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7
8
9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
11

12 LILLISMAR DANIELA ARIAS SIERRA

13 Petitioner,

14 v.

15
16 Sixto MARRERO, Warden, Imperial
17 Regional Detention Facility;
18 Daniel A. BRIGHTMAN, Field Office
19 Director, San Diego Field Office, United
20 States Immigration and Customs
21 Enforcement;
22 Todd M. LYONS, Acting Director,
23 United States Immigration and Customs
24 Enforcement;
25 Kristi NOEM, Secretary of Homeland
Security;
26 Pamela Jo BONDI, Attorney General, in
27 their official capacities,

28 Respondents.

Case No.: '26CV1836 JES DDL

**PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS**

1 Petitioner Lillismar Daniela Arias Sierra petitions this Court for a writ of
2 habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' detaining her
3 unlawfully, and states as follows:

4 INTRODUCTION

5 1. Petitioner Lillismar Daniela Arias Sierra is a noncitizen who was
6 previously released from immigration custody but was abruptly re-detained and
7 jailed for no legitimate reason. The Department of Homeland Security necessarily
8 determined that she was neither a flight risk nor a danger to the community when
9 it originally released her from its custody in 2023. Nonetheless, Respondents re-
10 detained her in December 2025 as she left her workplace without providing a
11 reason or identifying circumstances that had changed since she was previously
12 released from custody

13 2. Ms. Arias has no criminal history of any kind. Nor does Ms. Arias, who
14 has dutifully attended her hearings in her ongoing removal proceedings, present
15 risk of flight that justifies re-detention. Yet ICE continues to unlawfully detain her
16 in prison-like conditions, keeping her separated from her community and unable
17 to work and support her three children and her mother.

18 3. ICE did not provide Ms. Arias with a pre-deprivation hearing prior to
19 her re-detention to determine whether material changes in her circumstances
20 warrant her re-detention based on danger to the community or risk of flight,
21 despite a growing consensus among United States district courts that such a
22 hearing is necessary in similar circumstances.

23 4. Ms. Arias' detention under these circumstances violates her right to
24 substantive and procedural Due Process, as it is not justified by a legitimate
25 government purpose. Additionally, under *Mathews v. Eldridge*, 424 U.S. 319
26 (1976), her fundamental liberty interest far outweighs the government's interest
27 in detaining her. What is more, the risk of error is great where, as here, there has
28 been no pre-deprivation process to ensure her loss of liberty is justified. For

1 similar reasons, her detention also contravenes the Immigration and Nationality
2 Act (INA) and the Administrative Procedure Act (APA), thereby violating the
3 doctrine laid out in *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260
4 (1954).

5 5. Accordingly, Ms. Arias seeks her release and challenges her detention
6 as a violation of the Due Process Clause of the Fifth Amendment, the INA and the
7 APA.

8 6. Ms. Arias respectfully requests that this Court issue the Writ of Habeas
9 Corpus commanding Respondents to release her from custody and enjoin
10 Respondents from re-detaining her without notice to her counsel and a pre-
11 deprivation hearing before a neutral decision-maker at which Respondents must
12 prove material changes in circumstances justify re-detention. Ms. Arias seeks that
13 relief under the federal habeas statute, 28 U.S.C. § 2241, which is the proper
14 vehicle for challenging civil immigration detention. *See Doe v. Garland*, 109 F.4th
15 1188, 1194 (9th Cir. 2024) (noting that a noncitizen’s challenge to her present
16 confinement falls within the “core of habeas”).

17 CUSTODY

18 1. Petitioner Lillismar Daniela Arias Sierra is currently in Respondents’
19 legal and physical custody. They are detaining her at the Imperial Regional
20 Detention Facility in Calexico, California. She is under Respondents’ and their
21 agents’ direct control.

22 JURISDICTION


23 2. This Court has jurisdiction to consider this habeas petition complaint
24 under 28 U.S.C. § 1331; 28 U.S.C. § 2241; the Due Process Clause of the Fifth
25 Amendment, U.S. Const. amend. V; and the Suspension Clause, U.S. Const. art. I,
26 2.

27 VENUE

1 immigration benefits. *See* 8 U.S.C. § 1103(a); 8 C.F.R. § 2.1. Respondent Noem
2 has ultimate custodial authority over Petitioner, who names her in her official
3 capacity.

4 9. Respondent Pam Bondi is the Attorney General of the United States.
5 She is responsible for the Immigration and Nationality Act's implementation and
6 enforcement (*see* 8 U.S.C. §§ 1103(a)(1), (g)), and oversees the Executive Office
7 for Immigration Review. Petitioner names her in her official capacity.

8 STATEMENT OF FACTS

9 7. Lillismar Daniela Arias Sierra is national and citizen of Venezuela. She
10 was born in San Felipe Yaracuy in 

11 8. Ms. Arias entered the United States on or about July 14, 2023, near El
12 Paso, Texas. A single mother, she left her three children with her mother after she
13 was physically abused by a public official in her native country.

14 9. Fearful of remaining in Mexico, Ms. Arias entered the United States
15 and was detained in or near El Paso, Texas for about 12 days. During that time,
16 she expressed a fear of returning to Venezuela, and was found credible. She was
17 released on or about July 26, 2023, on her own recognizance.

18 10. After her release from detention, Ms. Arias moved to California where,
19 until her re-detention in December 2025, she has lived at liberty, supporting
20 herself, and providing support to her three children and her mother as a
21 farmworker.

22 11. Ms. Arias was placed in removal proceedings and ordered to appear at
23 the Fort Snelling Immigration Court in Minnesota on August 29, 2024. (Exhibit
24 1.) Ms. Arias traveled to Minnesota to appear at her hearing, and she asked the
25 judge to change venue to the immigration court in Imperial California. Her
26 request was granted.

27 12. Subsequently, Ms. Arias was ordered to appear for a Master Calendar
28 Hearing at the Imperial Immigration Court on December 11, 2024, and she

1 appeared as required. (Exhibit 2). Similarly, she appeared at two additional
2 Master Calendar Hearings, as ordered by the immigration court. Until Petitioner
3 was re-detained on December 17, 2025, she appeared at every hearing.

4 13. Ms. Arias timely filed an I-589, Application for Asylum and
5 Withholding of Removal. When sufficient time had passed, she applied for and
6 received Employment Authorization, which expires in September 2029. (Exhibit
7 3) Ms. Arias has been supporting herself and her family as a farm worker.

8 14. Ms. Arias applied for and received Temporary Protected Status on
9 December 5, 2024.

10 15. On December 17, 2025, Ms. Arias was detained by four agents as she
11 arrived at her home at the end of the workday. She protested that she was in
12 asylum proceedings and had a work permit, but was told only that the President
13 didn't want her here and wanted people to be detained.

14 16. In January 2026, Ms. Arias explained to her ICE officer that she was
15 due to appear in the non-detained immigration court for ongoing proceedings on
16 January 29, and repeatedly insisted that she needed to be taken to court for her
17 hearing. However, she was told that her name was not on the court docket and
18 she would have to wait her turn.

19 17. In an order entered on February 11, 2026, Ms. Arias was ordered
20 removed as she was unable to attend her hearing or give notice to the court that
21 she had been detained.

22 18. On February 13, 2026, ICE notified the immigration court that Ms.
23 Arias was detained at the Imperial Regional Detention Facility. DHS has
24 subsequently filed a motion to reopen her asylum case. As of the date of this
25 filing, the court has not ruled on the motion.

26 19. Ms. Arias has worked lawfully harvesting produce to support her
27 family. She filed a timely application for asylum and complied with all her
28 immigration obligations, even traveling from California to Minnesota to appear at

1 a hearing. She made every effort to attend her January 29, 2026, hearing but was
2 prevented from doing so by her re-detention by ICE. Ms. Arias has no criminal
3 record and has made every effort to meet her responsibilities in accord with
4 immigration laws and procedures. Since entering detention at Imperial Regional
5 Detention Center, Ms. Arias has received no explanation of why she was – and
6 remains – detained.

7 LEGAL FRAMEWORK

8 Substantive Due Process Constraints on Immigration Detention

9 10. The Due Process Clause of the Fifth Amendment protects all
10 “person[s]” from deprivation of liberty “without due process of law.” U.S. Const.
11 amend. V.

12 20. While the immigration laws afford ICE discretion over its decisions to
13 arrest, detain, and revoke prior release decisions, those decisions are nonetheless
14 constrained by the laws Congress has enacted and the requirements of the
15 Constitution, including the Due Process Clause. *See generally Zadvydas v. Davis*,
16 533 U.S. 678. 690 (2001); *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir.
17 2017).

18 11. This is because “[f]reedom from imprisonment—from government
19 custody, detention, or other forms of physical restraint—lies at the heart of the
20 liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

21 12. Immigration detention only comports with Due Process when it
22 furthers the government’s goals of “ensuring the appearance of [noncitizens] at
23 future immigration proceedings and preventing danger to the community.” *Id.*
24 (internal citations omitted). ICE detention violates substantive Due Process where
25 it is not justified by flight risk or danger concerns. *See id.*

26 13. For that reason, ostensibly “nonpunitive” ICE detention pursuant to a
27 blanket policy under which the agency claims authority to arrest and detain all
28 noncitizens who it alleges are not lawfully present in the United States, without

1 regard for whether they are a flight risk or danger, would violate the Due Process
2 Clause. *See id.* So too would ICE detention for the purposes of meeting quotas,
3 punishment, deterring immigration, or encouraging voluntary deportation.
4 *R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 188–89 (D.D.C. 2015) (observing that
5 “[i]n discussing civil commitment more broadly, the [Supreme] Court has
6 declared such ‘general deterrence’ justifications impermissible” and finding likely
7 contrary to Due Process a deterrence policy pursuant to which DHS detained “one
8 particular individual” for purposes of “sending a message of deterrence to other[s]
9] who may be considering immigration” (citing *Kansas v. Crane*, 534 U.S. 407,
10 412 (2002)).

11 14. All such detentions would be unlawful because they bear no
12 reasonable relation to a legitimate government purpose. *See id.*; *Demore v. Kim*,
13 538 U.S. 510, 532–33 (Kennedy, J., concurring); *Kansas v. Hendricks*, 521 U.S.
14 346, 361–62 (1997); *Bell v. Wolfish*, 441 U.S. 520, 539 (1979).

15 **Procedural Due Process Constraints on the Detention of an Individual Who**
16 **Was Previously Released**

17 21. Procedural Due Process ensures that no persons are deprived of their
18 liberty absent a fair process. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976),
19 courts evaluate procedural Due Process by balancing (1) the private interest
20 affected; (2) the risk of erroneous deprivation of such interest; and (3) the
21 government’s interest. *Id.* at 335.

22 22. “[T]he liberty [of a person released from government custody] is
23 valuable and must be seen as within the protection of the [Due Process Clause].”
24 *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

25 23. “[E]ven when ICE has the initial discretion to detain or release a
26 noncitizen pending removal proceedings, after that individual is released from
27 custody she has a protected liberty interest in remaining out of custody.” *Pinchi v.*
28 *Noem*, 792 F. Supp 3d 1025, 1032 (N.D. Cal. 2025) (citing *Romero v. Kaiser*, No.

1 22-cv-02508, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022); *Jorge M. F. v.*
2 *Wilkinson*, No. 21-cv-01434, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021);
3 *Ortiz Vargas v. Jennings*, No. 20-cv-5785, 2020 WL 5074312, at *3 (N.D. Cal. Aug.
4 23, 2020); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019)).

5 24. Courts in this district have joined a growing chorus of district courts
6 that have recognized that noncitizens have a significant liberty interest in both
7 “continued freedom *after release on own recognizance*,” *Alegria Palma v. Larose*,
8 No. 25-cv-1942-BJC-MMP, ECF No. 14, at *6 (S.D. Cal. Aug. 11, 2025) (emphasis
9 added), and in “freedom from imprisonment” after “the government grants a
10 [noncitizen] *parole* into the country,” *Sanchez v. LaRose*, No. 25-CV-2396-JES-
11 MMP, 2025 WL 2770629, at *3 (S.D. Cal. Sept. 26, 2025) (emphasis added). *See*
12 *also Prieto-Cordova*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov.
13 19, 2025); *Faizyan v. Casey*, No. 25-cv-02884-RBM-JLB, 2025 WL 3208844 (S.D.
14 Cal. Nov. 17, 2025); *Ramazan M. v. Andrews*, No. 25-cv-01356-KES-SKO (HC),
15 2025 WL 3145562 (E.D. Cal. Nov. 20, 2025); *Gomez Vilela v. Robbins*, No. 25-cv-
16 01393-KES-HBK (HC), 2025 WL 3101334 (E.D. Cal. Nov. 6, 2025); *Pablo Sequen*
17 *v. Albarran*, No. 25-cv-06487-PCP, 2025 WL 2935630 (N.D. Cal. Oct. 15, 2025);
18 *Hyppolite v. Noem*, No. 24-cv-4304 (NRM), 2025 WL 2829511 (E.D. N.Y. Oct. 6,
19 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex.
20 Sept. 22, 2025); *Ramirez Tesara v. Wamsley*, No. 25-cv-01723-M JP-TLF, 2025 WL
21 2637663 (W.D. Wash. Sept. 12, 2025); *E.A. T.-B. v. Wamsley*, No. C25-1192-KKE,
22 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025).

23 25. “Where, as here, [the petitioner] has not received any bond or custody
24 . . . hearing, the risk of an erroneous deprivation [of liberty] is high because
25 neither the government nor [the petitioner] has had an opportunity to determine
26 whether there is any valid basis for his detention.” *Pinchi*, 792 F. Supp 3d at 1035
27 (citing *Singh v. Andrews*, No. 1:25-CV-00801, 2025 WL 1918679 (E.D. Cal. July
28 11, 2025)) (cleaned up). Indeed, where a petitioner “was previously released

1 following a determination that he posed no flight risk or danger to the
2 community, and absent any new evidence showing a material change in
3 circumstances, the risk of erroneous detention without a hearing is substantial.”
4 *Alegria Palma*, No. 25-cv-1942-BJC-MMP at *6 (ordering petitioner’s immediate
5 release where he was re-detained without pre-deprivation hearing).

6 26. The requirement of an individualized determination is even stronger
7 in cases of re-detention because the prior “[r]elease reflects a determination by
8 the government that the noncitizen is not a danger to the community or a flight
9 risk.” *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub*
10 *nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). “[T]o be lawful”
11 the re-detention “must be based on evidence that the circumstances relevant to
12 that original release decision have changed.” *Saravia*, 280 F. Supp. 3d at 1196.

13 27. “To satisfy due process, those changed circumstances must represent
14 individualized legal justification for detention.” *Sanchez v. LaRose*, No. 25-CV-
15 2396-JES-MMP, 2025 WL 2770629, at *3 (S.D. Cal. Sept. 26, 2025) (internal
16 citations omitted)).

17 28. The government can claim no interest in re-detention where there are
18 no changed circumstances going to flight risk or danger sufficient to warrant re-
19 detention. *See Pinchi*, 792 F. Supp 3d at 1036 (“The government does not claim
20 that any material circumstances have changed that would warrant reassessment
21 of Ms. Garro Pinchi’s risk of flight or dangerousness, and it has articulated no
22 other reason for her detention.”). Even if the government asserted the existence of
23 such changed circumstances, its interest in denying a pre-deprivation hearing to
24 prove that claim is negligible, particularly because custody hearings are a routine
25 practice for immigration courts. Compared to the “staggering” “costs to the public
26 of immigration detention,” *Hernandez*, 872 F.3d at 996, “[t]he effort and cost
27 required” of providing a hearing “is minimal.” *Doe v. Becerra*, 787 F. Supp. 3d
28 1083, 1094 (E.D. Cal. 2025).

1 29. Thus, detention absent a pre-deprivation hearing establishing that
2 changed circumstances justify re-detention violates procedural Due Process.

3 **The Statutory Framework Governing Petitioner’s Detention**

4 30. Ms. Arias is detained pursuant to 8 U.S.C. 1226(a), which provides, in
5 pertinent part, that

6 On a warrant issued by the Attorney General, a [noncitizen] may be
7 arrested and detained pending a decision on whether the [noncitizen]
8 is to be removed from the United States. Except as provided in
9 subsection (c) and pending such decision, the Attorney General--
10 (1) may continue to detain the arrested [noncitizen]; and
(2) may release the [noncitizen] on--
(A) bond of at least \$1,500 with security approved by, and containing
conditions prescribed by, the Attorney General; or
(B) conditional parole.

11 31. Section 1226(a) governs the detention of noncitizens “inside the
12 United States” and “present in the country.” *Jennings v. Rodriguez*, 583 U.S. 281,
13 288–89 (2018).

14 32. Section 1225(b)(2), in contrast, authorizes the detention of applicants
15 for admission who are “seeking admission” but “not clearly and beyond a doubt
16 entitled to be admitted.” Unlike section 1226(a), section 1225(b)(2) provides that
17 individuals who fall under its authority “shall be detained” during the pendency of
18 proceedings, though they too remain eligible for release through the parole
19 process. *Jennings*, 583 U.S. at 300 (holding that release on “parole” under 8
20 U.S.C. § 1182(d)(5)(A) remains available even for people held under otherwise-
21 mandatory detention pursuant to section 1225(b)).

22 33. Ms. Arias was unquestionably detained in Texas after initially entering
23 the United States; thus, she was not “seeking admission” at the time of her re-
24 detention, so her detention is governed by section 1226(a). *See, e.g., Esquivel-Pina*
25 *v. Larose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361, at *5 (S.D. Cal. Oct. 24,
26 2025); *Garcia v. Noem*, No. 25-cv-02180-DMS-MMP, 2025 WL 2549431, at *6
27 (S.D. Cal. Sept. 3, 2025); *Mosqueda v. Noem*, No. 25-cv-2304, 2025 WL 2591530,
28 at *5 (C.D. Cal. Sept. 8, 2025).

1 34. Immigration detention “has two regulatory goals: ensuring the
2 appearance of [noncitizens] at future immigration proceedings and preventing
3 danger to the community.” *Zadvydas*, 533 U.S. at 678 (internal citations omitted);
4 *see also* 8 U.S.C. § 1226(a), (b); 8 C.F.R. § 1236.1(c)(8).

5 35. Those previously released by DHS, like Ms. Arias, have necessarily
6 been deemed neither a flight risk nor a danger. 8 C.F.R. § 1236.1 (c)(8)
7 (authorizing release of noncitizens under section 1226(a) if they “would not pose
8 a danger to property or persons,” and are “likely to appear for any future
9 proceeding”); 8 C.F.R. § 212.5(b) (authorizing parole from custody of noncitizens
10 deemed “neither a security risk nor a risk of absconding”).

11 36. In cases of individuals previously released by DHS, re-detention under
12 section 1226(a) requires an individualized determination of a material change in
13 circumstances relating to flight risk or danger. *See Ortega*, 415 F.Supp.3d at 968
14 (“DHS re-arrests individuals only after a ‘material’ change in circumstances.”
15 (citing *Saravia*, 280 F.Supp.3d at 1197)); *see also Matter of Sugay*, 171 I&N Dec.
16 637, 640 (B.I.A. 1981) (“[W]here a previous bond determination has been made
17 by an immigration judge, no change should be made by [DHS] absent a change of
18 circumstance.”).

19 37. Absent a material change in circumstances, the re-detention of
20 noncitizens previously released by DHS violates the INA because it does not serve
21 the purpose of the statute.

22 **Administrative Procedure Act**

23 38. Under the APA, courts may set aside agency action that is contrary to
24 law or constitutional right. 5 U.S.C. § 706(2).

25 39. In order to be reviewable under the APA, the challenged action must
26 constitute final agency action, which includes “the whole or a part of an agency
27 rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure
28 to act.” 5 U.S.C. § 551(13).

1 40. Ms. Arias' detention occurred pursuant to reviewable agency action.
2 Specifically, ICE's San Diego Field Office has adopted a policy pursuant to which it
3 claims authority to arrest and detain all noncitizens who it alleges are not lawfully
4 present in the United States, without regard for whether they are a flight risk or
5 danger. Such a policy marks the "consummation" of the ICE's decision-making
6 process and is an action "by which rights or obligations have been determined, or
7 from which legal consequences will flow." *Bennett v. Spear*, 520 U.S. 154, 178
8 (1997) (internal citations omitted).

9 41. "[A]gency action . . . need not be in writing to be final and judicially
10 reviewable . . . [a]n unwritten policy can still satisfy the APA's pragmatic final
11 agency action requirement." *Al Otro Lado, Inc. v. McAleenan*, 394 F. Supp. 3d
12 1168, 1206–07 (S.D. Cal. 2019) (internal citations omitted). "[A] contrary rule
13 would allow an agency to shield its decisions from judicial review simply by
14 refusing to put those decisions in writing." *Id.* at 1207 (internal citations omitted).

15 42. Additionally, ICE's decisions to re-detain Ms. Arias constitutes final
16 agency action because the re-detentions mark the "consummation" of the ICE's
17 decision-making process on the question of Petitioner's custody, and it is an action
18 "by which rights or obligations have been determined, or from which legal
19 consequences will flow." *Bennett*, 520 U.S. at 178 (internal citations omitted).
20 Indeed, the "practical and legal effects of the agency action" are that Ms. Arias has
21 been deprived of her liberty for over three months and with no end in sight. *Or.*
22 *Natural Desert Ass'n v. U.S. Forest Service*, 465 F.3d 977, 982 (9th Cir. 2006).

23 43. Courts must "hold unlawful and set aside agency actions, findings and
24 conclusions" that are (a) arbitrary, capricious, an abuse of discretion, or otherwise
25 not in accordance with the law; (b) contrary to constitutional right, power,
26 privilege or immunity; (c) in excess of statutory jurisdiction, authority, or
27 limitations, or short of statutory right; or (d) without observance of procedures
28 required by law. 5 U.S.C. § 706(2).

1 44. Final agency action is arbitrary and capricious if the agency fails to
2 “articulate a satisfactory explanation for its action, including a rational connection
3 between the facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n of U.S. v.*
4 *State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (internal citations
5 omitted). Courts may not consider an agency’s “impermissible post hoc
6 rationalizations.” *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 21 (2020)
7 (internal citations omitted).

8 45. Accordingly, ICE’s policy constitutes final agency action and, for the
9 reasons discussed above, violates APA § 706(2) as arbitrary and capricious and
10 contrary to Due Process and the INA.

11 46. Additionally, ICE’s decisions to re-detain Petitioners were arbitrary
12 and capricious in violation of the APA where the agency failed to
13 contemporaneously—or ever—articulate any flight-risk or danger-based
14 justifications for those decisions.

15 **CLAIMS FOR RELIEF**
16 **FIRST CAUSE OF ACTION**

17 **Violation of the Fifth Amendment Substantive Due Process Clause**

18 47. Ms. Arias realleges and incorporates by reference paragraphs 1-46
19 above.

20 48. The Due Process Clause of the Fifth Amendment forbids the
21 government from depriving any person of liberty without due process of law. U.S.
22 Const. amend. V. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas*, 533
23 U.S. 678; *Demore v. Kim*, 538 U.S. 510 (2003).

24 49. “The Due Process Clause applies to all ‘persons’ within the United
25 States, including [noncitizens], whether their presence here is lawful, unlawful,
26 temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

1 50. “Freedom from imprisonment—from government custody, detention,
2 or other forms of physical restraint—lies at the heart of the liberty that Clause
3 protects.” *Id.* at 690.

4 51. Immigration detention only comports with Due Process when it
5 furthers the government’s goals of “ensuring the appearance of [noncitizens] at
6 future immigration proceedings and preventing danger to the community.” *Id.*
7 (cleaned up).

8 52. Immigration detention that does not serve the legitimate government
9 purposes of preventing flight or mitigating danger violates substantive Due
10 Process. *Id.*

11 53. Immigration detention pursuant to a blanket policy under which ICE
12 claims authority to arrest and detain all noncitizens who it alleges are not lawfully
13 present in the United States, without regard for whether they are a flight risk or
14 danger—whether for deterrence, to satisfy a quota, or for other purposes that do
15 not bear a reasonable relation to preventing danger or flight risk—violates the
16 Due Process Clause. *Id.*; *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

17 54. Ms. Arias’ detention violates the Due Process Clause because it is not
18 rationally related to any legitimate government purpose.

19 **SECOND CAUSE OF ACTION**
20 **Violation of the Fifth Amendment Procedural Due Process Clause**

21 55. Ms. Arias realleges and incorporates by reference paragraphs 1-46,
22 above.

23 56. “In the context of immigration detention, it is well-settled that due
24 process requires adequate procedural protections to ensure that the government’s
25 asserted justification for physical confinement outweighs the individual’s
26 constitutionally protected interest in avoiding physical restraint.” *Hernandez*, 872
27 F.3d at 990 (cleaned up).
28

1 noncitizens who it alleges are not lawfully present in the United States, without
2 regard for whether they are a flight risk or danger. Under the *Accardi* doctrine,
3 agencies are bound to follow their own rules and policies that constrain otherwise
4 discretionary detention decisions, and agency action that disregards those binding
5 standards is unlawful. *Accardi*, 347 U.S. 260.

6 71. Because re-detentions pursuant to Respondents’ policy violate Ms.
7 Arias’ rights under the Due Process Clause of the Fifth Amendment and the INA,
8 the policy additionally violates the APA as it is not in accordance with law, is
9 contrary to constitutional right, and is in excess of statutory jurisdiction. *Id.*

10 **FIFTH CAUSE OF ACTION**
11 **Violation of Administrative Procedure Act – 5 U.S.C. § 706(2)**
(arbitrary and capricious agency action)

12 72. Ms. Arias realleges and incorporates by reference paragraphs 1-46,
13 above.

14 73. The APA provides that a “reviewing court shall . . . hold unlawful and
15 set aside agency action, findings, and conclusions found to be . . . arbitrary and
16 capricious, an abuse of discretion, or otherwise not in accordance with law.”
17 5 U.S.C. §§ 706(2)(A)–(C).

18 74. ICE’s decisions to re-detain Ms. Arias constitutes final agency action
19 where they mark the “consummation” of agency decision making and are actions
20 “by which rights or obligations have been determined, or from which legal
21 consequences will flow.” *Bennett*, 520 U.S. at 178.

22 75. Because ICE has failed to articulate contemporaneous rational
23 explanation for its decision to re-detain Ms. Arias at an ICE check-in without a
24 pre-detention hearing, and because it cannot provide a post-hoc rationalization
25 for this decision, it is arbitrary and capricious in violation of the APA. *Motor*
26 *Vehicle Mfrs. Ass’n of U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42–43
27 (1983); *Regents*, 591 U.S. at 21.

28

1 83. Declare that Petitioner’s detention violates the Due Process Clause of
2 the Fifth Amendment, the INA, and the APA;

3 84. Set aside Respondents’ unlawful practice pursuant to 5 U.S.C. §
4 706(2) as contrary to law, contrary to constitutional right, and in excess of
5 statutory authority; and

6 85. Grant such further relief as this Court deems just and proper.

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8 Dated: March 23, 2026

Respectfully submitted,

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11 By: /s/ Nancy Aeling
12 Nancy Aeling

13 Attorney for Petitioner
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16 **TABLE OF EXHIBITS**

17 Exhibit 1: Notice to Appear

18 Exhibit 2: Notice of Hearing

19 Exhibit 3: Employment Authorization Document
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1 **VERIFICATION BY SOMEONE ACTING ON PETITIONER’S BEHALF PURSUANT**
2 **TO 28 U.S.C. § 2242**

3 I, Nancy Aeling, do depose and state:

4 I represent Petitioner Lillismar Daniela Arias Sierra in these habeas corpus
5 proceedings. Ms. Arias is currently being held in detention at the Imperial
6 Regional Detention Facility and is not able to appear in my office to sign this
7 Verification. I have reviewed the record of her detention and discussed this
8 matter with her. I verify that the information contained in the foregoing petition
9 is true and correct to the best of my knowledge and belief.

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11 Dated: March 23, 2026

Respectfully submitted,

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14 By: /s/ Nancy Aeling
15 Nancy Aeling

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17 Attorney for Petitioner
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