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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ANGELA THERESA VELASQUEZ CHINGA,

Petitioner,

v.

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

Respondents.

CIVIL CASE NO.: 26-cv-105-RBM

Traverse in Support of Petition for a Writ of Habeas Corpus

Ms. Velasquez-Chinga's habeas petition challenged her re-detention contrary to regulation, her prolonged detention in violation of *Zadvydas*, and her potential removal to a third country without due process. The government's Return now claims that Ecuador has accepted Ms. Velasquez-Chinga, she was scheduled for a flight prior to this Court's stay order, and she will soon be rescheduled on another one. If indeed the government is able to schedule her for a flight and swiftly remove her to Ecuador, Ms. Vasquez-Chinga acknowledges that her *Zadvydas* and

third-country removal claims cannot succeed. This Court should therefore defer ruling on those claims to see if the government is indeed able to remove her.

Her regulatory claim, however, remains live regardless of whether the government has a travel document. Because the government's return shows that ICE did not formally revoke parole—let alone follow the revocation procedures mandated by regulation and due process—Ms. Velasquez-Chinga must be released immediately.

ARGUMENT

I. Count 1: There is no evidence that ICE formally revoked parole, let alone provided noticed and individualized parole revocation determination.

Governing law permits Respondents to terminate parole, but only "when (1) the parole's purpose is served or (2) when humanitarian reasons and public benefit are no longer warranted, *and* the noncitizen is provided written notice." *Perez v. LaRose*, No. 3:25-CV-02620-RBM-JLB, 2025 WL 3171742, at *6 (S.D. Cal. Nov. 13, 2025) (emphasis original). "[C]ourts have found . . . that revocation of that parole similarly requires an individualized determination." *Noori v. LaRose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *13 (S.D. Cal. Oct. 1, 2025) (collecting cases). Ms. Velasquez-Chinga's re-detention was inconsistent with these principles in three respects.

First, there is no evidence that Ms. Velasquez-Chinga's parole was ever formally revoked. DO Solares has only this to say about her re-detention: "On November 5, 2025, Petition reported to ERO for a scheduled appointment. At the appointment, she was informed that she was being placed under arrest. She was served with an I-200 Warrant for Arrest of Alien, and remanded into custody for removal to Ecuador." Doc. 7-1 at ¶ 13. The declaration says nothing about parole revocation. The government also attaches two documents to the return. The first is the parole grant itself, which says nothing about revocation. Doc. 7-2 at 2-3. And

the second is an I-213 report, which says nothing about parole. Doc. 7-2 at 5-7. Thus, there is no evidence that Ms. Velasquez-Chinga's parole was revoked at all.

Second, the government does not even try to claim that Ms. Velasquez-Chinga received any written notice—or any notice of any kind—about whether and why her parole was revoked. Again, DO Solares says only that she was "informed that she was being placed under arrest" and shown an arrest warrant. Doc. 7-1 at ¶ 13. And neither of the exhibits (the parole document and the I-213) could count as notice either. The parole document itself says nothing about revocation, and the government doesn't claim that Ms. Velasquez-Chinga has ever seen the I-213. Doc. 7-2. Thus, "Respondents did not provide Petitioner individualized notice and reasoning prior to [the] arrest and detention." *Noori v. LaRose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *11 (S.D. Cal. Oct. 1, 2025). "No evidence suggests that the Respondents explained their reasons for revocation to" Ms. Velasquez-Chinga. *Arias v. Larose*, No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025)

Third, because Ms. Velasquez-Chinga's parole was never revoked, and because ICE gave her no revocation notice whatsoever, ICE could not have revoked her parole for an individualized reason. "Respondents provided no reasoning that was particular to" Ms. Velasquez-Chinga, nor did they "explain[] their reasons for revocation" to her. *Arias v. Larose*, No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025).

"By denying [Ms. Velasquez-Chinga] the required procedure before purporting to terminate [her] parole, Respondents acted arbitrarily and capriciously and violated the APA." *Arias v. Larose*, No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385, at *4 (S.D. Cal. Nov. 25, 2025); *accord Noori*, 2025 WL 2800149, at *3 (re-detention with "an individualized determination or provided reasoning . . . violated the APA"). Furthermore, "Respondents' revocation of Petitioner's parole without reasoning or an opportunity to be heard deprived Petitioner of [her] due

process rights." *Perez v. LaRose*, No. 3:25-CV-02620-RBM-JLB, 2025 WL 3171742, at *5 (S.D. Cal. Nov. 13, 2025); *accord Salazar v. Casey*, No. 25-CV-2784 JLS (VET), 2025 WL 3063629, at *4 (S.D. Cal. Nov. 3, 2025) ("[T]he Government's revocation of Petitioner's parole without notification, reasoning, or an opportunity to be heard, denied Petitioner of her due process rights.").

The government's contrary arguments are unavailing. First, the government says that Ms. Velasquez-Chinga's parole was automatically terminated "at the expiration of the time for which parole was authorized," requiring "no written notice." 8 C.F.R. § 212.5(e)(1)(ii) (emphasis added). But Ms. Velasquez-Chinga's parole document has no expiration date. Doc. 7-2. And though the government tries to say that parole was automatically revoked when the "purpose of her parole" ended, Doc. 7 at 6, that is not what the regulation says—it talks about the expiration of "time," not purpose. 8 C.F.R. § 212.5(e)(1)(ii). Indeed, Ms. Velasquez-Chinga remained on parole for years after her appeals ended, belying the government's automatic termination claim. Doc. 7-1 at ¶¶ 12–13.

Second, the government says that Ms. Velasquez-Chinga must show prejudice. But "[t]here are two types of regulations: (1) those that protect fundamental due process rights, and (2) and those that do not." *Martinez v. Barr*, 941 F.3d 907, 924 n.11 (9th Cir. 2019) (cleaned up). "A violation of the first type of regulation . . . implicates due process concerns even without a prejudice inquiry." *Id.* (cleaned up). As just noted, violations of these basic notice-and-hearing provisions violate due process.

Third, the government says that Ms. Velasquez-Chinga is subject to mandatory detention under 8 U.S.C. § 1231(a). Doc. 7 at 7. That is quite obviously not true. In these circumstances, § 1231(a)(1)'s mandatory detention provisions apply only for 90 days after the Ninth Circuit's order became final. 8 U.S.C. § 1231(a)(1)(B)(ii). That time expired back in 2022. Doc. 7-1 at ¶ 12.

Fourth, the government says that 8 U.S.C. § 1252(g) strips this Court of jurisdiction to rule on the legality of Ms. Velasquez-Chinga's detention. But "§ 1252(g) does not prohibit challenges to unlawful practices merely because they are in some fashion connected to removal orders." *Ibarra-Perez v. United States*, __ F.4th __, 2025 WL 2461663, at *6 (9th Cir. Aug. 27, 2025) (cleaned up). Instead, 1252(g) is "limited . . . to actions challenging the Attorney General's discretionary decisions to initiate proceedings, adjudicate cases, and execute removal orders." *Arce v. United States*, 899 F.3d 796, 800 (9th Cir. 2018). It does not apply to arguments that the government "entirely lacked the authority, and therefore the discretion," to carry out a particular action. *Id.* at 800. Thus, § 1252(g) applies to "discretionary decisions that [the Secretary] actually has the power to make, as compared to the violation of his mandatory duties." *Ibarra-Perez*, 2025 WL 2461663, at *9.

Thus, "[t]hough 8 U.S.C § 1252(g), precludes this Court from exercising jurisdiction over the executive's decision to 'commence proceedings, adjudicate cases, or execute removal orders against any alien,' this Court has habeas jurisdiction over the issues raised here, namely the lawfulness of [Mr. Matan's] continued detention." *Y.T.D.*, 2025 WL 2675760, at *5. Many courts agree. *See, e.g.*, *Kong*, 62 F.4th at 617 ("§ 1252(g) does not bar judicial review of Kong's challenge to the lawfulness of his detention," including ICE's "fail[ure] to abide by its own regulations"); *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000) ("[S]ection 1252(g) does not bar courts from reviewing an alien detention order[.]"); *Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999) (1252(g) did not apply to a "claim concern[ing] detention"); *J.R. v. Bostock*, No. 2:25-CV-01161-JNW, 2025 WL 1810210, at *3 (W.D. Wash. June 30, 2025) (1252(g) did not apply to claims that ICE was "failing to carry out non-discretionary statutory duties and provide due process"); *D.V.D. v. U.S. Dep't of Homeland Sec.*, 778 F. Supp. 3d 355, 377–78 (D. Mass. 2025) (1252(g) did not bar review of "the purely legal question

of whether the Constitution and relevant statutes require notice and an opportunity to be heard prior to removal of an alien to a third country").

Accordingly, Ms. Velasquez-Chinga must be released on Count 1, and this Court should defer ruling on the other counts.

Respectfully submitted,

Dated: January 17, 2026

s/ Katie Hurrelbrink

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