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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Maria Cristina Tapia Cornejo,

Petitioner,

File No.-26-CV-.....

v.

John Cantu, Field Office Director of
Enforcement and Removal Operations,
Phoenix Field Office, Immigration and
Customs Enforcement;
Todd Lyons, Acting Director U.S. Immigration
and Customs Enforcement;
Kristi Noem Secretary, U.S. Department of
Homeland Security; U.S. Department of
Homeland Security;
Pamela Bondi, U.S. Attorney General;
Dareb K. Margolin, Director of Executive
Office for Immigration Review; Executive
Office for Immigration Review;
Eric Rokosky, Warden of Eloy Detention
Center

Respondents.

**PETITION FOR WRIT OF
HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS

1 1. Petitioner, Maria Cristina Tapia Cornejo, through undersigned counsel, petitions
2 this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and states as follows.

3 INTRODUCTION

4 2. Petitioner Maria Cristina Tapia Cornejo (“Petitioner”) seeks a writ of habeas
5 corpus ordering her release from unlawful civil immigration detention, or in the
6 alternative ordering a prompt, constitutionally adequate custody hearing at which the
7 Government bears the burden to justify any continued detention. Petitioner is detained at
8 the Eloy Federal Contract Facility (also referred to as Eloy Detention Center) in Eloy,
9 Arizona.

10 JURISDICTION AND VENUE

11 6. This action arises under the Constitution of the United States and the Immigration
12 and Nationality Act, 8 U.S.C. § 1101 et seq.

13 7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
14 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States
15 Constitution (Suspension Clause).

16 8. This Court may grant relief under 28 U.S.C. § 2241 et seq., the Declaratory
17 Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

18 9. Venue is proper in this District because Petitioner is in Respondents’ custody in
19 Eloy, Arizona and because a substantial part of the events giving rise to the claims
20 occurred in this District. 28 U.S.C. § 1391(e).

21 THE PETITIONER

22 10. Petitioner is Maria Cristina Tapia Cornejo, A  a citizen of Mexico.

1 11. Petitioner is physically present in Arizona in immigration custody as of the filing
2 of this Petition.

3 CUSTODY

4 12. Under 28 U.S.C. § 2241(c), only persons “in custody” may apply for a writ of
5 habeas corpus. “Custody includes physical custody and constructive custody, where a
6 person is under a restraint on liberty not shared by the public generally.”

7 13. Petitioner is “in custody” because she is detained by federal immigration
8 authorities at the Eloy Federal Contract Facility, 1705 E. Hanna Road, Eloy, Arizona
9 85131, and is subject to the continuing authority and control of Respondents.

10 THE RESPONDENTS

11 14. Respondent John Cantu is the Field Office Director for the Phoenix Field Office,
12 Immigration and Customs Enforcement and Removal Operations (“ICE”). The Phoenix
13 Field Office is responsible for local custody decision relating to non-citizens charred with
14 being removable from the United States, including the arrest, detention, and custody of
15 non-citizens. The Phoenix Field Office’s area of responsibility includes Arizona.
16 Consequently, respondent John Cantu is the immediate legal custodian of Petitioner.
17 Respondent John Cantu is sued in his official capacity.

18 15. Respondent Kristi Noem is the Secretary of U.S. Department of Homeland
19 Security (“DHS”). As such she is responsible for the conduct and operations of DHS, its
20 subagencies, and its officers and personnel, including custody and detention decisions.
21 Respondent Kristi Noem is sued in her official capacity.

22 16. Respondent Pamela Bondi is the Attorney General of the United States and is

1 responsible for the conduct and operations of the Department of Justice and its officers
2 and personnel, including the Executive Office for Immigration Review (“EOIR”).

3 Respondent Pamela Bondi is sued in her official capacity.

4 17. Respondent TODD LYONS is the Acting Director of ICE, and as such is
5 responsible for the means by which the immigration laws of the United States are
6 enforced. TODD LYONS is sued in his official capacity.

7 18. Respondent DAREN K. MARGOLIN is the director of EOIR, and as such is
8 responsible for the supervision of Chief Immigration Judges, Chief Administrative
9 Hearing Officers, and all EOIR personnel in the execution of their duties. DAREN K.
10 MARGOLIN is sued in his official capacity.

11 19. Respondent U.S. DEPARTMENT OF JUSTICE is an agency of the United States
12 and is under the direction of Respondent Pamela Bondi. The Department of Justice
13 maintains an adjudicatory body for all immigration cases called the EOIR. Part of the
14 EOIR includes the Office of the Immigration Judge, which is generally known as the
15 Immigration Court.

16 20. Respondent Eric Rokosky is the Warden of the Eloy Detention Center, where
17 Petitioner is detained. He has immediate physical custody of Petitioner. Respondent Eric
18 Rokosky is sued in his official capacity.

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STATEMENT OF FACTS

21 21. Petitioner is detained at the Eloy Federal Contract Facility in Eloy, Arizona.
22 On July 16, 2025, DHS issued a Notice of Intent/Decision to Reinstate Prior Order (Form
I-871) stating that Petitioner was subject to a prior removal order entered on September 5,

1 2000 in Nogales, Arizona, and that DHS intended to reinstate the prior order pursuant to
2 INA § 241(a)(5). The form reflects a deciding official's determination dated July 25,
3 2025, in Eloy, Arizona.

4 22. On August 11, 2025, DHS issued a Notice of Referral to Immigration Judge (Form
5 I-863) connected to the reasonable fear and withholding-only process, reflecting
6 Petitioner's detention at Eloy and DHS' reinstatement of a prior order.

7 23. On August 20, 2025, the Immigration Court issued an order in the reasonable fear
8 case proceedings finding that DHS did not timely file the notice of referral, stating the
9 only available remedy was to vacate the asylum officer's decision, and expressly vacating
10 the DHS immigration officer's decision.

11 24. DHS subsequently filed a motion to dismiss withholding-only proceedings without
12 prejudice, representing that it intended to file a Notice to Appear to initiate removal
13 proceedings under INA § 240 and requesting dismissal and return of the matter to DHS to
14 cancel reinstatement proceedings.

15 25. On January 16, 2026, the Eloy Immigration Court issued an order summarizing an
16 oral decision denying Petitioner's requests for withholding of removal under INA §
17 241(b)(3), withholding under the Convention Against Torture, and deferral under the
18 Convention Against Torture. The order reflects an appeal due date of February 17, 2026.
19 Appeal was timely filed on February 13, 2026, and remains pending at the time of this
20 petition.

21 26. Petitioner has remained in civil immigration detention at Eloy throughout these
22 proceedings for a period of over two hundred days and counting. Petitioner's continued

1 detention has caused severe hardship and is unsupported by any meaningful,
2 individualized custody hearing at which a neutral adjudicator can order release and the
3 Government bears the burden to justify ongoing confinement.

4 HABEAS CORPUS REQUIREMENTS UNDER 28 U.S.C. § 2243

5 27. Pursuant to 28 U.S.C. § 2243, a court entertaining an application for a writ of
6 habeas corpus shall forthwith award the writ or issue an order directing the respondent to
7 show cause why the writ should not be granted, unless it appears from the application that
8 the applicant or person detained is not entitled thereto.

9 28. The writ, or order to show cause, shall be directed to the person having custody of
10 the person detained. It shall be returned within three days unless for good cause
11 additional time, not exceeding twenty days, is allowed.

12 29. The person to whom the writ or order is directed shall make a return certifying the
13 true cause of the detention. When the writ or order is returned, a day shall be set for
14 hearing, not more than five days after the return unless for good cause additional time is
15 allowed.

16 30. Unless the application for the writ and the return present only issues of law, the
17 person to whom the writ is directed shall be required to produce at the hearing the body
18 of the person detained.

19 31. The applicant or the person detained may, under oath, deny any of the facts set
20 forth in the return or allege any other material facts.

32. The return and all suggestions made against it may be amended, by leave of court, before or after being filed. The court shall summarily hear and determine the facts and dispose of the matter as law and justice require.

LEGAL ARGUMENT

33. The Fourth Amendment protects the “right of the people to be secure in their persons...against unreasonable searches and seizures.” U.S. Const. amnd. IV.

34. Immigration detention is a form of civil confinement that constitutes a significant deprivation of liberty that requires due process protections under the Fifth Amendment. *Addington v. Texas*, 441 U.S. 418, 425 (1979). Civil detention must remain reasonably related to legitimate governmental purposes and may not operate as punitive punishment. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

34. The Immigration and Nationality Act establishes three primary categories of detention that apply to most noncitizens involved in removal proceedings.

35. First, Section 1226 of Title 8 authorizes the detention of noncitizens during standard removal proceedings before an Immigration Judge. See 8 U.S.C. § 1229a. Those detained under § 1226(a) are typically entitled to an initial bond hearing, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), whereas noncitizens who have been arrested for, charged with, or convicted of certain offenses are subject to mandatory detention under § 1226(c).

36. Second, the INA mandates detention for noncitizens subject to expedited removal under § 1225(b)(1) and for other recent entrants seeking admission as described in § 1225(b)(2).

37. Lastly, the INA also permits detention of noncitizens with final removal orders, including individuals in withholding-only proceedings. See 8 U.S.C. § 1231(a)–(b).

38. This case concerns the detention provisions at § 1231(a)–(b).

39. Detention of aliens in withholding-only proceedings following a reinstated final removal order is governed by 8 U.S.C. § 1231(a)(6). *Padilla-Ramirez v. Bible*, 882 F.3d 826 (9th Cir. 2018); *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021).

40. The Supreme Court has held that § 1231(a)(6) does not statutorily require bond hearings after six months. *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022); *Johnson v. Arteaga-Martinez*, 596 U.S. 573 (2022). Those decisions, however, addressed only statutory interpretation and class-wide injunctive relief under 8 U.S.C. § 1252(f)(1). They expressly left open—and did not foreclose—individual constitutional due-process challenges to prolonged detention. *Aleman Gonzalez*, 596 U.S. at 555 n.5 (noting constitutional claims remain available).

41. Individual habeas petitions under § 2241 remain the proper vehicle for such claims. District courts in the Ninth Circuit and elsewhere continue to adjudicate and grant relief in analogous prolonged § 1231(a)(6) withholding-only cases on constitutional grounds.

42. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), detention under § 1231(a)(6) is limited to a period “reasonably necessary” to accomplish removal. After six months, detention is presumptively unreasonable if the alien demonstrates “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701. The government must then rebut that showing.

43. Here, the pending BIA appeal in Petitioner's withholding-only proceedings means removal cannot occur until those proceedings conclude. Removal is therefore not reasonably foreseeable in the near term as Petitioner's appeal remains pending. Continued detention beyond the presumptive six-month period without justification violates substantive due process.

44. Even assuming the prior Aleman/Diouf bond hearing satisfied initial requirements, the further prolongation of detention—now well beyond six months in detention, with active BIA litigation—requires additional procedural safeguards. The three-factor test governs as follows. *See Mathews v. Eldridge*, 424 U.S. 319 (1976)

45. First, private interest: Petitioner's interest in freedom from prolonged physical incarceration is "strong" and "at the core of the liberty protected by the Due Process Clause." *Zadvydas*, 533 U.S. at 690; *Mathews*, 424 U.S. at 333. This interest intensifies with the passage of time and the absence of any definite endpoint while the BIA appeal remains pending.

46. Second, risk of erroneous deprivation and value of additional safeguards: The risk is substantial. The prior bond hearing's flight-risk determination is now stale. No mechanism exists for periodic or updated review of current circumstances, the strength of the pending BIA appeal, or the availability of alternatives to detention (e.g., electronic monitoring, reporting, bond with conditions). An additional individualized hearing would have high value in reducing error.

47. Finally, the Government's interest: The government has legitimate interests in preventing flight and enforcing immigration laws. These interests, however, do not

1 outweigh Petitioner's liberty interest where removal is not imminent and less restrictive
2 alternatives can adequately address any flight risk. The administrative burden of
3 providing an updated hearing is minimal.

4 48. Balancing these factors, due process requires Petitioner's release on reasonable
5 conditions or, at minimum, a new bond hearing before an Immigration Judge at which the
6 government bears the burden of proving by clear and convincing evidence that continued
7 detention is justified.

8 49. In *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022), reh'g en banc
9 denied, the Ninth Circuit held that a § 1226(a) detainee who had received an initial bond
10 hearing (with the alien bearing the burden) was not constitutionally entitled to a second
11 bond hearing with a shifted burden after approximately 14 months. That holding is
12 inapposite here for several reasons:

13 50. First, *Rodriguez Diaz* concerned pre-final-order detention under § 1226(a), which
14 affords more robust statutory procedures than post-order § 1231(a)(6) detention.

15 51. Second, Petitioner's bond hearing was the post-six-month "prolonged detention"
16 hearing under the Aleman/Diouf framework, not a routine initial hearing.

17 52. Third, detention here has become even more prolonged, and the active BIA appeal
18 in withholding-only proceedings creates a distinct risk of indefinite detention absent
19 further process—circumstances not present in *Rodriguez Diaz*. The panel in that case
20 expressly noted that its holding did not foreclose as-applied constitutional challenges in
21 extreme or materially different circumstances. *Rodriguez Diaz* therefore does not control
22 and does not preclude relief here.

FIRST CLAIM FOR RELIEF

Violation of the Due Process Clause

53. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

54. The Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law. Petitioner has a fundamental liberty interest in freedom from civil detention.

55. Petitioner is detained without a meaningful, individualized custody hearing before a neutral decisionmaker empowered to order release. Petitioner's continued detention is prolonged and has continued through complex and shifting procedural postures, including reinstatement-related processing, reasonable fear and withholding-only proceedings, and DHS's stated intention to pursue separate proceedings under INA § 240.

56. In these circumstances, continued civil confinement without a constitutionally adequate custody hearing violates due process. At minimum, due process requires a prompt hearing at which the Government bears the burden to prove by an appropriate evidentiary standard that continued detention is necessary based on flight risk or danger and that no less restrictive alternatives can reasonably mitigate any such concerns.

SECOND CLAIM FOR RELIEF

Detention Not Authorized by the INA and the Constitution

57. Petitioner incorporates by reference the allegations set forth above as if fully stated herein.

58. Respondents' continued detention of Petitioner is unlawful because it exceeds

1 statutory authority as applied, and because any statutory authority invoked must be
2 construed and applied to avoid unconstitutional prolonged detention without meaningful
3 custody review.

4 59. To the extent Respondents contend Petitioner is detained under the pre-final-order
5 regime, detention without a constitutionally adequate hearing is unlawful and requires
6 immediate relief.

7 60. To the extent Respondents contend Petitioner is detained under the post-final-
8 order regime, detention remains subject to constitutional limits and cannot continue
9 indefinitely without a realistic prospect of timely removal and without adequate
10 procedural safeguards. Continued detention that is not reasonably tied to effectuating
11 removal within a reasonable time, or that is maintained without meaningful custody
12 review and an ability to secure release where justified, is unlawful.

13 PRAYER FOR RELIEF

14 61. Wherefore petitioner prays for relief as follows in that this court:

15 1. That the Court assume jurisdiction over this petition.

16 2. That the Court Issue an order to show cause why this Petition should not be
17 granted.

18 3. Issue a writ of habeas corpus ordering Respondents to immediately release
19 Petitioner from custody under appropriate conditions of supervision; or, in the
20 alternative, order Respondents to provide a prompt, constitutionally adequate
21 custody hearing before a neutral adjudicator with authority to order release, at
22 which the Government bears the burden to justify continued detention.

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Dated this 25th day of February, 2026

/s/ Huval Meady

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