal will not suffice, *Andriasian*, 180 F.3d at 1041; accord
10 *Najjar v. Lunch*, 630 Fed. App’x 724 (9th Cir. 2016), and for good reason: To have a meaningful
11 opportunity to apply for fear-based protection from removal, immigrants must have time to prepare
12 and present relevant arguments and evidence. Merely telling a person where they may be sent,
13 without giving them a chance to look into country conditions, does not give them a meaningful
14 chance to determine whether and why they have credible fear.

15 **2. The June 6, 2025 memo’s removal policies violate the Fifth Amendment, 8 U.S.C. §**
16 **1231, the Convention Against Torture, and Implementing Regulations.**

17 The currently operative policies in the June 6, 2025 memo do not adhere to these statutory
18 and due process requirements. The memo “contravenes Ninth Circuit law.” *Nguyen v. Scott*, No. 25-
19 CV-1398, 2025 WL 2419288, *19 (W.D. Wash. Aug. 21, 2025) (explaining how the July 9, 2025,
20 ICE memo contravenes Ninth Circuit law on the process due to noncitizens in detail).

21 First, under the policy, ICE need not give immigrants any notice or any opportunity to be
22 heard before removing them to a country that—in the State Department’s estimation—has provided
23 “credible” “assurances” against persecution and torture. *Exhibit B*. By depriving immigrants of any
24 chance to challenge the State Department’s view, this policy violates “[t]he essence of due process,”
25 “the requirement that a person in jeopardy of serious loss be given notice of the case against him
26 and opportunity to meet it.” *Mathews*, 424 U.S. at 348.

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1 Second, even when the government has obtained no credible assurances against persecution
2 and torture, the government can still remove the person with between 6- and 24-hours' notice,
3 depending on the circumstances. *Exhibit B*.

4 Practically speaking, there is not nearly enough time for a detained person to assess their
5 risk in the third country and marshal evidence to support any credible fear—let alone a chance to file
6 a motion to reopen with an IJ.

7 An immigrant may know nothing about a third country, like Eswatini or South Sudan, when
8 they are scheduled for removal there. Yet if given the opportunity to investigate conditions,
9 immigrants would find credible reasons to fear persecution or torture—like patterns of keeping
10 deportees indefinitely and without charge in solitary confinement or extreme instability raising a
11 high likelihood of death—in many of the third countries that have agreed to removal thus far.

12 Due process requires an adequate chance to identify and raise these threats to health and life.
13 Because “[f]ailing to notify individuals who are subject to deportation that they have the right to
14 apply . . . for withholding of deportation to the country to which they will be deported violates both
15 INS regulations and the constitutional right to due process,” *Adriasian*, 180 F.3d at 1041, this Court
16 must prohibit the government from removing Ms. Alvarez Rodriguez without these due process
17 safeguards.

18 **C. COUNT THREE: ICE may not remove Ms. Alvarez Rodriguez as she has**
19 **Deferred Action granted by the United States Citizenship and Immigration Service pursuant**
20 **to her U non-immigrant Petition.**

21 Ms. Alvarez Rodriguez was granted Deferred Action by the United States Citizenship and
22 Immigration Services, (CIS) on April 7, 2025. *Exhibit D*. She was the victim of a serious qualifying
23 crime under the Trafficking Victims Protection Reauthorization Act of 2008. On April 7, 2025, CIS
24 informed Petitioner that the statutory cap for U-1 non-immigrant status had been reached for the
25 2024 fiscal year. “Therefore, USCIS may not grant U-1 non-immigrant status to any petitioner until
26 new visas become available. As the fiscal year limit is the **sole reason** you cannot be granted U-1
27 non-immigrant status, your petition is being placed on a waiting list. USCIS Deferred Action letter,
28 *Exhibit D. Emphasis added*. On October 1, 2025, the Department of States released 10,000 visa

1 which are currently being dispersed. Ms. Alvarez Rodriguez with a priority date of July 23, 2018, is
2 hopeful of receiving her U-1 status soon. *Exhibit A at ¶ 9.*

3 While Deferred Action is discretionary, DHS has not revoked or terminated Ms. Alvarez I
4 Rodriguez's Deferred Action status. Therefore, she cannot be removed.

5 **IX. This Court must hold an evidentiary hearing on any disputed facts.**

6 Resolution of a prolonged-detention habeas petition may require an evidentiary hearing.
7 *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009). Ms. Alvarez Rodriguez hereby requests
8 such a hearing on any material, disputed facts.

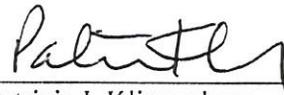
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10 **X. Prayer for Relief**

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

- 12 1. Order and enjoin Respondents to immediately release Petitioner from custody;
- 13 2. Enjoin Respondents from re-detaining Petitioner without a pre-deprivation hearing before this
14 Court;
- 15 3. Enjoin Respondents from removing Petitioner to a third country unless they follow all applicable
16 statutory and regulatory procedures;
- 17 4. Enjoin Respondents from causing Petitioner any greater harm during the pendency of this
18 litigation, such as transferring her farther away from her legal counsel or placing her into solitary
19 confinement;
- 20 5. Grant any other relief which this Court deems just and proper.

21 Dated: December 27, 2025

Respectfully Submitted.

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23 

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EXHIBIT A

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

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11 BRAULIA AZUCENA ALVAREZ
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15 KRISTI NOEM, Secretary of the U.S. Department
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) Case No.:
)
) **Declaration of Braulia Azucena Alvarez**
) **Rodriguez in support of Petition for Writ of**
) **Habeas Corpus**

)
)
) **[Civil Immigration Habeas Petition**
) **Under 28 U.S.C. § 2241]**
)
)
)

1 I, Braulia Azucena Alvarez Rodriguez, declare the following is true and correct under
2 penalty of perjury:

- 3 1. My name is Braulia Azucena Alvarez Rodriguez. I was born in Guatemala.
- 4 2. I came to the United States in 2007 for the last time after I was [REDACTED]
5 [REDACTED]
- 6 [REDACTED] I am diabetic, blind in one eye, and suffer from chronic anxiety and depression.
- 7 3. I was detained by immigration officers in September 2011. I was released in February 2012
8 due to health issues.
- 9 4. On February 27, 2014, the San Diego Immigration Court granted me withholding of removal
10 under the Convention against Torture.
- 11 5. I have never missed a check-in with ICE since I was released back in February 2012. I check
12 in with ICE every time they ask me to do it.
- 13 6. I also applied and received employment authorization which is good until 2030.
- 14 7. On July 23, 2018, I applied for a U visa before the United States Citizenship and Immigration
15 Services because [REDACTED]
- 16 8. On April 7, 2025, USCIS granted me Deferred Actions because there were no u visas
17 available for the fiscal year.
- 18 9. I am hoping to get my u visa soon because the government issued 10,000 more visas on
19 October 1, 2025.
- 20 10. On December 17, 2025, I got a message from ICE asking me to check in the next day, October
21 18, 2025, at 8 am., although I had already checked in this year several times.
- 22 11. On December 18, 2025, ICE arrested me at my check-in. The officer said they were arresting
23 me because they were going to deport me. I explained that I had withholding of removal and
24 deferred action based on my U visa case. They said it did not matter, and they were going to
25 deport me anyway. I signed some papers that I do not know what they were.
- 26 12. I have resided in the same home since 2012 and have four United States citizen children and
27 one lawful permanent resident child.
- 28

1 13. During my detention, I became extremely ill with a panic attack and ICE took me to the
2 hospital. During my prior check-in I became very ill because I had a hyperglycemic shock.
3 They had to call 911.

4 14. As of today, ICE has not given me a chance to fight my arrest. No one has told me what
5 changed to make it possible to deport me. I do not know what has changed since 2014 to the
6 present.

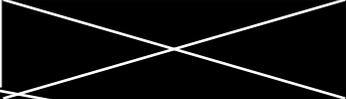
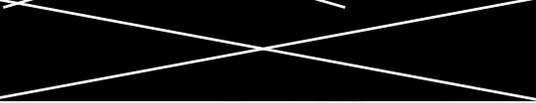
7 15. I am not getting a diabetic diet or my insulin shots as prescribed. I am feeling very sick and
8 dizzy all the time.

9 16. I am not getting my anxiety and depression medicine either and I am having anxiety attacks.

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1 I, Braulia Azucena Alvarez Rodriguez, declare under penalty of perjury under the laws of the
2 United States that the foregoing is true and correct to the best of my knowledge.

3 Executed on December 26, 2025, in San Diego, California.

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EXHIBIT B

PLAINTIFFS' EXHIBIT NO. 2

CASE NO. PX 25-951

IDENTIFICATION: JUL 10 2025

ADMITTED: JUL 10 2025

To All ICE Employees
July 9, 2025

Third Country Removals Following the Supreme Court's Order in *Department of Homeland Security v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025)

On June 23, 2025, the U.S. Supreme Court granted the Government's application to stay the district court's nationwide preliminary injunction in *D.V.D. v. Department of Homeland Security*, No. 25-10676, 2025 WL 1142968 (D. Mass. Apr. 18, 2025), which required certain procedures related to providing a "meaningful opportunity" to assert claims for protection under the Convention Against Torture (CAT) before initiating removal to a third country. Accordingly, all previous guidance implementing the district court's preliminary injunction related the third country removals issued in *D.V.D.* is hereby rescinded. Absent additional action by the Supreme Court, the stay will remain in place until any writ of certiorari is denied or a judgment following any decision issues.

Effective immediately, when seeking to remove an alien with a final order of removal—other than an expedited removal order under section 235(b) of the Immigration and Nationality Act (INA)—to an alternative country as identified in section 241(b)(1)(C) of the INA, ICE must adhere to Secretary of Homeland Security Kristi Noem's March 30, 2025 memorandum, *Guidance Regarding Third Country Removals*, as detailed below. A "third country" or "alternative country" refers to a country other than that specifically referenced in the order of removal.

If the United States has received diplomatic assurances from the country of removal that aliens removed from the United States will not be persecuted or tortured, and if the Department of State believes those assurances to be credible, the alien may be removed without the need for further procedures. ICE will seek written confirmation from the Department of State that such diplomatic assurances were received and determined to be credible. HSI and ERO will be made aware of any such assurances. In all other cases, ICE must comply with the following procedures:

- An ERO officer will serve on the alien the attached Notice of Removal. The notice includes the intended country of removal and will be read to the alien in a language he or she understands.
- ERO will not affirmatively ask whether the alien is afraid of being removed to the country of removal.
- ERO will generally wait at least 24 hours following service of the Notice of Removal before effectuating removal. In exigent circumstances, ERO may execute a removal order six (6) or more hours after service of the Notice of Removal as long as the alien is provided reasonable means and opportunity to speak with an attorney prior to removal.
 - Any determination to execute a removal order under exigent circumstances less than 24 hours following service of the Notice of Removal must be approved by the DHS General Counsel, or the Principal Legal Advisor where the DHS General Counsel is not available.

- If the alien does not affirmatively state a fear of persecution or torture if removed to the country of removal listed on the Notice of Removal within 24 hours, ERO may proceed with removal to the country identified on the notice. ERO should check all systems for motions as close in time as possible to removal.
- If the alien does affirmatively state a fear if removed to the country of removal listed on the Notice of Removal, ERO will refer the case to U.S. Citizenship and Immigration Services (USCIS) for a screening for eligibility for protection under section 241(b)(3) of the INA and the Convention Against Torture (CAT). USCIS will generally screen the alien within 24 hours of referral.
 - USCIS will determine whether the alien would more likely than not be persecuted on a statutorily protected ground or tortured in the country of removal.
 - If USCIS determines that the alien has not met this standard, the alien will be removed.
 - If USCIS determines that the alien has met this standard and the alien was not previously in proceedings before the immigration court, USCIS will refer the matter to the immigration court for further proceedings. In cases where the alien was previously in proceedings before the immigration court, USCIS will notify the referring immigration officer of its finding, and the immigration officer will inform ICE. In such cases, ERO will alert their local Office of the Principal Legal Advisor (OPLA) Field Location to file a motion to reopen with the immigration court or the Board of Immigration Appeals, as appropriate, for further proceedings for the sole purpose of determining eligibility for protection under section 241(b)(3) of the INA and CAT for the country of removal. Alternatively, ICE may choose to designate another country for removal.

Notably, the Supreme Court's stay of removal does not alter any decisions issued by any other courts as to individual aliens regarding the process that must be provided before removing that alien to a third country.

Please direct any questions about this guidance to your OPLA field location.

Thank you for all you continue to do for the agency.

Todd M. Lyons
Acting Director
U.S. Immigration and Customs Enforcement

Attachments:

- U.S. Supreme Court Order
- Secretary Noem's Memorandum
- Notice of Removal

EXHIBIT C

IMMIGRATION COURT
401 WEST A STREET, SUITE #800
SAN DIEGO, CA 92101

In the Matter of:

Case No: 

ALVAREZ-RODRIGUEZ, BRAULIA ASUZENA

Applicant

IN WITHHOLDING-ONLY PROCEEDINGS

On Behalf of the Applicant

On Behalf of the DHS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on Feb 27, 2014 and is issued solely for the convenience of the parties. If the proceedings should be appealed or reopened, the oral decision will become the official opinion in the case.

ORDER: It is hereby ordered that the applicant's request for:

- 1. Withholding of Removal under INA 241(b) (3) is:
 - Granted
 - Withdrawn
 - Denied
- 2. Withholding of Removal under the Convention Against Torture is:
 - Granted
 - Withdrawn
 - Denied
- 3. Deferral of Removal under the Convention Against Torture is granted.

Date: Feb 27, 2014

HENRY P. IPEMA
Immigration Judge

APPEAL: NO APPEAL
APPEAL DUE BY:

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)
TO: ALIEN ALIEN c/o Custodial Officer ALIEN's ATT/REP DHS
DATE: Feb 27, 2014 BY: COURT STAFF
Attachments: EOIR-33 EOIR-28 Legal Services List Other

EXHIBIT D

April 7, 2025

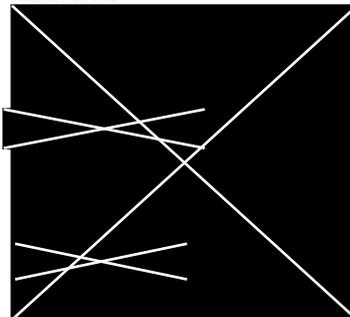


U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
2500 L Street, N.W.
Washington, DC 20535-0001



U.S. Citizenship
and Immigration
Services

BRAULIA AZUCENA ALVAREZ RODRIGUEZ
c/o KLINGENBERG LAW FIRM APC
1901 FIRST AVENUE STE 160
SAN DIEGO, CA 92101



RE: BRAULIA AZUCENA ALVAREZ RODRIGUEZ
I-918, Petition for U Nonimmigrant Status

INFORMATIONAL

Dear Sir or Madam:

On July 23, 2018, you submitted a Form I-918, Petition for U Nonimmigrant Status. At this time, the evidence submitted with your petition appears to demonstrate that you have established the eligibility requirements for U nonimmigrant status. However, the statutory cap for U-1 nonimmigrant status has been reached for this fiscal year. Therefore, U.S. Citizenship and Immigration Services (USCIS) may not grant U-1 nonimmigrant status to any petitioner until new visas become available.

As the fiscal year limit is the sole reason you cannot be granted U-1 nonimmigrant status, your petition is being placed on a waiting list. Once new visas become available, USCIS will issue approval notices for those cases on the waiting list provided that the petitioner remains admissible to the United States and otherwise eligible for U nonimmigrant status. Priority for the issuance of approval notices will be determined by the date the petition was received by USCIS.

You have been placed in deferred action as permitted by regulation. Deferred action is an act of administrative convenience to the government which gives some cases lower priority for removal. Being placed in deferred action makes you eligible for work authorization during the validity period of deferred action.

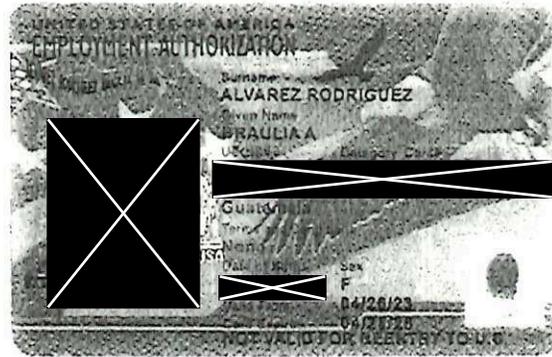
Under Title 8 Code of Federal Regulations, section 274a.12(c)(14), an alien who is under deferred action is eligible to submit a Form I-765, Application for Employment Authorization with this office. To receive employment authorization, the alien must establish an economic necessity for employment. The alien must provide information regarding their assets, income and expenses in accordance with the instructions on the Form I-765.

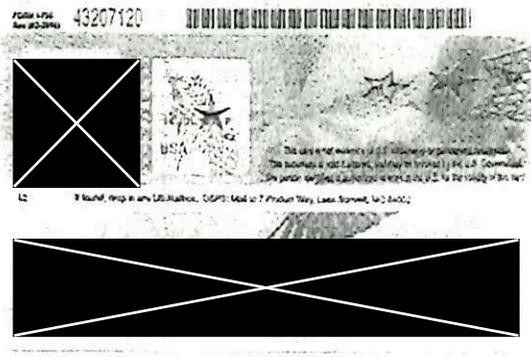
If you are represented by an attorney, all further correspondence should be accompanied by Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative.

This notice does not constitute valid U.S. nonimmigrant status or employment authorization, and may not be used to demonstrate legal immigration or employment status.

Sincerely,

John M. Allen
SCOPS Deputy Associate Director of Adjudications





1 Patricia I. Klingenberg (CSB # 196644)
Klingenberg Law Firm, APC
2 1901 First Avenue, Suite 160
San Diego, CA 92101
3 Tel: 619-237-7832
Fax: 619-237-7822
4 EOIR: RV134616

5 *Attorney for Petitioner*

6

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

9

10

11 BRAULIA AZUCENA ALVAREZ
RODRIGUEZ

) Case No.:

12

Petitioner,

) **Notice of Motion and Memorandum of Law
in Support of Temporary Restraining Order**

13

vs.

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KRISTI NOEM, Secretary of the U.S. Department
15 of Homeland Security; PAMELA BONDI,
Attorney General of the United States; TODD M.
16 LYONS, Acting Director, U.S. Immigration and
Customs Enforcement; JESUS ROCHA, Acting
17 Field Office Director, San Diego Field Office;
CHRISTOPHER J. LAROSE, Warden, Otay
18 Mesa Detention Center,

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Respondents.

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PETITION FOR WRIT OF HABEAS CORPUS

I. Introduction

Petitioner Braulia Azucena Alvarez Rodriguez faces immediate irreparable harm: (1) revocation of her release on immigration supervision despite ICE’s failure to follow its own revocation procedures, resulting in severe diabetes, anxiety and depression complications; and (2) potential movement from this jurisdiction during the pendency of this petition, including potential movement to a third country.

The requested temporary restraining order (“TRO”) would preserve the status quo while Petitioner litigates these claims by (1) reinstating Ms. Alvarez Rodriguez’ release on supervision, and (2) prohibiting the government from moving her out of this district during the pendency of this litigation, potentially depriving this Court of jurisdiction.

In granting this motion, this Court would not break new ground. Courts in this district and around the Ninth Circuit have granted TROs or preliminary injunctions mandating release for post-final-removal-order immigrants like Petitioner. See, e.g., Sun v. Noem, 2025 WL 2800037, No. 25-cv-2433-CAB (S.D. Cal. Sept. 30, 2025); Van Aghajavadyha v. Noem, 2025 WL 2770623, No. 25-cv-2334-JES, *3 (S.D. Cal. Sept. 29, 2025); Truong v. Noem, No. 25-cv-02597-JES, ECF No. 10 (S.D. Cal. Oct. 10, 2025); Khambounheuang v. Noem, No. 25-cv-02575-JO-SBC, ECF No. 12 (S.D. Cal. Oct. 9, 2025); see also, e.g., Phetsadakone v. Scott, 2025 WL 2579569, at *6 (W.D. Wash. Sept. 5, 2025); Hoac v. Becerra, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July 16, 2025); Phan v. Becerra, No. 2:25-CV-01757-DC-JDP, 2025 WL1993735, at *7 (E.D. Cal. July 16, 2025); Nguyen v. Scott, No. 2:25-CV-01398, 2025 WL 2419288, at *29 (W.D. Wash. Aug. 21, 2025). These courts have determined that, for these long-term releasees, liberty is the status quo, and only a return to that status quo can avert irreparable harm.

Courts have likewise granted temporary restraining orders preventing third-country removals without due process. See, e.g., Nguyen Tran v. Noem, No. 25-cv-2391-BTM, ECF No. 6 (S.D. Cal. Sept. 18, 2025); Louangmilith v. Noem, 2025 WL 2881578, No. 25-cv-2502-JES, *4 (S.D. Cal. Oct. 9, 2025); see also, e.g., J.R. v. Bostock, 25-cv-01161-JNW, 2025 WL 1810210 (W.D. Wash. Jun. 30, 2025); Vaskanyan v. Janecka, 25-cv-01475-MRA-AS, 2025 WL 2014208

1 (C.D. Cal. Jun. 25, 2025); *Ortega v. Kaiser*, 25-cv-05259-JST, 2025 WL 1771438 (N.D. Cal. June
2 26, 2025); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July
3 16, 2025); *Phan*, 2025 WL 1993735 at *7.

4 **II. Ms. Alvarez Rodriguez has lived under supervision for over 12 years, is re-detained**
5 **without an individualized reason for detention and without an opportunity to contest her re-**
6 **detention.**

7 Ms. Alvarez Rodriguez came to the United States in 2007. *Exhibit A to Habeas Petition,*
8 *Declaration of Braulia Azucena Alvarez Rodriguez* ¶ 2. ICE detained Ms. Alvarez Rodriguez in
9 September 2011 and released her in February 2012, for health-related reasons. *Id. at* ¶ 2-3. She
10 reported and checked in with ICE every year from 2012 to December 2025, when she was re-
11 detained. *Id. at* ¶ 5.

12 She was granted Withholding of Removal under the Convention Against Torture on
13 February 27, 2014, by the San Diego Immigration Court. *Id. at* ¶ 4 and the *Immigration Court*
14 *Order, Exhibit C.* She had been gang raped, shot 9 times, and endured the murder of her teenage son
15 execution style, all by the MS-13 and police in Guatemala. *Id. at* ¶ 2. She is also blind in one eye.
16 As a result, she suffers severe depression and anxiety and then developed diabetes. Later on, she
17 was sexually assaulted in the California which exacerbated her depression and anxiety. *Id. at* ¶ 7.
18 Currently, she is not getting her medication as prescribed at the Otay Mesa Detention Center, which
19 is causing her to have repeatedly panic attacks and feeling dizzy. *Id. at* 15.

20 On December 18, 2025, Ms. Alvarez Rodriguez presented herself to her ICE check-in where
21 she was detained. She recalls being told by the ICE officer that she was arrested because she was
22 going to be deported. She signed documents that she did not know what they were. She tried to
23 explain to the Officer that she had a withholding of removal order and deferred action granted by
24 USCIS based on her U visa case. Still, the Officer told her that they were going to deport her
25 anyway. *Id. at* 11. Ms. Alvarez Rodriguez mental and physical health are rapidly deteriorating while
26 detained.

27 Respondents failed to provide Ms. Alvarez Rodriguez with written notice of the reasons for
28 her re-detention. *Exhibit A at* ¶ 11.

1 **III. Argument: Ms. Alvarez Rodriguez meets all Winter factors.**

2 To obtain a TRO, a petitioner “must establish that he is likely to succeed on the merits, that
3 he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of
4 equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def.*
5 *Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d
6 832, 839-40 & n.7 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve
7 “substantially identical” analysis). A “variant[] of the same standard” is the “sliding scale”: “if a
8 plaintiff can only show that there are ‘serious questions going to the merits—a lesser showing than
9 likelihood of success on the merits—then a preliminary injunction may still issue if the balance of
10 hardships tips sharply in the plaintiff’s favor, and the other two Winter factors are satisfied.”
11 *Immigrant Defenders Law Center v. Noem*, 145 F.4th 972, 986 (9th Cir. 2025) (internal quotation
12 marks omitted). Under this approach, the four Winter elements are “balanced, so that a stronger
13 showing of one element may offset a weaker showing of another.” *All. for the Wild Rockies v.*
14 *Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). A TRO may be granted where there are “‘serious
15 questions going to the merits’ and a hardship balance. . . tips sharply toward the plaintiff.” and so
16 long as the other Winter factors are met. *Id.* at 1132.

17 In this instance, this Court should issue a temporary restraining order because “‘immediate
18 and irreparable injury . . . or damage” is occurring and will continue in the absence of an order. *Fed.*
19 *R. Civ. P.* 65(b). Not only have Respondents re-detained Ms. Alvarez Rodriguez in violation of her
20 due process, statutory, and regulatory rights. ICE policy also allows them to remove her to a third
21 country in violation of her due process, statutory, and regulatory rights. This Court should order
22 Petitioner’s release and enjoin removal from this Court’s jurisdiction during the pendency of
23 litigation.

24 **A. Ms. Alvarez Rodriguez is likely to succeed on the merits, or at a minimum, raises**
25 **serious merits questions.**

26 As described in detail in Ms. Alvarez Rodriguez’ habeas petition, she is likely to
27 succeed on both of her claims.

28

1 First, ICE failed to follow its own regulations requiring changed circumstances before Ms.
2 Alvarez Rodriguez' re-detention, as well as its procedural regulations requiring it to notify her of
3 those circumstances and allow her an opportunity to contest them. This was a violation of both the
4 regulations and due process and requires his release. See, e.g., See *Phan v. Noem*, 2025 WL
5 2898977, No. 25-CV-2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025) (explaining this regulatory
6 framework and granting a habeas petition for ICE's failure to follow these regulations for a refugee
7 of Vietnam who entered the United States before 1995); *Rokhfirooz*, No. 25-CV-2053-RSH-VET,
8 2025 WL 2646165 at *2 (same as to an Iranian national).

9 Second, Respondents cannot remove Ms. Alvarez Rodriguez to a third country without first
10 providing notice and a sufficient opportunity to be heard before an immigration judge. Their current
11 policy allowing third-country removal in the absence of that notice "contravenes Ninth Circuit law."
12 *Nguyen v. Scott*, No. 25-CV-1398, 2025 WL 2419288, *19 (W.D. Wash. Aug. 21, 2025)
13 (explaining how the July 9, 2025 ICE memo contravenes Ninth Circuit law on the process due to
14 noncitizens in detail); see also *Delkash v. Noem*, No. 25-cv-1675- HDV-AGR, 2025 WL 2683988,
15 *1, *6 (C.D. Cal. Aug. 28, 2025) (explaining this point as to an Iranian national); *Rebenok v. Noem*,
16 No. 25-cv-2171-TWR at ECF No. 13; *Van Tran v. Noem*, 2025 WL 2770623 at *3; *Nguyen Tran v.*
17 *Noem*, No. 25-cv-2391-BTM, ECF No. 6 (S.D. Cal. Sept. 18, 2025); *Louangmilith v. Noem*, 2025
18 WL 2881578, No. 25-cv-2502-JES, *4 (S.D. Cal. Oct. 9, 2025) (all either granting temporary
19 restraining orders or habeas petitions ordering the government to not remove petitioners to third
20 countries without notice and an opportunity to be heard).

21 **B. Ms. Alvarez Rodriguez will suffer irreparable harm absent injunctive relief.**

22 Ms. Alvarez Rodriguez also meets the second factor, irreparable harm. "It is well established
23 that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'"
24 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347,
25 373 (1976)). Where the "alleged deprivation of a constitutional right is involved, most courts hold
26 that no further showing of irreparable injury is necessary." *Warsoldier v. Woodford*, 418 F.3d 989,
27 1001-02 (9th Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal Practice and Procedure*, §
28 2948.1 (2d ed. 2004)).

1 The Ninth Circuit has specifically recognized the “irreparable harm” created by the
2 likelihood of being “unconstitutionally detained for an indeterminate period of time” in immigration
3 detention. *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).

4 Further, Ms. Alvarez Rodriguez continued detention creates significant medical burdens. As
5 the Ninth Circuit has recognized, immigration detainees face “subpar medical . . . care in ICE
6 detention facilities.” *Hernandez*, 872 F.3d at 995.

7 Ms. Alvarez Rodriguez mental and physical health have been extremely frail from the time
8 she was kidnapped, gang raped, shot 9 times and her teen age son was murdered execution style in
9 Guatemala. Then, she was sexually assaulted in California. All of these tragic events have taken a
10 substantial toll on Ms. Alvarez Rodriguez’ health. In addition, she is diabetic. Yet the lack of access
11 to her medication is subjecting her to irreparable harm at Otay Mesa Detention Center. Exhibit A at
12 ¶13, 15-16.

13 Finally, “[i]t is beyond dispute that Petitioner would face irreparable harm from removal to a
14 third country.” *Nguyen*, 2025 WL 2419288, at *26. Recent third-country deportees have been held,
15 indefinitely and without charge, in hazardous foreign prisons. See Edward Wong et al, Inside the
16 Global Deal-Making Behind Trump’s Mass Deportations. N.Y. Times, June 25, 2025. They have
17 been subjected to solitary confinement. Gerald Imray, 3 Deported by US held in African Prison
18 Despite Completing Sentences, Lawyers Say, PBS (Sept. 2, 2025). They have been removed to
19 countries so unstable that the U.S. government recommends making a will and appointing a hostage
20 negotiator before traveling to them. See Wong, *supra*. They have been “promptly deported . . . to the
21 very countries to which the United States had withheld removal due to the risk of persecution,
22 torture, or death.” *Santamaria Orellana v. Baker*, No. 25-1788-TDC, 2025 WL 2841886, *12 (D.
23 Md. Oct.7, 2025).

1 **IV. The balance of hardships and the public interest weigh heavily in Ms. Alvarez Rodriguez'**
2 **favor.**

3 The final two factors for a TRO—the balance of hardships and public interest—“merge
4 when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009). That
5 balance tips decidedly in Ms. Alvarez Rodriguez’ favor.

6 On the one hand, the government “cannot reasonably assert that it is harmed in any legally
7 cognizable sense” by being compelled to follow the law. *Zepeda v. I.N.S.*, 753 F.2d 719, 727 (9th
8 Cir. 1983). It is always in the public interest to prevent violations of the U.S. Constitution and
9 ensure the rule of law. See *Nken*, 556 U.S. at 436 (describing public interest in preventing
10 noncitizens “from being wrongfully removed, particularly to countries where they are likely to face
11 substantial harm”); *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019)
12 (when government’s treatment “is inconsistent with federal law, . . . the balance of hardships and
13 public interest factors weigh in favor of a preliminary injunction.”).

14 On the other hand, Ms. Alvarez Rodriguez faces weighty hardships: unlawful,
15 indefinite detention, subpar medical care, and possible movement out of this district and out of the
16 Court’s jurisdiction. The balance of equities thus favors preventing the violation of “requirements of
17 federal law,” *Arizona Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014), by granting
18 temporary emergency relief to protect against unlawful detention and loss of this Court’s
19 jurisdiction.

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21 **V. Ms. Alvarez Rodriguez will give the government notice of this TRO motion immediately,**
22 **and the TRO should remain in place throughout habeas litigation.**

23 Respondent will give the United States Attorney’s Office notice of this motion.
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1 Additionally, Ms. Alvarez Rodriguez requests that this TRO remain in place until the habeas
2 petition is decided. Fed. R. Civ. Pro. 65(b)(2). Good cause exists, because the same considerations
3 will continue to warrant injunctive relief throughout this litigation, and habeas petitions must be
4 adjudicated promptly. See *In re Habeas Corpus Cases*, 216 F.R.D. 52 (E.D.N.Y. 2003).

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Dated: December 28, 2025

Respectfully Submitted,



Patricia I. Klingenberg
Attorney for Petitioner

Klingenberg Law Firm, APC
1901 First Avenue, Suite 160
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