
3:26-cv-00055-RSH-AHG Guzman Felix v. Noem et al
Robert S. Huie, presiding
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History

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| <u>1</u> | <i>Filed & Entered:</i> 01/05/2026 |  Petition for Writ of Habeas Corpus |
| <u>2</u> | <i>Filed & Entered:</i> 01/05/2026 |  Motion for TRO |
| <u>3</u> | <i>Filed & Entered:</i> 01/06/2026 |  Order Setting Briefing Schedule - Habeas Corpus |
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| <u>5</u> | <i>Filed & Entered:</i> 01/12/2026 |  Notice of Appearance |
| <u>6</u> | <i>Filed & Entered:</i> 01/14/2026 |  Return to Petition |

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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BLANCA ELENA GUZMAN FELIX,

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

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Petitioner,

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

13

vs.

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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**

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Respondents.

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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.

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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.

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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 
27  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. He also raped their oldest daughter [REDACTED] *Id.* ¶ 6.
3 [REDACTED] Unfortunately, she developed severe
4 psychological problems such as schizophrenia, bipolar disorder and severe depression. Now, Ms.
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] had been raped. *Id.*
10 ¶7-8. Her other son died in an automobile accident in Kansas in 2022. *Id.* ¶12. [REDACTED]
11 [REDACTED] *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 [REDACTED]

2 [REDACTED]

3 [REDACTED]

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 [REDACTED] *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.

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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.

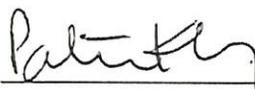
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27 **X. Prayer for Relief**

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 

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5 *Attorney for Petitioner*

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7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 BLANCA ELENA GUZMAN FELIX

12 Petitioner.

13 vs.

14 KRISTINOEM, 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,

18
19 Respondents.
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) Case No.: **'26CV0055 RSH AHG**

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

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PETITION FOR WRIT OF HABEAS CORPUS

I. Introduction

Petitioner Blanca Elena Guzman Felix 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 medical 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. Guzman Felix’s release on supervision, (2) prohibiting the government from moving her out of this district during the pendency of this litigation, potentially depriving this Court of jurisdiction, and (3) would allow Petitioner attend her medical appointment set for January 7, 2026.

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 Aghajavydya 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 WL 1993735, 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

1 (W.D. Wash. Jun. 30, 2025); Vaskanyan v. Janecka, 25-cv-01475-MRA-AS, 2025 WL 2014208
2 (C.D. Cal. Jun. 25, 2025); Ortega v. Kaiser, 25-cv-05259-JST, 2025 WL 1771438 (N.D. Cal. June
3 26, 2025); Hoac v. Becerra, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7 (E.D. Cal. July
4 16, 2025); Phan, 2025 WL 1993735 at *7.

5 **II. Ms. Guzman Felix has lived under supervision for over 9 years, is re-detained without an**
6 **individualized reason for detention and without an opportunity to contest her re-detention.**

7 Ms. Guzman Felix came to the United States in 2015. *Exhibit A to Habeas Petition, Declaration of*
8 *Blanca Elena Guzman Felix* ¶ 5. ICE detained Ms. Guzman Felix in 2016 and released her in 2016.
9 *Id. at* ¶9. She reported and checked in with ICE every year from 2016 to December 2025, when she
10 was re-detained. *Id. at* ¶ 19.

11 Ms. Guzman Felix has chronic back pain, lumbosacral radiculopathy, hip osteoarthritis, and
12 major depression. *Id. at* ¶ 16. She had a complete left hip replacement on June 4, 2025, and needs to
13 have the right hip replaced too. She mobilizes with the assistance of a cane. *Id. at* ¶ 16.
14 Additionally, she has a detached retina which needs immediate attention. *Id. at* ¶ 18.

15 Ms. Guzman Felix has an appointment with her rheumatologist on January 7, 2026, which
16 she fears she will miss because of her detention. Ms. Guzman Felix's concern has exponentially
17 grown because on December 22, 2025, the medical staff at the Otay Mesa Detention Center gave
18 her a strong laxative instead of her medication by mistake. As Ms. Guzman Felix repeatedly rushed
19 to the facilities with her cane, she fell to the ground, hurting her right knee, back and hips. Now, she
20 is in acute pain as a result of the fall and fears to have caused more damage to her frail bone
21 structure. *Id. at* ¶ 21. The Otay Mesa Detention Center is placing at great danger detainees like Ms.
22 Guzman Felix by recklessly administering the wrong medication. She is supposed to be taking at
23 least 5 different medications a day, including medication for depression, which she is not getting.
24 *Id. at* ¶ 21-23.

25 Ms. Guzman Felix has temporary and sole custody of her 1 ½ year old granddaughter. Ms.
26 Guzman Felix's granddaughter was being evaluated for autism and attended weekly therapy
27 sessions with Ms. Guzman Felix until Ms. Guzman Felix was arrested. *Id. at* ¶ 15.

28

1 On December 18, 2025, Ms. Guzman Felix presented herself to her ICE check-in where she
2 was detained. She recalls being told by the ICE officer that she was arrested because she was going
3 to be deported. She did not understand why she was being deported after 9 years and did not know
4 what changed. Additionally, she tried to explain to the Officer that she was afraid to go back to
5 Mexico [REDACTED] *Id. at*
6 ¶ 13, 14, and 19.

7 [REDACTED]
8 [REDACTED] Still, the Officer told her that they were going to deport
9 her. *Id. at* ¶ 13, 14, and 19. Ms. Guzman Felix mental and physical health are rapidly deteriorating
10 while detained.

11 Respondents failed to provide Ms. Guzman Felix with written notice of the reasons for her
12 re-detention. *Exhibit A at* ¶ 19.

13 **III. Argument: Ms. Guzman Felix meets all Winter factors.**

14 To obtain a TRO, a petitioner “must establish that he is likely to succeed on the merits, that
15 he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of
16 equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def.*
17 *Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d
18 832, 839-40 & n.7 (9th Cir. 2001) (noting that a TRO and preliminary injunction involve
19 “substantially identical” analysis). A “variant[] of the same standard” is the “sliding scale”: “if a
20 plaintiff can only show that there are ‘serious questions going to the merits—a lesser showing than
21 likelihood of success on the merits—then a preliminary injunction may still issue if the balance of
22 hardships tips sharply in the plaintiff’s favor, and the other two Winter factors are satisfied.”
23 *Immigrant Defenders Law Center v. Noem*, 145 F.4th 972, 986 (9th Cir. 2025) (internal quotation
24 marks omitted). Under this approach, the four Winter elements are “balanced, so that a stronger
25 showing of one element may offset a weaker showing of another.” *All. for the Wild Rockies v.*
26 *Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). A TRO may be granted where there are “‘serious
27 questions going to the merits’ and a hardship balance. . . tips sharply toward the plaintiff,” and so
28 long as the other Winter factors are met. *Id.* at 1132.

1 In this instance, this Court should issue a temporary restraining order because “immediate
2 and irreparable injury . . . or damage” is occurring and will continue in the absence of an order. Fed.
3 R. Civ. P. 65(b). Not only have Respondents re-detained Ms. Guzman Felix in violation of her due
4 process, statutory, and regulatory rights. ICE policy also allows them to remove her to a third
5 country in violation of her due process, statutory, and regulatory rights. This Court should order
6 Petitioner’s release and enjoin removal from this Court’s jurisdiction during the pendency of
7 litigation.

8 **A. Ms. Guzman Felix is likely to succeed on the merits, or at a minimum, raises serious**
9 **merits questions.**

10 As described in detail in Ms. Guzman Felix’s habeas petition, she is likely to
11 succeed on both of her claims.

12 First, ICE failed to follow its own regulations requiring changed circumstances before Ms.
13 Guzman Felix’s re-detention, as well as its procedural regulations requiring it to notify her of those
14 circumstances and allow her an opportunity to contest them. This was a violation of both the
15 regulations and due process and requires her release. See, e.g., See *Phan v. Noem*, 2025 WL
16 2898977, No. 25-CV-2422-RBM-MSB, *3–*5 (S.D. Cal. Oct. 10, 2025) (explaining this regulatory
17 framework and granting a habeas petition for ICE’s failure to follow these regulations for a refugee
18 of Vietnam who entered the United States before 1995); *Rokhfirooz*, No. 25-CV-2053-RSH-VET,
19 2025 WL 2646165 at *2 (same as to an Iranian national).

20 Second, Respondents cannot remove Ms. Guzman Felix to a third country without first
21 providing notice and a sufficient opportunity to be heard before an immigration judge. Their current
22 policy allowing third-country removal in the absence of that notice “contravenes Ninth Circuit law.”
23 *Nguyen v. Scott*, No. 25-CV-1398, 2025 WL 2419288, *19 (W.D. Wash. Aug. 21, 2025)
24 (explaining how the July 9, 2025 ICE memo contravenes Ninth Circuit law on the process due to
25 noncitizens in detail); see also *Delkash v. Noem*, No. 25-cv-1675- HDV-AGR, 2025 WL 2683988,
26 *1, *6 (C.D. Cal. Aug. 28, 2025) (explaining this point as to an Iranian national); *Rebenok v. Noem*,
27 No. 25-cv-2171-TWR at ECF No. 13; *Van Tran v. Noem*, 2025 WL 2770623 at *3; *Nguyen Tran v.*
28 *Noem*, No. 25-cv-2391-BTM, ECF No. 6 (S.D. Cal. Sept. 18, 2025); *Louangmilith v. Noem*, 2025

1 WL 2881578, No. 25-cv-2502-JES, *4 (S.D. Cal. Oct. 9, 2025) (all either granting temporary
2 restraining orders or habeas petitions ordering the government to not remove petitioners to third
3 countries without notice and an opportunity to be heard).

4 **B. Ms. Guzman Felix will suffer irreparable harm absent injunctive relief.**

5 Ms. Guzman Felix also meets the second factor, irreparable harm. “It is well established that
6 the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’” *Melendres*
7 *v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).
8 Where the “alleged deprivation of a constitutional right is involved, most courts hold that no further
9 showing of irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th
10 Cir. 2005) (quoting 11A Charles Alan Wright et al., *Federal Practice and Procedure*, § 2948.1 (2d
11 ed. 2004)).

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

15 Further, Ms. Guzman Felix’s continued detention creates significant medical burdens. As
16 the Ninth Circuit has recognized, immigration detainees face “subpar medical . . . care in ICE
17 detention facilities.” *Hernandez*, 872 F.3d at 995.

18 Ms. Guzman Felix’s mental and physical health have been frail and exponentially
19 deteriorated after the Otay Mesa Detention Facility gave her the wrong medication causing her to
20 fall and sustain further injuries. Further the lack of access to her medication is subjecting her to
21 irreparable harm at Otay Mesa Detention Center. *Exhibit A at ¶¶16-18, 21-23*.

22 Finally, “[i]t is beyond dispute that Petitioner would face irreparable harm from removal to a
23 third country.” *Nguyen*, 2025 WL 2419288, at *26. Recent third-country deportees have been held.
24 indefinitely and without charge, in hazardous foreign prisons. See Edward Wong et al. Inside the
25 Global Deal-Making Behind Trump’s Mass Deportations, *N.Y. Times*, June 25, 2025. They have
26 been subjected to solitary confinement. Gerald Imray, 3 Deported by US held in African Prison
27 Despite Completing Sentences, *Lawyers Say*, PBS (Sept. 2, 2025). They have been removed to
28 countries so unstable that the U.S. government recommends making a will and appointing a hostage

1 negotiator before traveling to them. See Wong, *supra*. They have been “promptly deported . . . to the
2 very countries to which the United States had withheld removal due to the risk of persecution,
3 torture, or death.” *Santamaria Orellana v. Baker*, No. 25-1788-TDC, 2025 WL 2841886, *12 (D.
4 Md. Oct.7, 2025).

5
6 **IV. The balance of hardships and the public interest weigh heavily in Ms. Guzman Felix’s**
7 **favor.**

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

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

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

25
26 **V. Ms. Guzman Felix will give the government notice of this TRO motion immediately, and**
27 **the TRO should remain in place throughout habeas litigation.**

28 Respondent will give the United States Attorney’s Office notice of this motion.

1 Additionally, Ms. Guzman Felix 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: January 5, 2026

Respectfully Submitted,



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