

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

7

8

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

9

10

11

BLANCA ELENA GUZMAN FELIX,

) Case No.: **'26CV0055 RSH AHG**

12

Petitioner,

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

13

vs.

14

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

) **IMMIGRATION HABEAS CASE**

18

19

Respondents.

20

21

22

23

24

25

26

27

28

1	I. Introduction	3
2	II. Custody	4
3	III. Jurisdiction	5
4	IV. Venue	5
5	V. Parties	5
6	VI. Exhaustion of Administrative Remedies	6
7	VII. Statement of Facts.	6
8	VIII. Claims for Relief	8
9	A. Count One: ICE failed to comply with its own regulations before re-detaining	
10	Ms. Guzman Felix, violating her rights under applicable regulations	
11	And the Fifth Amendment	8
12	B. Count Two: ICE may not remove Ms. Guzman Felix to a third	
13	Country without adequate process	12
14	1. Legal Background.	12
15	2. The June 6, 2025, ICE memo's removal policies violate the Fifth	
16	Amendment, 8 U.S.C. §1231, the Convention Against Torture, and	
17	Implementing Regulations	13
18	IX. This Court must hold an evidentiary hearing on any disputed facts	14
19	X. Prayer for Relief	14

20
21
22
23
24
25
26
27
28

1 additional injuries. She is supposed to take five different medications for osteo. nerve and
2 depression problems but is getting only Tylenol.

3 Respondents are detaining Ms. Guzman Felix with the intent to remove her to an
4 unidentified third country. For nine years, Respondents have been unable or unwilling to remove
5 Ms. Guzman Felix. She has been granted employment authorization and has complied with all
6 check-in requirements for over 9 years. Ms. Guzman Felix is not a flight risk or a danger to the
7 community. Her detention is not justified under the Constitution or the Immigration and Nationality
8 Act (INA).

9 This Court should order Ms. Guzman Felix released from immigration custody and enjoin
10 the government from deporting her to a third country without first providing sufficient notice and an
11 opportunity to be heard.

12 Additionally, Ms. Guzman Felix has a U non-immigrant visa application pending with the
13 United States Citizenship and Immigration Services with a priority date of March 21, 2017.
14 Although Ms. Guzman Felix has a pending U visa self-petition, Respondents unlawfully detained
15 her and are attempting to remove her to an unidentified third country.

16 Ms. Guzman Felix submits that her detention violates her constitutional rights. Petitioner
17 seeks an order from this Court declaring her detention unlawful and ordering Respondents to release
18 Ms. Guzman Felix from their custody.

19 II. CUSTODY

20 Ms. Guzman Felix is in the physical custody of Respondent Todd M. Lyons, Acting
21 Director, U.S. Immigration and Customs Enforcement (USICE), the Department of Homeland
22 Security (DHS). Respondent Jesus Rocha, Acting Field Office Director, San Diego Field Office,
23 ICE, and Respondent Christopher J. LaRose, Warden of the Otay Mesa Detention Center (OTM) in
24 San Diego, California. At the time of the filing of this petition, Petitioner is detained at the OTM in
25 San Diego, California. The Otay Mesa Detention Center contracts with the DHS to detain aliens
26 such as Petitioner. Ms. Guzman Felix is under the direct control of Respondents and their agents.

27

28

1 **III. JURISDICTION**

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

10 **IV. VENUE**

11 Venue lies in the United States District Court for the Southern District of California under
12 28 U.S.C. §1391(b) and (c) because at least one Respondent, Christopher J. LaRose, the legal
13 custodian of Ms. Guzman Felix, is in this district, and it is where Petitioner is detained.
14 Additionally, all material decisions regarding Ms. Guzman Felix's detention have been made at the
15 San Diego Field Office of ICE, located in San Diego, California.

16 **V. PARTIES**

17 Petitioner, Blanca Elena Guzman Felix, is a national and citizen of Mexico who has resided
18 in the United States since 2011. She is currently detained at the Otay Mesa Detention Center in San
19 Diego, California, under Respondents' legal custody.

20
21 Respondent Todd M. Lyons is the Acting Director, U.S. Immigration and Customs
22 Enforcement, a component of the Department of Homeland Security, and maintains his office in
23 San Diego, California, within this judicial district. Respondent Lyons is a custodial official acting
24 within the boundaries of the judicial district of the United States Court for the Southern District of
25 California, San Diego Division. Pursuant to Respondent Lyon's orders, Petitioner remains detained.
26 He is sued in his official capacity.

27
28

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

5
6 Respondent Kristin Noem is the Secretary of the U.S. Department of Homeland Security, an
7 agency of the United States. She is responsible for the administration and enforcement of the
8 immigration laws. See 8 U.S.C. § 1103(a). Respondent Noem is a legal custodian of Petitioner. She
9 is sued in her official capacity.

10
11 Respondent Pamela Bondi is the Attorney General of the United States. As Attorney
12 General, Respondent Bondi has the authority to interpret the immigration laws and adjudicate
13 removal cases and bond hearings. See 8 U.S.C. § 1103(g). The Attorney General delegates this
14 responsibility to the Executive Office for Immigration Review, which administers the immigration
15 courts and the BIA. Respondent Bondi is a legal custodian of Petitioner. She is sued in her official
16 capacity.

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

20 VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES

21 Ms. Guzman Felix has exhausted her administrative remedies to the extent required by law.
22 She has fully cooperated with Respondents and has not delayed or obstructed her detention. Ms.
23 Guzman Felix's only remedy is by way of this judicial action.

24 VII. STATEMENT OF THE FACTS

25 Ms. Guzman Felix is a national and citizen of Mexico who originally entered the United
26 States in 1988. She re-entered the United States in 2015 for the last time after the father of her
27 children severely beat her and threatened to kill her in Mexico. She had four United States citizen
28 children. *Exhibit A, Declaration of Blanca E. Guzman Felix ¶ 1, 4-6.*

1 Ms. Guzman Felix was the victim of domestic violence in the United States at the hands of
2 the father of her children. [REDACTED]

3 [REDACTED] Ms.
4 [REDACTED]

5 Guzman Felix has temporary custody of [REDACTED] youngest daughter, age 1 ½ who is being
6 evaluated for autism. The child also has separation anxiety and requires weekly participatory
7 sessions with Ms. Guzman Felix *Id. at ¶7 and 15, and Rady Children's Hospital letter dated*
8 *November 13, 2025, Exhibit D.*

9 One of Ms. Guzman Felix' sons battled leukemia at the same time [REDACTED] *Id.*
10 ¶7-8. Her other son died in an automobile accident in Kansas in 2022. *Id. ¶12.* In 2024, the father
11 of Ms. Guzman Felix children threatened to kill her when she returns to Mexico. *Id. ¶13.*

12 Ms. Guzman Felix dutifully reported to and checked in with ICE every year from 2016,
13 when she was released from detention. to the present. *Id. at ¶ 9.* She also applied for and received
14 Employment Authorization under the Order of Supervision provisions. *Id. at ¶ 10.* Ms. Guzman
15 Felix's Employment Authorization is about to expire in January 2026. *Id. at ¶ 10.*

16 She has a U non-immigrant Petition with a priority date of March 21, 2017, pending with the
17 United States Citizenship and Immigration Service. *Id. at ¶ 11 and Exhibit C.*

18 Over the last several years, Ms. Guzman Felix developed chronic back pain, lumbosacral
19 radiculopathy, hip osteoarthritis, and major depression. She had a complete left hip replacement on
20 June 4, 2025, and is in need to have the right hip replaced. She uses a cane as her mobility is limited
21 and slow. *Id. ¶16.* Ms. Guzman Felix has an appointment with her rheumatologist on January 7,
22 2026, and is extremely concerned about missing this appointment. *Id. ¶17.* Additionally, Ms.
23 Guzman Felix has a detached retina in her left eye which requires immediate medical attention. *Id.*
24 ¶18.

25 On December 18, 2025, Respondent Lyons and his agents arrested Ms. Guzman Felix at
26 their San Diego, California, offices during a check-in.. The reason for the arrest was to remove Ms.
27 Guzman Felix. She
28

1 informed the arresting officers that she feared for her life because (1) the father of her children beat
2 her and threatened to kill her in 2011, (2) renew his threat to kill her in 2024, and (3) he boasted that
3 he is a member of the Mana gang in Mexico and the police work for him. *Id.* ¶19-20.

4 On December 22, 2025, while in custody of ICE, the Otay Mesa Detention Center mixed her
5 prescription medicine with another patient's and gave her a strong laxative by mistake. Ms. Guzman
6 Felix, as she attempted to rush to the facilities, and using her cane for support, fell to the ground and
7 injured her already frail left knee, back and hips. Ms. Guzman Felix is having even more pain and
8 difficulty walking as a result of the fall. She is concerned about having caused further damage to her
9 hips, lower back and knee when she fell to the ground at the Otay Mesa Detention Center. Ms.
10 Guzman is extremely worried about missing her January 7, 2025, doctor's appointment in light of
11 her deteriorating condition. She is supposed to take five different medications for osteo, nerve and
12 depression problems but is getting Tylenol. *Id.* ¶21-22.

13 Further, if ICE intends to remove Ms. Guzman Felix to a third country, it is without proper
14 notice and an opportunity to challenge that removal in direct violation of due process. *Id.* at ¶ 19.

15 Respondents failed to provide Ms. Guzman Felix with written notice of the reasons for her
16 re-detention. *Exhibit A* at ¶ 19. Ms. Guzman Felix is not a danger to the community or a flight risk.
17 She has no pending criminal cases.

18 Ms. Guzman Felix has deep roots in this community. She has three United States citizen
19 children now and a 1 ½ year old granddaughter who completely depends on her. *Exhibit A* at ¶ 4, 7,
20 and 15.

21 Prior to her detention, Ms. Guzman Felix cared for her granddaughter and sought treatment
22 for her daughter Aglael. *Exhibit A* at ¶7 and 15.

23 Respondents' decision to detain Ms. Guzman Felix is no longer justifiable and is capricious
24 and arbitrary.

25 **VIII. CLAIMS FOR RELIEF**

26 **A. COUNT ONE: ICE failed to comply with its own regulations before re-**
27 **detaining Ms. Guzman Felix, violating her rights under applicable regulations and the Fifth**
28 **Amendment.**

1 Two regulations establish the process due to someone who is re-detained in immigration
2 custody following a period of release. 8 C.F.R. § 241.4(l) applies to re-detention generally. 8 C.F.R.
3 § 241.13(i) applies to persons released after providing good reason to believe that they will not be
4 removed in the reasonably foreseeable future, as Ms. Guzman Felix was.

5 These regulations establish important substantive limitations before a noncitizen's re-
6 detention. Officials are allowed to "return [the person] to custody" only when the person "violate[d]
7 any of the conditions of release," 8 C.F.R. §§ 241.13(i)(1), 241.4(l)(1), or, in the alternative, if an
8 appropriate official "determines that there is a significant likelihood that the alien may be removed
9 in the reasonably foreseeable future," and makes that finding "on account of changed
10 circumstances," § 241.13(i)(2). Section "241.13(i)(2) requires that this determination is made before
11 the removable alien has had his release revoked." *Quoc Anh Nguyen*, No. 25-cv-2792-LL, ECF No.
12 10 at 3 (quoting *Tran*, 2025 WL3005347 at *2).

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

15 First, "[u]pon revocation, the noncitizen will be notified of the reasons for revocation of
16 his or her release or parole." *Phan*, 2025 WL 2898977 at *3, *4 (quoting §§ 241.4(l)(1),
17 241.13(i)(3)). A noncitizen must receive "adequate notice of the basis for the revocation decision
18 such that he c[an] meaningfully respond at the post-detention informal interview." *Rasakhamdee v.*
19 *Noem*, No. 25-cv-2817-RBM, ECF No. 10 at 7 (S.D. Cal. Nov. 6, 2025) (quoting *Diaz v. Wofford*,
20 No. 25-cv-1079-JLT, 2025 WL 2581575, *8 (E.D. Cal. Sept. 5, 2025)).

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

28

1 Third, in the case of someone released under § 241.13(i), the regulation also explicitly
2 requires the interviewer to allow the re-detained person to “submit any evidence or information that
3 he or she believes shows there is no significant likelihood he or she be removed in the reasonably
4 foreseeable future, or that he or she has not violated the order of supervision.” § 241.13(i)(3). ICE is
5 required to follow its own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260,
6 268 (1954); see *Alcaraz v. INS*, 384 F.3d 1150, 1162 (9th Cir. 2004) (“The legal proposition that
7 agencies may be required to abide by certain internal policies is well-established.”). A court may
8 review a re-detention decision for compliance with the regulations, and “where ICE fails to follow
9 its own regulations in revoking release, the detention is unlawful and the petitioner’s release must
10 be ordered.” *Rokhfirooz*, 2025 WL 2646165 at *4 (collecting cases); accord *Phan*, 2025 WL
11 2898977 at *5. ICE followed few, if any, of its substantive or procedural regulatory prerequisites
12 for re-detention or continued detention here.

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

18 Second, ICE did not notify Ms. Guzman Felix of the “reasons” for her re-
19 detention “upon revocation” of release. See 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(3). She was re-
20 detained at a check-in on December 18, 2025. *Exhibit A ¶ 19*. ICE told her only that she was being
21 arrested “because [she] was going to be deported.” *Id.* That information alone is not sufficient—
22 actual “reasons”— explaining why her detention was being revoked. “Simply to say that
23 circumstances had changed . . . is not enough.” *Sarail A. v. Bondi*, __ F. Supp. 3d __, 2025 WL
24 2533673, *10 (D. Minn. 2025). “Petitioner must be told what circumstances had changed or why
25 there was now a significant likelihood of removal in order to meaningfully respond to the reasons
26 and submit evidence in opposition.” *Id.* The “notice” Ms. Guzman Felix received apparently
27 included no information about what had changed or why. *Exhibit A ¶ 19*.

28

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

3 Fourth, even if she did, she was not been afforded a meaningful opportunity to respond to
4 the reasons for revocation. §§ 241.13(i)(2); 241.4(l)(1); see *Exhibit A* ¶ 19. ICE did not give her an
5 opportunity to challenge her arrest during that interview, and no one told her what changed to make
6 it possible to deport her.” *Id.* ¶ 19.

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

25 Because officials did not properly revoke petitioner’s release pursuant to the applicable
26 regulations, that revocation has no effect and Ms. Guzman Felix is entitled to her release.

27

28

1 **B. COUNT TWO: ICE may not remove Ms. Guzman Felix to a third country**
2 **without adequate process.**

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

6 **1. Legal Background**

7 U.S. law enshrines protections against dangerous and life-threatening removal decisions. By
8 statute, the government is prohibited from removing an immigrant to any third country where they
9 may be persecuted or tortured, a form of protection known as withholding of removal. See 8 U.S.C.
10 § 1231(b)(3)(A).

11 The government "may not remove [a noncitizen] to a country if the Attorney General
12 decides that the [noncitizen's] life or freedom would be threatened in that country because of the
13 [noncitizen's] race, religion, nationality, membership in a particular social group, or political
14 opinion." *Id.*; see also 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is a mandatory
15 protection.

16 Similarly, Congress codified protections enshrined in the CAT prohibiting the government
17 from removing a person to a country where they would be tortured. See FARRA 2681-822; (codified
18 as 8 U.S.C. § 1231 note) ("It shall be the policy of the United States not to expel, extradite, or
19 otherwise effect the involuntary return of any person to a country in which there are substantial
20 grounds for believing the person would be in danger of being subjected to torture, regardless of
21 whether the person is physically present in the United States."); 28 C.F.R. § 200.1; *id.* §§ 208.16-
22 208.18, 1208.16-1208.18. CAT protection is also mandatory.

23 To comport with the requirements of due process, the government must
24 provide notice of the third country's removal and an opportunity to respond. Due process requires
25 "written notice of the country being designated" and "the statutory basis for the designation, i.e., the
26 applicable subsection of § 1231(b)(2)." *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1019 (W.D. Wash.
27 2019); see *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (laying out this requirement).

28

1 The government must also “ask the noncitizen whether he or she fears persecution or harm
2 upon removal to the designated country and memorialize in writing the noncitizen’s response. This
3 requirement ensures DHS will obtain the necessary information from the noncitizen to comply with
4 section 1231(b)(3) and avoids [a dispute about what the officer and noncitizen said].” *Aden*, 409 F.
5 Supp. 3d at 1019. “Failing to notify individuals who are subject to deportation that they have the
6 right to apply for asylum in the United States and for withholding of deportation to the country to
7 which they will be deported violates both INS regulations and the constitutional right to due
8 process.” *Andriasian*, 180 F.3d at 1041.

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

21 **2. The June 6, 2025 memo’s removal policies violate the Fifth Amendment, 8 U.S.C. §**
22 **1231, the Convention Against Torture, and Implementing Regulations.**

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

27 First, under the policy, ICE need not give immigrants any notice or any opportunity to be
28 heard before removing them to a country that—in the State Department’s estimation—has provided

1 “credible” “assurances” against persecution and torture. *Exhibit B*. By depriving immigrants of any
2 chance to challenge the State Department’s view, this policy violates “[t]he essence of due process.”
3 “the requirement that a person in jeopardy of serious loss be given notice of the case against him
4 and opportunity to meet it.” *Mathews*, 424 U.S. at 348.

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

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

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

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

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

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

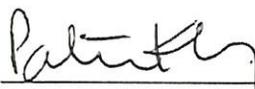
26
27 **X. Prayer for Relief**

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

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

10 Dated: January 4, 2026

Respectfully Submitted,

11 

12 _____
13 Patricia I. Klingenberg
14 Attorney for Petitioner

15 Klingenberg Law Firm, APC
16 1901 First Avenue, Suite 160
17 San Diego, CA 92101
18 Telephone 619-237-7832
19 Fax 619-237-7822