UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

Cherlly Nicole Rivera-Quintana
[redacted]

c/o Murray Osorio PLLC
8630 Fenton Street, Suite 918,
Silver Spring, MD 20910

Petitioner,

v.

Kristi Noem, *Secretary of Homeland Security*,

Department of Homeland Security
Washington, DC 20508

Todd Lyons, *Acting Director, U.S. Immigration and Customs Enforcement*,

Vernon Liggins, *Acting Director, Baltimore ERO-ICE Field Office*,

500 12th St., SW
Washington, D.C. 20536

Pamela Bondi, *Attorney General*,

950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Respondents.

Civil Action No. _____

PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner Cherlly Nicole Rivera-Quintana is a native and citizen of Honduras currently detained by Respondents in Baltimore, Maryland. In October 2024, an Immigration Judge granted her a form of relief called withholding of removal, which prohibits Respondents from removing her to her native Honduras. Should Respondents wish to remove Petitioner to

Honduras, the law sets forth specific procedures by which they can reopen the case and seek to set aside the grant of withholding of removal. Should Respondents wish to remove Petitioner to any other country, they would first need to provide her with notice and the opportunity to apply for protection as to *that* country as well. Until they do either of these things, they cannot remove Petitioner from the United States. But Respondents have arrested Petitioner without warning and without observance of procedures required by regulation, and are detaining her for no reason; they now appear to be seeking to deport Petitioner without observance of any legal procedures whatsoever, ripping her away from her family. Such conduct cries out for immediate judicial relief.

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

2. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court's inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

3. Venue lies in this District because Petitioner is currently detained in ICE's Baltimore Hold Room in Baltimore, Maryland; and each Respondent is an agency or officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1).

THE PARTIES

4. Petitioner Cherlly Nicole Rivera-Quintana is a citizen and native of Honduras who resides in Capitol Heights, Md. Upon information and belief, she is currently detained by Respondents in Baltimore, Md.

5. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

6. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States.

7. Respondent Vernon Liggins is the Acting Director of the Baltimore ICE ERO Field Office, where Petitioner is unlawfully detained. As the local ICE official overseeing enforcement operations in the region, he is responsible for Petitioner's continued detention and any actions related to her removal. He is therefore the Petitioner's immediate legal and physical custodian for the purpose of habeas jurisdiction.

8. Respondent Pamela Bondi is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as her designees.

9. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

I. Detention on a Final Order of Removal

10. Withholding of removal pursuant to 8 U.S.C. § 1231(b)(3) prohibits the government from removing a noncitizen to a country where it is more likely than not that she would be persecuted on account of a protected ground. This form of relief is mandatory if the applicant meets the standard. The government may not remove an individual with a valid withholding order to that country unless the order is formally terminated following the procedures set forth in the regulations. *See* 8 C.F.R. § 1208.24(f).

11. If a noncitizen is granted withholding of removal, "DHS may not remove the alien to the country designated in the removal order unless the order of withholding is terminated." *Johnson v. Guzman Chavez*, 594 U.S. 523, 531 (2021). No exceptions lie.

12. Federal regulations provide a procedure by which a grant of withholding of removal issued by an immigration judge may be terminated: DHS must move to reopen the removal proceedings before the immigration judge and must prove, by a preponderance of the evidence, that the individual would no longer face persecution or torture. 8 C.F.R. § 1208.24(f). Only after termination may removal to that country proceed.

13. However, withholding of removal is a country-specific form of relief. Should the government wish to remove an individual with a grant of withholding of removal to some other country, it must first provide that individual with notice and an opportunity to apply for withholding of removal as to that country as well, if appropriate. 8 U.S.C. § 1231(b)(3)(A) (prohibiting the Government from removing a noncitizen to a country where more likely than not, she would be persecuted). *See also Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) ("Failing to notify individuals who are subject to deportation that they have the right to apply for . . . withholding of deportation to the country to which they will be deported violates . . . the constitutional right to due process"); *Kossov v. INS*, 132 F.3d 405, 408-09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att'y Gen.*, 149 F. App'x 947, 953 (11th Cir. 2005) (per curiam) (permitting removal to a third country only where individuals received "ample notice and an opportunity to be heard").

14. Finally, for individuals with a removal order but who cannot be removed (because there is no country designated to which they can lawfully be removed, or because logistical or practical considerations prevent execution of an otherwise lawfully executable order), 8 U.S.C.

§1231(a) permits the government to detain noncitizens during the "removal period," which is defined as the 90-day period during which "the Attorney General shall remove the alien from the United States." 8 U.S.C. §1231(a)(1)(A).

15. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that the government shall release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements). Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with aggravated felony convictions may be "released" if "subject to the terms of supervision" set forth in 8 U.S.C. § 1231(a)(3).

16. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). "[W]here detention's goal is no longer practically attainable, detention no longer 'bear[s][a] reasonable relation to the purpose for which the individual [was] committed.'" *Id.* at 690 (quoting Jackson v. Indiana, 406 U.S. 715, 738 (1972)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Id.* at 691 ("But we have upheld preventative detention based on dangerousness only when limited to especially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.").

17. As the Supreme Court explained, where there is no possibility of removal, immigration detention presents substantive due process concerns because "the need to detain the noncitizen to ensure the noncitizen's availability for future removal proceedings is "weak or nonexistent." *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when "necessary to bring about that alien's removal." See id. at 689.

18. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a "reasonable period of detention" for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months detention could be deemed a "presumptively reasonable period of detention," after which the burden shifts to the government to justify continued detention if the noncitizen provides a "good reason to believe that there is no t significant likelihood of removal in the reasonably foreseeable future." Id. at 701.

19. Where a petitioner has provided "good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the government t o rebut that showing. *Zadvydas*, 533 U.S. at 701.

20. As discussed above, the government must detain an individual once the order of removal becomes final for 90 days, referred to as the "removal period." 8 U.S.C. § 1231(a)(3). After 90 days, an individual may be released from detention on an order of supervision. *Id. See also* 8 C.F.R. §§ 241.4(j); 241.5.

II. Orders of Supervision

21. As discussed above, the government must detain an individual once the order of removal becomes final for 90 days, referred to as the "removal period." 8 U.S.C. § 1231(a)(3). After 90 days, an individual may be released from detention on an order of supervision. *Id. See also* 8 C.F.R. §§ 241.4(j); 241.5.

22. Criteria for release include: "travel documents for the alien are not available or in the opinion of the Service, immediate removal, while proper, is not otherwise practicable or not in the public interest;" nonviolence, in detention or on release; likelihood to comply with conditions of release; and not a significant flight risk if released. *See* 8 C.F.R. § 241.4(e).

23. Conditions of supervised release include: reporting to an immigration officer;

making "efforts to obtain a travel document and assist the [government] in obtaining a travel document"; reporting for physical and mental examinations; obtaining advance approval of travel; and providing ICE with written notice of any address changes. *See* 8 C.F.R. § 241.5(a).

24. Following release on an order of supervision, the noncitizen is only eligible for work authorization if the immigration officer specifically determines that "(1) [t]he alien cannot be removed in a timely manner; or (2) [t]he removal of the alien is impracticable or contrary to public interest." 8 C.F.R. § 241.5(c); *see also* 8 C.F.R. § 274a.12(c)(18) ("An alien against whom a final order of deportation or removal exists and who is released on an order of supervision under the authority contained in [8 U.S.C. § 1231(a)(3)] may be granted employment authorization in the discretion of the district director only if the alien cannot be removed due to the refusal of all countries designated by the alien or under [8 U.S.C. § 1231] to receive the alien, or because the removal of the alien is otherwise impracticable or contrary to the public interest.").

25. Under 8 C.F.R. § 241.4(*l*)(1) An order of supervision may be revoked under two circumstances. First, it may be revoked for violations of conditions of release. Second, it may be revoked if the Service makes one of the four determinations: "(i) the purposes of release have been served; (ii) the alien violates any condition of release; (iii) it is appropriate to enforce a removal order or to commence removal proceedings against an alien; or (iv) the conduct of the alien, or any other circumstance indicates that release would no longer be appropriate." *See* 8 C.F.R. § 241.4(*l*)(2).

26. If the order of supervision is revoked upon a determination by the Service, only the Executive Associate Commission is authorized to make such a determination. *See* 8 C.F.R. § 241.4(l)(2). However, that authority can be delegated to the district director when "revocation is in the public interest and circumstances do not reasonably permit referral of the case to the

Executive Associate Commissioner." *Id.*

27. The regulation guarantees that "[u]pon revocation, the alien will be notified of the reasons for revocation of his or her release or parole." 8 C.F.R. § 241.4(*l*)(1).

28. Additionally, the regulation provides that "[t]he alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.4(*l*)(1).

29. Further, if following the informal interview the noncitizen is not released, the HQPDU Director is required to "schedule the review process in the case of an alien whose previous release ... has been or is subject to being revoked." 8 C.F.R. § 241.4(*l*)(3). This custody review affords the noncitizen an opportunity to contest any facts and otherwise respond to the reasons for the revocation. *Id.*

30. For revocation of an order of supervision, the custody review procedures in 8 C.F.R. § 241.13 apply to a noncitizen under a final order of removal when there has been a determination that there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country, in the reasonably foreseeable future. 8 C.F.R. § 241.13(a), (b)(1). Under this section an OSUP can be revoked if the conditions of release are violated, or for removal purposes. 8 C.F.R. § 241.13(i). But to revoke an order of supervision for the purposes of removal, ICE must first demonstrate changed circumstances. 8 C.F.R. § 241.13(i)(2). ("The Service may revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.")

31. Where ICE is attempting to re-detain a noncitizen, this individualized

determination must be conducted prior to re-detention. 8 C.F.R. § 241.13(i)(2); *see Munagi v. McDonald*, 2025 WL 3688023 (D. Mass. Dec. 19, 2025) ("[T]he changed circumstances that make [a noncitizen's] removal likely in the foreseeable future must have existed at or before the [order of supervision] revocation; post-hoc justifications are inadequate."); *Tran v. Hyde*, 25-CV-12546-ADB, 2025 WL 3724853, at *3 (D. Mass. Dec. 24, 2025) (looking at factors for determining reasonably foreseeable release based upon "relevant information that would have been available at the time that [petitioner] was redetained."); *Sarail A. v. Bondi*, 25-CV-2144 (ECT/JFD), 2025 WL 2533673, at *11 (D. Minn. Sep. 3, 2025) ("In Petitioner's case, there is no evidence that ICE considered any of these [8 C.F.R. § 241.13(f)] factors *before* the Notice [of Reasons for Revocation] was issued.") (emphasis in original). In deciding whether the requisite changed circumstances exist, ICE relies on the factors enumerated in 8 C.F.R. § 241.13(f). *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023). Courts considering a challenge to re-detention must review ICE's determination "in light of" those same factors. *Id.* After noncitizens have challenged whether their detention is reasonably foreseeable, courts place the burden on ICE to prove that removal is significantly likely in the reasonably foreseeable future. *See Tran v. Hyde*, 2025 WL 3724853, at *2 (citing cases).

32. If ICE can demonstrate that because of a change of circumstances, there is a significant likelihood that the alien may be removed in the reasonably foreseeable future to the country to which the alien was ordered removed or to a third country, then procedures in 8 C.F.R. § 241.4 apply. 8 C.F.R. § 241.4(b)(4); *see also Martinez v. Hyde*, 2025 WL 3719656, at *1–2 (D. Mass. Dec. 23, 2025) (describing the differences in the two sections). Under this section, the OSUP may also be revoked where the noncitizen "violates the conditions of release." 8 C.F.R. § 241.4(*l*)(1). Additionally, the regulation also allows for redetention, when "[i]t is appropriate to

enforce a removal order." 8 C.F.R. § 241.4(l)(2)(iii). But, as described above, absent a specific violation of the conditions of release, only designated, high-level ICE officials are authorized to revoke an OSUP (including for the purpose of effectuating removal), namely the Executive Associate Commissioner. 8 C.F.R. 241.4(l)(2). Additionally, the government must still explain the reason for the revocation and the noncitizen must be provided with an opportunity to respond. 8 C.F.R. § 241.4(*l*)(1).

FACTS

33. Petitioner is a native and citizen of Honduras and has no claim to citizenship, nationality, or legal residency in any other country, including Mexico.

34. On October 8, 2024, an Immigration Judge ordered Petitioner removed to Honduras, but granted her application for withholding of removal pursuant to 8 U.S.C. § 1231(b)(3). *See* Ex. A hereto. This order remains in full force and effect; it has not been rescinded or terminated by any court.

35. Petitioner has not been convicted of any crimes, nor has Petitioner violated the terms of her order of supervision with ICE. At no time, did ICE request that Petitioner take any specific steps to assist in her removal, such as applying for travel documents to a third country. In any event, to have applied for such travel documents would have been futile, as there are no other countries on earth that would be willing to accept Petitioner, due to her lack of legal immigration status in any other country.

36. On February 12, 2026, Petitioner appeared for a scheduled check-in at the ICE Baltimore Field Office, whereupon she was taken into custody without prior notice. Petitioner is currently detained at the Baltimore Hold Room, pending what Respondents have indicated is an imminent removal to a third country, most likely Mexico.

37. Nonetheless, upon information and belief, Respondents have not formally designated any third country for removal. Indeed, since there is no third country in which Petitioner has a claim to legal immigration status, there is no third country to which Respondents can remove Petitioner without that third country sooner or later removing her to Honduras, where it has already been determined that she will face persecution. This chain refoulement would violate the withholding of removal statute just as surely as if Respondents carried out the removal directly to Honduras.

38. On February 13, 2026, Petitioner, by counsel, submitted a statement of fear of removal to Mexico. *See* Exs. B, C hereto.

39. Respondents currently lack any factual or legal basis to detain Petitioner, since Respondents cannot establish that that Petitioner will likely be removed from the United States in the reasonably foreseeable future.

40. Petitioner has exhausted all administrative remedies. No further administrative remedies are available to Petitioner.

FIRST CLAIM FOR RELIEF:
Violation of 8 U.S.C. § 1231(a)(6)

41. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-40.

42. Petitioner's continued detention by the Respondents violates 8 U.S.C. § 1231(a)(6), as interpreted by *Zadvydas*. Petitioner's 90-day statutory removal period (under 8 U.S.C. § 1231(a)(3)) began when the removal order became administratively final, which was October 8, 2024. Consequently, the 90-day statutory removal period and the six-month presumptively reasonable period for continued removal efforts have both expired.

43. No significant likelihood of removal exists in the reasonably foreseeable future. ICE has not provided Petitioner with any information regarding efforts to obtain a travel document

from any country. Moreover, ICE has not shown any meaningful progress in doing so. This is insufficient evidence for the government to meet its burden that there is a significant likelihood of removal in the reasonably foreseeable future.

44. Under *Zadvydas*, the continued detention of someone like Petitioner is unreasonable and not authorized by 8 U.S.C. § 1231.

SECOND CLAIM FOR RELIEF:
Due Process/Detention

45. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-40.

46. Petitioner's detention during the removal period is only constitutionally permissible under the Due Process Clause when there is a significant likelihood of removal in the reasonably foreseeable future. Respondents have rearrested and re-detained Petitioner on the assumption that Petitioner will be removable to a third country but have no factual basis to believe that such third-country removal will ever become practicable and legally permissible.

47. Respondent continues to detain Petitioner without evidence that they will be able to remove her imminently, to Honduras or to any other country.

48. Respondents' detention of Petitioner no longer bears any reasonable relation to a legitimate government purpose, and thus violates the Due Process Clause.

THIRD CLAIM FOR RELIEF:
Habeas Corpus, 28 U.S.C. § 2241

49. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-40.

50. The writ of habeas corpus is available to any individual who is held in custody of the federal government in violation of the Constitution or laws or treaties of the United States.

51. Respondents presently have no legal basis to detain Petitioner in immigration custody, and the writ of habeas corpus should issue.

FOURTH CLAIM FOR RELIEF:
Violation of Regulations and the *Accardi* doctrine

52. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-40.

53. As stated above, upon information and belief, Petitioner was released on an order of supervision or otherwise was released on supervised release. Respondents had no legal basis under the regulations to revoke Petitioner's supervised release or arrest Petitioner, and upon information and belief, the revocation was carried out by an official without legal authority to do so, without sufficient determinations having been made. As such this action was taken by an official who lacked authority to do so under 8 C.F.R. § 241.4(*l*)(2).

54. Section 241.4 and 241.13(i)(2) are regulations designed to protect the due process rights of noncitizens like Petitioner and – as this regulation pertains to continued detention, conditions for release, and revocation of release – it directly impacts Petitioner's individual liberty interest.

55. This violation of required procedures also violated Petitioner's due process rights under the Fifth Amendment to the U.S. Constitution.

56. Under the *Accardi* doctrine, "when an agency fails to follow its own procedures or regulations, that agency's actions are generally invalid." *Nader v. Blair*, 549 F.3d 953, 962 (4th Cir. 2008), *citing United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Several federal district courts have held that where ICE revokes an Order of Supervision without following the procedures set forth in these regulations, such revocation violates due process and the post-removal-period statute. *See Santamaria Orellana v. Baker*, 2025 WL 2444087 (D. Md. Aug. 25, 2025); *Ceesay v. Kurzdorfer*, 2025 WL 1284720, at *20-*21 (W.D.N.Y. May 2, 2025); *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017) (same).

FIFTH CLAIM FOR RELIEF:
Procedural Due Process/ Third Country Removal

57. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-40.

58. To date, Respondent have not moved to terminate Petitioner's withholding of removal as to Honduras. the only country on earth where she holds valid immigration status. 8 C.F.R. § 1208.24(f). Should the government wish to remove Petitioner to any other country, it must first provide her with notice and an opportunity to apply for withholding of removal as to that country as well, which also decreases the likelihood the removal is reasonably foreseeable. 8 U.S.C. § 1231(b)(3)(A) (prohibiting the Government from removing a noncitizen to a country where more likely than not, she would be persecuted); *Guzman Chavez v. Hott*, 940 F.3d 867, 879 (4th Cir. 2019), *rev'd on other grounds*, 594 U.S. 523 (2021), ("precisely because withholding of removal is country-specific, as the government says, if a noncitizen who has been granted withholding as to one country faces removal to an alternative country, then she must be given notice and an opportunity to request withholding of removal to that particular country.").

59. Respondents' policy on third-country deportations allows a noncitizen to be deported to a third country based on generalized assurances from that country's government that the noncitizen will not be tortured in that country. Petitioner has a procedural due process right to an individualized determination as to whether she will be persecuted or tortured in any country of removal to which she claims a fear of removal.

60. Even where Respondents carry out an individualized determination of persecution or torture in a third country of removal, Respondents' policy on third-country deportations provides only for an interview by a single immigration officer, with no further right of review by an immigration judge. Petitioner has a procedural due process right not to be removed to any country in which she fears persecution or torture, or to any country which she fears will re-deport

her to Honduras where it has already been judicially determined that she is more likely than not to face persecution, without an immigration judge first reviewing her claim of fear of removal. Due process requires that the immigration judge conduct this initial screening review at the "reasonable possibility" standard, not the more-likely-than-not standard; and that the immigration judge take into account the likelihood of refoulement to persecution or torture, not just persecution or torture in the country of direct removal.

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;

b) Preliminarily and permanently enjoining Respondents from removing Petitioner to Honduras, unless and until her order of Withholding of Removal is terminated, including all appeals;

c) Preliminarily and permanently enjoining Respondents from removing Petitioner to any other country without first providing her notice and offering her adequate opportunity to apply for withholding of removal as to that country, including an Immigration Judge review of any denied third-country fear interview;

d) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody forthwith; and

e) Granting such other relief at law and in equity as justice may require.

Certification Pursuant to Local Standing Order 2025-01

I, the undersigned, hereby certify pursuant to Fed. R. Civ. P. 11, as follows: (1) I understand the Petitioner to be presently detained in Maryland, based on the fact that Petitioner called her husband on February 13, 2026, from the ICE Baltimore Hold Room; (2) emergency relief is necessary, because Petitioner has a final removal order; and (3) this Court has subject-matter jurisdiction over the Petitioner pursuant to 28 U.S.C. § 2241, and no jurisdiction-stripping statute applies to prevent habeas corpus review of detention and unlawful removal.

Respectfully submitted,

/s/ Simon Sandoval-Moshenberg Date: February 13, 2026

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

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Respectfully submitted,

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Date: February 13, 2026