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

11 YAMILA MENDINUETA MORALES,

12 Petitioner,

13 v.

14 KRISTI NOEM, Secretary of the
15 Department of Homeland Security,
16 PAMELA JO BONDI, Attorney General,
17 TODD M. LYONS, Acting Director,
18 Immigration and Customs Enforcement,
19 JESUS ROCHA, Acting Field Office
20 Director, San Diego Field Office,
21 CHRISTOPHER LAROSE, Warden at
22 Otay Mesa Detention Center

23 Respondents.

CIVIL CASE NO.: '26CV0051 LL MMP

Petition for a Writ of Habeas Corpus

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27 ¹ Federal Defenders of San Diego, Inc., is filing the instant petition with
28 provisional appointment under Chief Judge Order No. 134. Ms. Mendinueta
Morales's financial eligibility for representation is included in a sworn statement
attached to this petition.

1 INTRODUCTION

2 This civil immigration habeas petition seeks two grounds of relief. First, it
3 seeks to prevent Ms. Mendinueta Morales’s indefinite detention pending
4 deportation to Cuba absent the basic regulatory and due process guarantees of
5 8 C.F.R. §§ 241.4(l), 241.13(i), and *United States ex rel. Accardi v. Shaughnessy*,
6 347 U.S. 260, 268 (1954). Second, it seeks to prevent her indefinite detention
7 pending deportation absent the basic statutory and due process guarantees
8 outlined in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

9 Ms. Mendinueta Morales was ordered removed to Cuba on August 2, 2012.
10 It is very hard to deport people to Cuba. So ICE released her. In the over 13 years
11 since, Ms. Mendinueta Morales has never missed a check-in and has always
12 cooperated with ICE.

13 Despite Ms. Mendinueta Morales’s long history of compliance, ICE re-
14 arrested her on December 16, 2025 during an ICE check-in. Although ICE
15 provided her with a notice of revocation, the notice was not read to her, she was
16 not given an opportunity to review it, and she was not given any chance to contest
17 the reasons for re-detention. As it turns out, in the notice ICE cited to
18 Ms. Mendinueta Morales’s recent criminal history and failure to comply with the
19 conditions. But that was not true. She was not permitted to contest those reasons.
20 She has also been given no information indicating that she will be removed to
21 Cuba in the reasonably foreseeable future.

22 Courts in this district and around the country have ordered Cubans released
23 from ICE custody for the same reasons. *See Rios v. Noem*, No. 25-CV-2866-JES,
24 Doc. 15 (S.D. Cal. Nov. 10, 2025); *Rodriguez-Gutierrez v. Noem*, 25-cv-02726-
25 BAS-SBC, Doc. 14 (S.D. Cal. Nov. 7, 2025); *Izquierdo-Matos v. Noem*, Doc. 12,
26 25-cv-02979-BJC-BLM (S.D. Cal. Nov. 18, 2025); *Arostegui-Campo v. Noem*,
27 25-cv-03064-JLS-MMP, Doc. 11 (S.D. Cal. Nov. 25, 2025). One court
28 underlined, “Rules matter. Hearings matter. In recognition of this cornerstone

1 principle of our jurisprudence, a growing chorus of district courts have found
2 that—in similar cases—the government’s unlawful detention warrants
3 immediate release.” *Delkash v. Noem*, No. 25-cv-1675-HDV-AGR, 2025 WL
4 2683988 (C.D. Cal. Aug. 28, 2025).

5 **STATEMENT OF FACTS**

6 **I. Ms. Mendinueta Morales lived under supervision for over 13 years and**
7 **then was re-detained without an individualized reason for detention**
8 **and without an opportunity to contest her re-detention.**

9 Ms. Mendinueta Morales is 51 years old and lives in Florida where she has
10 raised her three United States citizen children. Exh. A at ¶¶ 1, 9. Her two oldest
11 children are now adults and she also has an eight-year-old son. She stays home to
12 take care of her son and works part time as a caretaker. *Id.* at 9.

13 Ms. Mendinueta Morales was born in Cuba in 1974. Exh. A at ¶ 1. In 1980,
14 she came to the United States as part of the Mariel boatlift. *Id.* She came with her
15 mother, two brothers, and sister. *Id.* She was only six years old. *Id.* She
16 remembers arriving to the United States on the boat and seeing several American
17 flags and hearing people on the boat singing songs of freedom. *Id.*

18 On August 2, 2012, after she suffered a conviction, an immigration judge
19 ordered Ms. Mendinueta Morales removed to Cuba. *Id.* at 2. Because Cuba was
20 not accepting Cubans, she was released under an order of supervision. *Id.* She
21 complied with the terms of her supervision and did not violate her conditions and
22 did not miss any appointments. *Id.* at 3.

23 On December 16, 2025, Ms. Mendinueta Morales went to her regular ICE
24 check-in appointment in Jacksonville, Florida. *Id.* at ¶ 4. The ICE agent told her
25 that she was going to be detained. Ms. Mendinueta Morales states that everything
26 happened so fast and she felt she had no choice but to sign the papers that the
27 agent gave to her. *Id.* She did not understand what she had signed. *Id.*

28 The ICE agent did not tell Ms. Mendinueta Morales the reasons for
revoking her supervision. *Id.* at ¶ 5. She was not given an interview to challenge

1 the reasons for her detention. *Id.* The agent did give her a paper called notice of
2 revocation. *Id.* at ¶ 6. He did not read it to her nor did Ms. Mendinueta Morales
3 have an opportunity to read the paper. *Id.* The agent just told her to sign it. *Id.*
4 Everything was rushed. *Id.*

5 Days later, Ms. Mendinueta Morales was able to read the notice of
6 revocation. *Id.* The paper listed her recent criminal history and failure to comply
7 with the conditions of supervision. *Id.* She did not understand. *Id.*

8 Ms. Mendinueta Morales has not had a conviction since before the immigration
9 judge's order in 2012. *Id.* She has also complied with the conditions of her
10 supervision. *Id.* She was not given an opportunity to contest the notice. *Id.* She
11 has not spoken to any agents about her case since the date of arrest. *Id.*

12 The ICE agent told me that they intended to remove me to Mexico. *Id.* at
13 ¶ 7. She did not understand since the judge did not order her removed to Mexico.
14 *Id.* She does not want to go to Mexico. *Id.*

15 After her arrest, Ms. Mendinueta Morales was placed in a detention center
16 in Florida. *Id.* at ¶ 8. She was then taken to Texas, then Arizona, and is now in
17 Otay Mesa Detention Center. *Id.*

18 **II. The repatriation agreement with Cuba allows it to use its discretion in**
19 **accepting Cuban nationals that entered the United States prior to 2017**
20 **on a case-by-case basis.**

21 It is no surprise that ICE has struggled to remove Ms. Mendinueta Morales
22 to Cuba. Cuba rarely accepts its citizens for repatriation. Moreover, Mexico
23 accepts Central Americans only if they voluntarily agree to removal there.

24 Prior to 2017, there was no repatriation agreement between the United
25 States and Cuba. *Clark v. Martinez*, 543 U.S. 371, 386 (2005). On January 12,
26 2017, the United States and Cuba signed a joint statement (“2017 Joint
27 Statement”) by which Cuba agreed to the repatriation of some Cuban nationals.

28 *Cuba (17-112) – Joint Statement Concerning Normalization of Migration*
Procedures, Jan. 12, 2017, available at <https://www.state.gov/17-112/>.

1 Specifically, under the agreement Cuba “shall receive back all Cuban nationals
2 who after the signing” of the 2017 Joint Statement “found by the competent
3 authorities of the United States to have tried to irregularly enter or remain in that
4 country in violation of United States law.” *Id.* at 2.

5 In practice, however, Cuba did not accept its nationals for removal. Despite
6 the 2017 Joint Statement, a 2019 report by the Office of Inspector General
7 classified Cuba as an “uncooperative country” in 2017, 2018, and 2019 based on
8 its failure to provide travel documents on a timely basis. Department of Homeland
9 Security, Office of Inspector General, Report No. OIG-19-28, *ICE Faces Barriers*
10 *in Timely Repatriation of Detained Aliens* (Mar. 11, 2019), available at
11 <https://www.oig.dhs.gov/sites/default/files/assets/2019-03/OIG-19-28-Mar19.pdf>
12 at pages 6–7, 10, 29. In May of 2018, Cuba was one of nine countries with the
13 uncooperative categorization. *Id.* at 10. That tendency was borne out in this case.
14 ICE proved unable to remove Ms. Mendinueta Morales under the agreement,
15 either during the more than 13 years since her order of removal.

16 Mexico has agreed to take some Cubans for third-country removal. *See*
17 Exh. B at ¶ 7. But Mexico will accept a deportee “only if [they] would willingly
18 go to Mexico.” *Id.* at ¶ 11. Ms. Mendinueta Morales does not qualify for
19 repatriation under the agreement, because—for understandable reasons, including
20 fears of harm—he is not willing to go to Mexico voluntarily. *Id.* at ¶¶ 4–5.

21 CLAIMS FOR RELIEF

22 This Court should grant this petition and order Ms. Mendinueta Morales’s
23 immediate release. ICE failed to follow its own regulations requiring changed
24 circumstances before re-detention, as well as a chance to promptly contest a re-
25 detention decision. And *Zadvydas v. Davis* holds that immigration statutes do not
26 authorize the government to detain immigrants like Ms. Mendinueta Morales, for
27 whom there is “no significant likelihood of removal in the reasonably foreseeable
28 future.” 533 U.S. 678, 701 (2001).

1 **I. Count 1: ICE failed to comply with its own regulations before re-**
2 **detaining Ms. Mendinueta Morales, violating her rights under**
3 **applicable regulations and the Fifth Amendment.**

4 Two regulations establish the process due to someone who is re-detained in
5 immigration custody following a period of release. 8 C.F.R. § 241.4(l) applies to
6 re-detention generally. 8 C.F.R. § 241.13(i) applies to persons released after
7 providing good reason to believe that they will not be removed in the reasonably
8 foreseeable future, as Ms. Mendinueta Morales was. *See Rokhfirooz*, No. 25-CV-
9 2053-RSH-VET, 2025 WL 2646165 at *2 (order from Judge Huie explaining this
10 regulatory framework and granting a habeas petition for ICE’s failure to follow
11 these regulations).

12 These regulations permit an official to “return [the person] to custody”
13 because they “violate[d] any of the conditions of release.” 8 C.F.R. § 241.13(i)(1);
14 *see also* § 241.4(l)(1).

15 Otherwise, they contain four major regulatory protections for people like
16 Ms. Mendinueta Morales, who did not violate any condition of release. They
17 permit revocation of release only if the appropriate official (1) “determines that
18 there is a significant likelihood that the alien may be removed in the reasonably
19 foreseeable future,” § 241.13(i)(2), and (2) makes that finding “on account of
20 changed circumstances.” *Id.* No matter the reason for re-detention, (3) the re-
21 detained person is entitled to “an initial informal interview promptly,” during
22 which they “will be notified of the reasons for revocation.” §§ 241.4(l)(1);
23 241.13(i)(3). The interviewer must (4) “afford[] the [person] an opportunity to
24 respond to the reasons for revocation,” allowing them to “submit any evidence or
25 information” relevant to re-detention and evaluating “any contested facts.” *Id.*

26 ICE is required to follow its own regulations. *United States ex rel. Accardi*
27 *v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see Alcaraz v. INS*, 384 F.3d 1150,
28 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to
abide by certain internal policies is well-established.”). A court may review a re-

1 detention decision for compliance with the regulations, and “where ICE fails to
2 follow its own regulations in revoking release, the detention is unlawful and the
3 petitioner’s release must be ordered.” *Rokhfirooz*, 2025 WL 2646165 at *4
4 (collecting cases).

5 ICE followed none of its four regulatory prerequisites to re-detention here.

6 First, although Ms. Mendinueta Morales did receive a notice of revocation
7 paper, the document was not read to her, nor was she given an opportunity to
8 review it. Exh. A at ¶¶ 4–6. Ms. Mendinueta Morales states that everything
9 happened so fast and she was told to just sign without explanation. She felt forced
10 to sign the papers. *Id.*

11 Second, Ms. Mendinueta Morales did not receive an informal interview
12 permitting her to contest her re-detention. Exh. A at ¶ 5–6. Any interview
13 conducted now would not be prompt, as required by the regulation. *See, e.g.,*
14 *M.S.L. v. Bostock*, Civ. No. 6:25-cv-01204-AA, 2025 WL 2430267, at *11 (D. Or.
15 Aug. 21, 2025) (27-day delay not prompt); *Yang v. Kaiser*, No. 2:25-cv-02205-
16 DAD-AC (HC), 2025 WL 2791778, at *5 (E.D. Cal. Aug. 20, 2025) (two-month
17 delay not prompt); *Soryadvongsa v. Noem*, 24-cv-2663-AGS-DDL, 2025 WL
18 3126821, at *1 (S.D. Cal. Nov. 8, 2025) (29-day delay not prompt). She has not
19 opportunity to contest the reasons stated in the notice of revocation. Specifically,
20 she did not have an opportunity to contest the allegation of recent criminal history
21 or violations of supervision.

22 Third, ICE did not revoke Ms. Mendinueta Morales’s release for a
23 permissible reason. She did not have any violations of the conditions of
24 supervision. And there are no changed circumstances that justify re-detaining her.
25 ICE already tried and failed to remove Ms. Mendinueta Morales to Cuba and has
26 been unsuccessful. Ms. Mendinueta Morales is also ineligible for third-country
27 removal to Mexico, as Mexico will only accept those willing to be voluntarily
28 deported there. *Id.* at ¶ 7; Exh. B. Ms. Mendinueta Morales does not want to go to

1 Mexico. Absent any evidence for “why obtaining a travel document is more likely
2 this time around[,] Respondents’ intent to eventually complete a travel document
3 request for Petitioner does not constitute a changed circumstance.” *Hoac v.*
4 *Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July
5 16, 2025) (citing *Liu v. Carter*, No. 25-3036-JWL, 2025 WL 1696526, at *2 (D.
6 Kan. June 17, 2025)). Furthermore, past experience teaches that ICE almost
7 certainly made no changed-circumstances determination before her arrest. *See*
8 *Rokhfirooz*, 2025 WL 2646165 at *3.

9 Numerous courts have released re-detained immigrants after finding that
10 ICE failed to comply with applicable regulations. *See, e.g., Rokhfirooz*, 2025 WL
11 2646165; *Grigorian*, 2025 WL 2604573; *Delkash v. Noem*, 2025 WL 2683988;
12 *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025); *You v. Nielsen*,
13 321 F. Supp. 3d 451, 463 (S.D.N.Y. 2018); *Rombot v. Souza*, 296 F. Supp. 3d
14 383, 387 (D. Mass. 2017); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL
15 2452352, at *7–9 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, No. 6:25-CV-
16 01204-AA, 2025 WL 2430267, at *10–12 (D. Or. Aug. 21, 2025); *Escalante v.*
17 *Noem*, No. 9:25-CV-00182-MJT, 2025 WL 2491782, at *2–3 (E.D. Tex. July 18,
18 2025); *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4
19 (E.D. Cal. July 16, 2025); *Liu*, 2025 WL 1696526, at *2; *M.Q. v. United States*,
20 2025 WL 965810, at *3, *5 n.1 (S.D.N.Y. Mar. 31, 2025).

21 “[B]ecause officials did not properly revoke petitioner’s release pursuant to
22 the applicable regulations, that revocation has no effect, and [Ms. Mendinueta
23 Morales] is entitled to her release (subject to the same Order of Supervision that
24 governed her most recent release).” *Liu*, 2025 WL 1696526, at *3.

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1 **I. Count 2: Ms. Mendinueta Morales’s detention violates *Zadvydas* and**
2 **8 U.S.C. § 1231.**

3 **A. Legal background**

4 In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered
5 a problem affecting people like Ms. Mendinueta Morales: Federal law requires
6 ICE to detain an immigrant during the “removal period,” which typically spans
7 the first 90 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)–
8 (2). After that 90-day removal period expires, detention becomes discretionary—
9 ICE may detain the migrant while continuing to try to remove them. *Id.*
10 § 1231(a)(6). Ordinarily, this scheme would not lead to excessive detention, as
11 removal happens within days or weeks. But some detainees cannot be removed
12 quickly. Perhaps their removal “simply require[s] more time for processing,” or
13 they are “ordered removed to countries with whom the United States does not
14 have a repatriation agreement,” or their countries “refuse to take them,” or they
15 are “effectively ‘stateless’ because of their race and/or place of birth.” *Kim Ho Ma*
16 *v. Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other
17 circumstances, detained immigrants can find themselves trapped in detention for
18 months, years, decades, or even the rest of their lives.

19 If federal law were understood to allow for “indefinite, perhaps permanent,
20 detention,” it would pose “a serious constitutional threat.” *Zadvydas*, 533 U.S. at
21 699. In *Zadvydas*, the Supreme Court avoided the constitutional concern by
22 interpreting § 1231(a)(6) to incorporate implicit limits. *Id.* at 689.

23 As an initial matter, *Zadvydas* held that detention is “presumptively
24 reasonable” for at least six months. *Id.* at 701. This presumption is, in some
25 circumstances even before the running of six months, “rebuttable.” *See Zavvar*,
26 2025 WL 2592543 at *5–*6 (explaining this point when granting *Zadvydas*
27 habeas relief).

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1 Courts must use a burden-shifting framework to decide whether detention
2 remains authorized. First, the petitioner must make a prima facie case for relief:
3 He must prove that there is “good reason to believe that there is no significant
4 likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at
5 689.

6 If she does so, the burden shifts to “the Government [to] respond with
7 evidence sufficient to rebut that showing.” *Id.* Ultimately, then, the burden of
8 proof rests with the government: The government must prove that there is a
9 “significant likelihood of removal in the reasonably foreseeable future,” or the
10 immigrant must be released. *Id.*

11 To underline the government’s burden, good faith is beside the point.
12 “[U]nder *Zadvydas*, the reasonableness of Petitioner’s detention does not turn on
13 the degree of the government’s good faith efforts. Indeed, the *Zadvydas* court
14 explicitly rejected such a standard. Rather, the reasonableness of Petitioner’s
15 detention turns on whether and to what extent the government’s efforts are likely
16 to bear fruit.” *Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL 78984, at *5
17 (W.D.N.Y. Jan. 2, 2019). Accordingly, “the Government is required to
18 demonstrate the likelihood of not only the *existence* of untapped possibilities, but
19 also of a probability of success in such possibilities.” *Elashi v. Sabol*, 714 F.
20 Supp. 2d 502, 506 (M.D. Pa. 2010).

21 Using this framework, Ms. Mendinueta Morales can make all the threshold
22 showings needed to shift the burden to the government.

23 **B. The six-month grace period expired in 2013.**

24 As an initial matter, the six-month grace period has long since ended. The
25 *Zadvydas* grace period lasts for “*six months* after a final order of removal—that is,
26 *three months* after the statutory removal period has ended.” *Kim Ho Ma v.*
27 *Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001). Here, Ms. Mendinueta
28 Morales’s order of removal was entered on August 2, 2012. Exh. A at ¶ 2.

1 Accordingly, her 90-day removal period began then. 8 U.S.C. § 1231(a)(1)(B).
2 The *Zadvydas* grace period thus expired three months after the removal period
3 ended, in February 2013. Thus, this threshold requirement is met.

4 **C. There is good reason to believe that there is no significant**
5 **likelihood of Ms. Mendinueta Morales’s removal in the**
6 **reasonably foreseeable future.**

7 Because the six-month grace period has passed, this Court must evaluate
8 Ms. Mendinueta Morales’s *Zadvydas* claim using the burden-shifting framework.
9 At the first stage of the framework, there must be “good reason to believe that
10 there is no significant likelihood of removal in the reasonably foreseeable future.”
11 *Zadvydas*, 533 U.S. at 701. This standard can be broken down into three parts.

12 “**Good reason to believe.**” The “good reason to believe” standard is a
13 relatively forgiving one. “A petitioner need not establish that there exists no
14 possibility of removal.” *Freeman v. Watkins*, No. CV B:09-160, 2009 WL
15 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does “[g]ood reason to believe”
16 . . . place a burden upon the detainee to demonstrate no reasonably foreseeable,
17 significant likelihood of removal or show that his detention is indefinite; it is
18 something less than that.” *Rual v. Barr*, No. 6:20-CV-06215 EAW, 2020 WL
19 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401 F. Supp. 3d
20 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says: Petitioners
21 need only give a “good reason”—not prove anything to a certainty.

22 “**No significant likelihood of removal.**” This component focuses on
23 whether Ms. Mendinueta Morales will likely be removed: Continued detention is
24 permissible only if it is “significant[ly] like[ly]” that ICE will be able to remove
25 him. *Zadvydas*, 533 U.S. at 701. This inquiry targets “not only the *existence* of
26 untapped possibilities, but also [the] probability of *success* in such possibilities.”
27 *Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis
28 added). In other words, even if “there remains *some* possibility of removal,” a
petitioner can still meet its burden if there is good reason to believe that

1 successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-
2 8019, 2002 WL 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

3 **“In the reasonably foreseeable future.”** This component of the test
4 focuses on when Ms. Mendinueta Morales will likely be removed: Continued
5 detention is permissible only if removal is likely to happen “in the reasonably
6 foreseeable future.” *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on
7 ICE’s removal efforts. If the Court has “no idea of when it might reasonably
8 expect [Petitioner] to be repatriated, this Court certainly cannot conclude that his
9 removal is likely to occur—or even that it might occur—in the reasonably
10 foreseeable future.” *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL
11 4880158, at *3 (S.D. Miss. July 7, 2020), *report and recommendation adopted*,
12 2020 WL 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F.
13 Supp. 3d 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that Ms.
14 Mendinueta Morales “would *eventually* receive” a travel document, she can still
15 meet her burden by giving good reason to anticipate sufficiently lengthy delays.
16 *Younes v. Lynch*, 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

17 Ms. Mendinueta Morales readily satisfies the above standards for an
18 obvious reason: ICE has already tried and failed to remove her under the operative
19 repatriation agreements between the United States and Cuba. Moreover, the
20 agreement between Mexico and the United States appears to be contingent on the
21 person leaving there voluntarily. Thus, there a very good reason to doubt that
22 Ms. Mendinueta Morales can be removed in the reasonably foreseeable future.

23 Thus, Ms. Mendinueta Morales has met her initial burden, and the burden
24 shifts to the government. Unless the government can prove a “significant
25 likelihood of removal in the reasonably foreseeable future,” Ms. Mendinueta
26 Morales must be released. *Zadvydas*, 533 U.S. at 701.

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1 **II. This Court must hold an evidentiary hearing on any disputed facts.**

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

6 **III. Prayer for relief**

7 For the foregoing reasons, Petitioner respectfully requests that this Court:

- 8 1. Order Respondents to immediately release Petitioner from custody
9 under the same conditions of supervision;
- 10 2. Enjoin Respondents from re-detaining Petitioner under 8 U.S.C.
11 § 1231(a)(6) unless and until Respondents obtain a travel document
12 for her removal;
- 13 3. Enjoin Respondents from re-detaining Petitioner without first
14 following all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i),
15 and any other applicable statutory and regulatory procedures;
- 16 4. Order all other relief that the Court deems just and proper.

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Respectfully submitted,

Dated: January 5, 2025

s/ Zandra L. Lopez

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PROOF OF SERVICE

I, the undersigned, will cause the attached petition for a writ of habeas corpus to be emailed to the U.S. Attorney’s Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Dated: January 5, 2026

s/ Zandra L. Lopez
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Exhibit A

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

11 YAMILA MENDINUETA MORALES,
12
13 Petitioner,


14 v.

15 KRISTI NOEM, Secretary of the
16 Department of Homeland Security,
17 PAMELA JO BONDI, Attorney General,
18 TODD M. LYONS, Acting Director,
19 Immigration and Customs Enforcement,
20 JESUS ROCHA, Acting Field Office
21 Director, San Diego Field Office,
22 CHRISTOPHER LAROSE, Warden at
23 Otay Mesa Detention Center,
24
25 Respondents.

CIVIL CASE NO.:

**FIRST DECLARATION OF
YAMILA MENDINUETA
MORALES**

1 I, Yamila Mendinueta-Morales, declare:

2 1. I was born in Havana, Cuba on  1974. In 1980, I came to the
3 United States with my mother, two brothers, and sister. I was six years old. We
4 were part of the Mariel boatlift. I remember being on a boat with a lot of people
5 and seeing American flags and people on the boat singing songs of freedom.

6
7 2. I suffered a conviction in 2011. On August 2, 2012, an immigration
8 judge ordered me removed to Cuba. Soon after the judge's order, I was released
9 from immigration custody because Cuba was not accepting Cubans. I was placed
10 on an order of supervision.

11 3. Since 2012, I have reported to ICE offices as required by my order of
12 supervision. I did not miss any of my appointments. I have not had any new
13 convictions since the immigration judge's order, and I have not violated the
14 conditions of supervision.

15 4. On December 16, I went to my regular check-in appointment in
16 Jacksonville, Florida. The ICE agent gave me papers to sign. The papers were not
17 read to me and I was not given time to read them. I was just told to sign the
18 papers. I did not have a choice but to sign. I don't even know what I signed.

19
20 5. I was not given an interview to challenge the reasons for my
21 detention.

22 6. After I was detained, I was able to read the papers that were given to
23 me. The paper stated I had recent criminal history and failed to comply with the
24 conditions of supervision. I do not understand. I have not had a conviction since
25 before the immigration judge's order in 2012. I have complied with the conditions
26 of my supervision. I was not given an opportunity to contest the notice. I have not
27 spoken to anyone about my case since the date of my arrest.

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7. The ICE agent also told me that they intended to remove me to Mexico. I did not understand since the immigration judge's order does not say I would be removed to Mexico. I do not want to go to Mexico.

8. I was placed in a detention center in Florida. I was later taken to Texas, then Arizona, and recently arrived here in Otay Mesa Detention Center. I am concerned about my medical condition while being detained. I have been diagnosed with WPW, or Wolff-Parkinson-White syndrome.

9. I have three children born in the United States. Two of my children are adults and I also have an eight-year-old son. I am a stay-at-home mother, and I also work part time as a caretaker. I do not own property, nor do I have savings. I cannot afford to pay for an attorney.

10. I do not have any legal education. I completed my GED and I am concerned that I do not understand the laws. I don't even understand what is happening to me. I need the assistance of an attorney.

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I declare under penalty of perjury that the foregoing is true and correct,
executed on January 4 2026, in San Diego, California.

Yamila M. Mendinueta
Yamila Mendinueta Morales
Declarant

Exhibit B

1 ADAM GORDON
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2 ERIN M. DIMBLEBY
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7 Attorneys for Respondents

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

10 CARLOS RIOS,

11 Petitioner,

12 v.

13 KRISTI NOEM; et al.,

14 Respondents.
15
16

Case No.: 25-cv-02866-JES-VET

**NOTICE OF SUPPLEMENTAL
INFORMATION**

17 Respondents herein submit the attached declaration in support of their Response in
18 Opposition to Petitioner’s Habeas Petition and Application for Temporary Restraining
19 Order. *See* Declaration of Martin Parsons.
20

21 Dated: November 5, 2025

Respectfully submitted,

22 ADAM GORDON
United States Attorney

23 *s/ Erin M. Dimbleby*
24 ERIN M. DIMBLEBY
25 Assistant U.S. Attorney
26 Attorneys for Respondents
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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

CARLOS RIOS,

Petitioner,

v.

KRISTI NOEM, Secretary of the
Department of Homeland Security; et al.,

Respondents.



Case No. 25-cv-02866-JES-VET

**SUPPLEMENTAL DECLARATION OF
MARTIN PARSONS**

I, Martin Parsons 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 employed by the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO), in the San Diego Field Office, as a Deportation Officer (DO). I have held this position since November 10, 2019.

2. I am currently assigned to the Otay Mesa suboffice and my responsibilities include enforcing final orders of deportation and removal from the United States for aliens and requesting travel documents from foreign consulates as part of the removal process.

1 3. I am currently responsible for monitoring this case. I make this declaration
2 based upon my own personal knowledge and experience as a law enforcement officer and
3 information provided to me in my official capacity as a DO in the ICE ERO San Diego Field
4 Office. I make this declaration based on review of Petitioner  Rios's alien file
5  consultation with other ICE officers, and review of official documents and
6 records maintained by ICE.

7 4. Petitioner unlawfully entered the United States in 1988, and less than two years
8 later, was convicted of murder and sentenced to twenty-seven years in prison.

9 5. On June 8, 2021, Petitioner was ordered removed to Cuba.

10 6. On July 27, 2021, Petitioner was released from ICE custody under an Order of
11 Supervision because it was unable to repatriate him to Cuba.

12 7. On September 22, 2025, ICE re-detained Petitioner to execute his removal
13 order. After ICE's attempt at repatriating Petitioner to Cuba was unsuccessful, ICE
14 identified Mexico as a third country where Petitioner may be removed based on Mexico's
15 recent agreement with the United States to accept individuals from Cuba, Haiti, Nicaragua,
16 Venezuela, Guatemala, Honduras, and El Salvador for third country removal.

17 8. On September 29, 2025, ICE requested the Mexican government to accept
18 twenty individuals, including Petitioner, for resettlement in Mexico. The Mexican
19 government replied that same day, confirming its acceptance of the twenty individuals, and
20 confirming their arrival time of October 1, 2025, at 10:00 a.m.

21 9. When a third country is identified for resettlement, standard ICE guidance and
22 procedures provide that an ICE officer will provide written notice to the removable alien of
23 the intended third country removal. The written notice identifies which country ICE intends
24 to remove the alien to. ICE will generally wait at least 24 hours following service of the
25 Notice of Removal before effectuating removal. In exigent circumstances, ERO may
26 execute a removal order six or more hours after service of the Notice of Removal as long as
27 the alien is provided reasonable means and opportunity to speak with an attorney prior to
28 removal.

