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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

MARIANA CALZADA MORENO,

Petitioner,

v.

EVAN TJADEN, Acting Field Office
Director, Salt Lake City Enforcement and
Removal Operations, U.S. Immigration and
Customs Enforcement (ICE/ERO);
JOHN DOE, ICE/ERO Officer;
MARKWAYNE MULLIN, Secretary, U.S.
Department of Homeland Security;
TODD BLANCHE, Acting U.S. Attorney
General,

Respondents.

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

Case No. _____

Agency Case No. 

Petitioner Mariana Calzada is a national of Mexico who came to the United States more than two years ago to seek asylum. She presented at the border and was released into the United States on humanitarian parole. On April 21, 2026, she was arrested by immigration officials, who told her that current immigration policies require her detention without bond. This mandatory detention violates the Constitution and laws of the United States of America. For this reason, Ms. Calzada asks the court pursuant to 28 U.S.C. § 2241 to grant immediate release from custody.

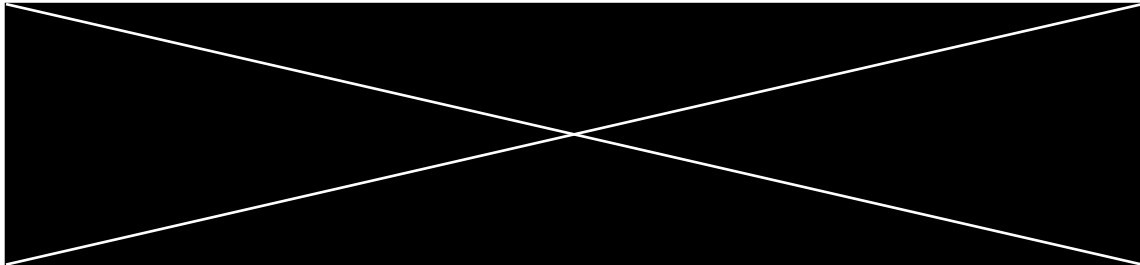
She further asks the court to order Respondents not to transfer her out of this district or deport her while this case is pending.¹

FACTS APPLICABLE TO ALL CLAIMS

Victim of cartel violence in Mexico

1. Mariana Calzada is a citizen of Mexico.
2. Before coming to the United States, she and her mother supported themselves by selling food at a stand in front of their house. (Ex. 1 at 11.)

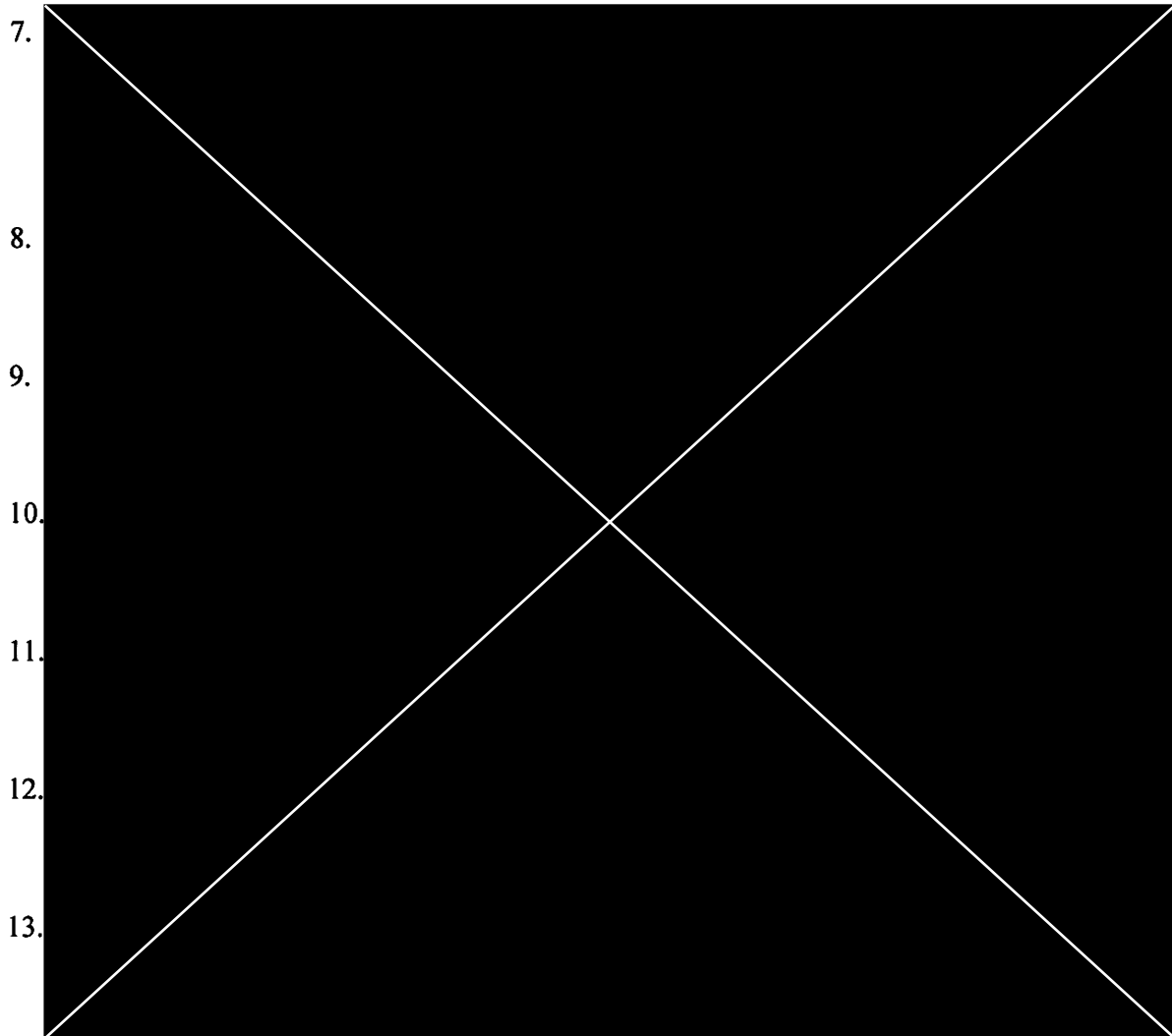
3.  (Id.)

4. 

5.

6.

¹ “[T]ransfer of Petitioner to another district could interfere with his access to counsel and ability to participate in the proceedings.” *Tran v. Bondi, et al.*, No. CV25-1897-JLR-BAT, ECF No. 6 at 3 (W.D. Wash. Oct. 7, 2025) (*sua sponte* issuing such an order in a § 2241 case involving an ICE detainee). And this court has “inherent power to preserve its ability to hear the case.” *Alves v. U.S. Dep’t of Just.*, 2025 WL 2629763, at *5 (W.D. Tex. Sept. 12, 2025) (same). Courts around the country, including within this district, have entered emergency orders preventing the transfer and removal of ICE detainees pending the resolution of their § 2241 petition. *See, e.g., Ahlat v. Bondi*, 1:25-cv-00199, ECF No. 8 (D. Utah Dec. 19, 2025); *Velasquez Montillo v. Brooksby*, 4:26-cv-18, ECF No. 7 (D. Utah Feb. 17, 2026); *M.M. v. Wamsley*, 2025 WL 3053023, at *1 (W.D. Wash. Oct. 31, 2025); *Bustos v. Raycraft*, 2025 WL 3022294, at *2 (E.D. Mich. Oct. 29, 2025); *Ferro v. Hyde*, No. 2025 WL 3003708, at *1 (D. Me. Oct. 27, 2025) (order issued same day petition was filed); *Lopez Pop v. Noem*, 2025 WL 3050095, at *7 (C.D. Cal. Oct. 3, 2025); *Singh v. Delaney Hall*, 2025 WL 2772644, at *1 (D.N.J. Sept. 29, 2025); *Hom v. Ceja*, 800 F.Supp.3d 1147, 1149 (D. Colo. Sept. 17, 2025).



Seeking Asylum in the United States

14. On November 21, 2023, Ms. Calzada and her family came to the entry booth at the San Isidro point of entry. (*See* Ex 2.)
15. Because they were seeking asylum, they were referred to secondary inspection. (*Id.*)
16. After an interview and thorough assessment, she was “served an I-862, Notice to Appear, and paroled into the United States pending 240 proceedings.” (Ex. 3-7.)
17. The parole was reflected by form I-94, which granted entry to the United States but not status. *See* 8 U.S.C. 1182(d)(5). (Ex. 6.)

18. The Notice to Appear began standard removal proceedings in immigration court under 8 U.S.C. § 1229a (INA § 240), and she was directed to appear in immigration court in West Valley City, Utah, on May 1, 2025.² (Ex. 7 at 1.)
19. Before that date, she submitted her asylum application. (Ex. 1.)
20. In response to that filing, the hearing was cancelled, and her asylum case was pending without date. (Ex. 8.)
21. The immigration court subsequently entered a scheduling order. (Ex. 9.)
22. And she complied with the order by filing written pleadings on February 1, 2025. (Ex. 10.)
23. In those pleadings, she admitted the four charges of removability, conceded she was removable under the INA, but noted that she was seeking relief from removal in the form of her filed “ Form I-589, application for asylum, withholding of removal, and protection under the Convention Against Torture.” (*Id.* at 3.)
24. In connection with her asylum application, she was granted a work authorization. (Ex. 11.)
25. At the time of this filing, her asylum claim remains pending without date for a hearing.

2026 Arrest

26. On April 21, 2026, she was driving to work, and she was stopped by immigration officials.
27. On information and belief, there was no traffic violation or evidence of any criminal offense.
28. Nor at any time has she done anything that would be grounds for revoking her parole.

² The Notice to Appear states that it relates to “removal proceedings under Section 240 of the Immigration and Nationality Act.” (Ex. 1 at 1.) Section 240 is codified at 8 U.S.C. § 1229a. DHS has created a helpful website that allows users to see where sections of the INA are codified in Title 8, U.S.C.I.S., “Immigration and Nationality Act,” *available at* <https://www.uscis.gov/laws-and-policy/legislation/immigration-and-nationality-act> (last accessed Apr. 8, 2026).

29. The officer who stopped her told her they were taking her into custody because under current ICE policies, she was required to be detained.

30. On information and belief, she is being held without the possibility of seeking release on bond.

Detention Rationale

31. Ms. Calzada does not understand why she was arrested.

32. On information and belief, it is Respondents' policy that individuals who entered the United States without valid entry documents—even if they were granted parole—are subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

33. Under this decision, foreign nationals who are discovered in the United States after entering “without inspection,” even years earlier, are treated as “arriving aliens” who are subject to “expedited removal” and mandatory detention under 8 U.S.C. § 1225(b)(2).

34. On information and belief, Respondents are detaining Ms. Calzada without the possibility of release on bond because they believe she is ineligible eligible for bond, and they intend to keep her in custody without the chance of release until after removal proceedings are concluded.

35. However, federal courts around the country and in this district have held that this interpretation of the Immigration and Nationality Act (INA) is invalid. *See, e.g., Maldonado Bautista v. Santacruz*, -- F. Supp. 3d --, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026); *Tanchez v. Noem*, 2026 WL 125184 (D. Utah Jan. 16, 2026); *Carbajal v. Wimmer*, 2:26-cv-00093-TC, ECF No. 20 (D. Utah Feb. 9, 2026); *but see Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th

Cir. 2026); *Cisneros v. Noem*, -- F. Supp. 3d --, 2026 WL 396300, at *1 (D. Utah Feb. 12, 2026).

36. To the extent Respondents are holding him under *Yajure-Hurtado*, this detention is unlawful because Respondents have misconstrued and misapplied the applicable laws and regulations, and *Yajure-Hurtado* is wrong as a matter of law.
37. However, Ms. Calzada does not appear to be part of the class of noncitizens at issue in *Yajure-Hurtado* because she entered the United States with an I-94 and was granted humanitarian parole to seek asylum.
38. This forum is Ms. Calzada's only avenue for judicial review of DHS's decision to take her into custody.
39. Immigration detention should not be used as a punishment and should be used only when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear in immigration court or are a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
40. Accordingly, Ms. Calzada seeks a writ of habeas corpus requiring that she be released again pursuant to the prior parole grant.
41. In the alternative, she asks the court to order that she be given a bond hearing before an immigration judge.

DECISION BEING CHALLENGED

42. Ms. Calzada challenges Respondents' decision to take her into custody and hold her without the possibility of release under 8 U.S.C. § 1226.
43. This is the first petition filed to challenge this detention.

JURISDICTION

44. Ms. Calzada is in the physical and legal custody of Respondents in the state of Utah.
45. This court has jurisdiction over this petition pursuant to 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1346 (United States as Respondent); and 28 U.S.C. § 1651 (All Writs Act).
46. Respondents have waived sovereign immunity for purposes of this suit. 5 U.S.C. §§ 702, 706.
47. The court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, *et seq.*; the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*; the All Writs Act, 28 U.S.C. § 1651; the Due Process Clause of the Fifth Amendment; and the court's inherent equitable powers.
48. Even if the government were to argue that the court lacks jurisdiction, this court has jurisdiction to determine its jurisdiction. *Belbacha v. Bush*, 520 F.3d 452, 455-56 (D.C. Cir. 2008) (citing *United States v. United Mine Workers*, 330 U.S. 258, 293 (1947)).
49. This jurisdiction includes the authority to grant "interim relief" and enjoin a transfer to another district to preserve its ability to review its own jurisdiction. *Id.* (discussing All Writs Act, 28 U.S.C. § 1651).
50. Ms. Calzada is seeking relief related only to her custody status, which is not inconsistent with an order of removal, so exhaustion of administrative remedies, if any, is not required.

VENUE

51. Venue lies in the District of Utah because this is the judicial district in which Ms. Calzada is currently detained. *Rumsfeld v. Padilla*, 542 U.S. 426, 442-42 (2004); *Braden v. 30th Judicial Circuit Court of KY.*, 410 U.S. 484, 493-500 (1973).
52. Venue is also proper in this judicial district under 28 U.S.C. § 1391(e) because respondents are officers or employees of the United States; Ms. Calzada is being held in this district; and

a substantial part of the events or omissions giving rise to the Petition occurred in this judicial district.

REQUIREMENTS OF 28 U.S.C. § 2243

53. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless it is clear the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
54. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative relief in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

55. MARIANA CALZADA MORENO is a citizen of Mexico. She is in ICE custody in Utah.
56. Respondent EVAN TJADEN is the Acting Field Office Director of the Salt Lake City Enforcement and Removal Operations and U.S. Immigration and Customs Enforcement (ICE/ERO). He is the legal custodian of Ms. Calzada. He is named in his official capacity.
57. JOHN DOE is an ICE/ERO officer in Utah. He is the physical custodian of Ms. Calzada. He is named in his official capacity.
58. Respondent MARKWAYNE MULLINS is the Secretary of the Department of Homeland Security (“DHS”). In this capacity, Respondent Mullins is the legal custodian of Ms. Calzada. He is named in his official capacity.
59. Respondent TODD BLANCHE is the Acting Attorney General of the United States. In this capacity, MR. Blanche is the legal custodian of Ms. Calzada. Respondent Blanche is sued in his official capacity.

LEGAL FRAMEWORK

I. The Right to be Free—Even for Noncitizens

“In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). This fundamental principle of our free society is enshrined in the Fifth Amendment’s Due Process Clause, which specifically forbids the Government to “deprive[]” any “person . . . of . . . liberty . . . without due process of law.” U.S. Const. amend. V. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (“[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law”).

“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 678. The Supreme Court “has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection,” including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases); *see also Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).

II. Civil Detention Provisions of the INA

In 1996, acting within the recognized constraints of constitutional due process, Congress rebalanced and codified three explicit detention regimes for noncitizens. Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), Pub. L. No. 104-208, Div. C. §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. These three provisions relate to the type of removal proceedings a noncitizen is subjected to and are codified in 8 U.S.C. §§ 1225, 1226, and 1231.

First, 8 U.S.C. § 1225 describes a type of removal identified as “expedited removal” and requires detention without bond of noncitizens who are subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other arriving aliens, as defined at 8 C.F.R. §§ 1.2 and 1001.1(q). However, arriving aliens seeking asylum are not subject to mandatory detention and can be released into the United States for purposes of humanitarian parole. 8 U.S.C. § 1225(b)(1)(A)(ii), (B); *Id.* § 1182(d)(5) (temporary admission for humanitarian purposes).

Second, 8 U.S.C. § 1226 authorizes the issuance of administrative warrants for the detention of noncitizens for standard removal proceedings before an Immigration Judge under 8 U.S.C. § 1229a. Individuals in standard removal proceedings can be released with or without bond. *Id.* § 1226(a)(2).

Finally, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)-(b). For these individuals, detention is mandatory. This case concerns the detention provisions in § 1225 and § 1226.

In cases of noncitizens apprehended near the border, DHS has discretion at initial processing to choose between expedited removal under § 1225 and removal proceedings under § 1229a. *See, e.g., Innovation Law Lab v. McAleenan*, 924 F.3d 503, 508 (9th Cir. 2019);

Thuraissigiam v. Department of Homeland Security, 917 F.3d 1097, 1102 (9th Cir. 2018 (emphasis added), *rev'd on other grounds*, 591 U.S. 103 (2020); *Matter of E-R-M- & L-R-M*, 25 I. & N. Dec. 520, 523 (B.I.A. 2011); *Matter of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 748 (B.I.A. 2023) (“DHS has authority to determine whether to initiate expedited removal proceedings under section 235(b)(1)(A)(i) of the INA, 8 U.S.C. § 1225(b)(1)(A)(i), or removal proceedings under section 240 of the INA, 8 U.S.C. § 1229a.”). This choice is critical because it will dictate whether detention is governed by § 1225 or § 1226. Here, the evidence shows that removal proceedings were initiated under § 1229a, and Ms. Calzada was released into the United States on humanitarian parole. (Ex. 2-3.)

In 1996, Congress amended and recodified § 1226 as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). In the decades after IIRIRA, most people who entered the United States without inspection (like Ms. Calzada) were placed in standard removal proceedings and received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not seeking lawful admission at the U.S. border were entitled to a custody hearing before an Immigration Judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1251(a)).

In *Jennings v. Rodriguez*, 583 U.S. 281, 288-89 (2018) the U.S. Supreme Court held that detention under § 1226(a) is discretionary and permits release. Although DHS retains discretion over which statute it uses in enforcement actions, that choice then dictates which statute governs detention. Once a noncitizen has been released into the United States and placed into § 1229a proceedings, detention authority arises, if at all, under § 1226(a). *Casas-Castrillon v. Dep't of*

Homeland Sec., 535 F.3d 942, 948–51 (9th Cir. 2008); *Hechavarria v. Sessions*, 891 F.3d 49, 54–56 (2d Cir. 2018); *Innovation Law Lab v. McAleenan*, 924 F.3d 503, 508-9 (9th Cir. 2019).

In this instance, Ms. Calzada was placed directly into removal proceedings under § 1229a and given an NTA upon entry. (Ex. 3.) DHS chose to let her remain in the United States under humanitarian parole. (Ex. 2.) While humanitarian parole can be conditional, 8 U.S.C. § 1182(d)(5)(A), it does not appear that Ms. Calzada was given any conditions at the time of her parole, and she has done nothing that would provide a factual basis for revoking her release. Under the statute, she is entitled to remain in the community until “the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served.” *Id.*

Furthermore, once DHS decides to begin removal proceedings under § 1229a and to release a noncitizen, § 1226 provides no mechanism to reverse that decision in the absence of changed circumstances: “[W]here a previous bond determination has been made by an immigration judge, no change should be made . . . absent a change of circumstance.” *Saravia for A.H. v. Sessions*, 905 F.3d 1137, 1145 n.10 (9th Cir. 2018) (quoting *Matter of Sugay*, 17 I. & N.637, 640 (B.I.A. 1981)). Accordingly, where DHS rearrests a noncitizen who is here on parole without any intervening change in facts, as it did here, such detention is arbitrary and capricious and procedurally unlawful.

Challenges to detention are properly brought through habeas corpus. *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004). In this case, Ms. Calzada relied in good faith on the prior actions taken by DHS to grant her parole. She filed for asylum, and that claim remains pending. Her arrest without cause was illegal and unconstitutional.

CLAIMS FOR RELIEF

Federal law authorizes this court to issue a writ of habeas corpus when a person is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(a), (c)(3). “[A]n order barring their transfer to or from a place of incarceration” is “a proper claim for habeas relief.” *Kiyemba v. Obama*, 561 F.3d 509, 513 (D.C. Cir. 2009). The government’s plan to keep Ms. Calzada in custody while his asylum appeal is pending has several constitutional and legal problems.

I. CLAIM 1: Violation of the INA

The allegations in the above paragraphs are realleged and incorporated herein.

When DHS encountered Ms. Calzada near the border more than two years ago, it had discretion whether to proceed under 8 U.S.C. § 1225 or 8 U.S.C. § 1229a. But once it decided to proceed under § 1229a, and it released her into the U.S. on parole, it could not reverse that choice ex post facto, *absent a material change in circumstances*. *Velasquez-Montillo v. Brooksby*, 4:26-cv-18 DN, ECF No. 23 at 8-17 (D. Utah Mar. 3, 2026); *Saravia for A.H. v. Sessions*, 905 F.3d 1137, 1145 n.10 (9th Cir. 2018) (quoting *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (B.I.A. 1981)). Once that choice was made, DHS had to abide by that choice and cannot detain her without first showing a material change in *the individual’s* circumstances. A government policy change does not constitute a material change in the individual’s circumstances.

The Supreme Court has long recognized that “a statutory grant of legislative rulemaking authority will not, as a general matter, be understood to encompass the power to promulgate retroactive rules unless that power is conveyed by Congress in express terms.” *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988). To do so would add “new legal consequences to events completed [prior to the expansion].” *See Landgraf v. Usi Film Prods.*, 511 U.S. 244, 269-70 (1994); *see also INS v. St. Cyr*, 533 U.S. 289, 315-16 (2001).

Without evidence of a material change in circumstances, Respondents lacked authority under the INA to rearrest Ms. Calzada after allowing her to enter on parole. Her arrest was therefore unlawful, and she is entitled to immediate release.

II. CLAIM 2: Violation of Fifth Amendment right to Procedural Due Process.

The allegations in the above paragraphs are realleged and incorporated herein.

Procedural due process requires notice and an opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 333–34 (1976). To state a claim for a violation of procedural due process rights, a petitioner must establish (1) a protected property or liberty interest, and (2) a denial of adequate procedural protections. *ASSE Int’l, Inc. v. Kerry*, 803 F.3d 1059, 1073 (9th Cir. 2015).

To the first point, Ms. Calzada’s interest in not being detained is “the most elemental of liberty interests[.]” *E.A. T.-B. v. Wamsley*, 795 F.3d 1316, 1321 (W.D. Wash. Aug. 19, 2025) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); granting petition and ordering immediate release with no re-detention absent “an immigration court hearing . . . held (with adequate notice) to determine whether detention is appropriate.”). *See also, e.g., Ledesma Gonzalez v. Bostock*, 808 F.Supp.3d 1189, 1202-1203 (W.D. Wash. Oct. 7, 2025) (finding detainee has liberty interest).

Given that the liberty interest here is “the most elemental,” numerous courts have found that this first factor weighs heavily in a petitioner’s favor. *See, e.g., Ledesma Gonzalez*, 808 F.Supp.3d at 1202 (this factor “must be accorded significant weight”). Ms. Calzada’s status as a noncitizen does not negate that interest. “While the temporary detention of non-citizens may sometimes be justified by concerns about public safety or flight risk, the government’s discretion to incarcerate non-citizens is always constrained by the requirements of due process[.]” *E.A.T.-*

B., 795 F.Supp.3d at 1321 (W.D. Wash. Aug. 19, 2025) (quoting *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017)).

In fact, as an individual who was released by ICE, Ms. Calzada has a higher liberty interest than that of the normal ICE detainee. See *Guillermo M.R. v. Kaiser*, 2025 WL 1810076, at *1 (N.D. Cal. June 30, 2025) (by alleging that he had previously been released by ICE and was about to be re-detained, “Petitioner has asserted liberty interests that differ from the liberty interests of a detained person”). Similarly, in *Carballo v. Andrews*, 2025 WL 2381464, *4 (E.D. Cal. Aug. 15, 2025), the court indicated that an individual who has been released has had—in contrast to a detainee with no period of release—“an opportunity ‘to form the [] enduring attachments of normal life’” (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)), and thus has a heightened liberty interest, such as that which led the Supreme Court in *Morrissey* to impose due process requirements on parolees where the state seeks to revoke parole.

The second factor, risk of an erroneous deprivation of liberty, also weighs in Ms. Calzada’s favor. A detainee’s parole into the community reflected DHS’s initial determination that the individual was neither a flight risk nor a danger to the community. See, e.g., *Ledesma Gonzalez*, 808 F.Supp.3d at 1202 (when ICE released Petitioner, “it did so after determining—as required by regulation—that ‘such release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding.’ . . . By issuing the OR[R], ICE necessarily found that [Petitioner] was neither a flight risk nor a danger to the community.”) (quoting 8 C.F.R. § 236.1(c)(8)); *Barrenechea v. Albarran*, 2025 WL 2717279, at *1 (N.D. Cal. Sept. 22, 2025) (“ICE’s release of Barrenechea on his own recognizance in 2020 can only be understood as reflecting a determination that he did not pose a flight risk or danger to the community.”). Here, the immigration records show that Ms. Calzada underwent a thorough

assessment, after which DHS officers determined that she could safely be released into the United States without even requiring a bond. (Ex. 3-6.)

The government has no legitimate interest in detaining a petitioner without providing a pre-deprivation hearing. “[T]he government’s interest in detaining petitioner without a hearing is low.” *Carballo*, 2025 WL 2381464, *8 (cleaned up). “In immigration court, custody hearings are routine and impose a minimal cost.” *Id.* (cleaned up). As stated in *E.A. T.-B.*, “although it would have required the expenditure of finite resources (money and time) to provide Petitioner notice and hearing on ATD violations before arresting and re-detaining her, those costs are far outweighed by the risk of erroneous deprivation of the liberty interest at issue.” 795 F. Supp. At 1324.

Many courts have concluded that a released detainee cannot be rearrested without a pre-deprivation hearing. *See, e.g., Jimenez v. Bondi*, 2025 WL 3466925, at *2-*3 (W.D. Wash. Dec. 3, 2025) (granting petition, ordering immediate release, and barring re-detention “without providing adequate notice of the reasons for his re-detention and a meaningful opportunity to respond.”); *Perez v. Mordant*, No. 2025 WL 3466956, at *5 (M.D. Fla. Dec. 3, 2025); *S-M-J v. Bostock*, 2025 WL 3137296, at *5 (D. Or. Nov. 10, 2025). *Cf. Lopez Dejesus, v. Bostock*, 2025 WL 3268002 (W.D. Wash. Nov. 24, 2025) (applying *Mathews* factors to conclude that petitioner was entitled to due process before he was detained a second time, even though his detention was pursuant to the mandatory detention provisions of 8 U.S.C. § 1226(c)).

Under *Mathews*, Ms. Calzada has a high interest in not being re-detained. The risk of erroneous deprivation is also high because ICE’s previous decision to grant parole necessarily reflected a conclusion that she was not a flight risk or a danger to the community. Here, as in

Ledesma Gonzalez, “ICE revoked that release without any reassessment of those factors.” 808 F.Supp.3d at 1202.

Respondents have long experience applying the material change in circumstances substantive and procedural standard to detention decisions. Respondents failed to apply that experience in this case. Respondents have provided Ms. Calzada with no procedure whatsoever. The decision to arrest Ms. Calzada after granting her parole, without providing notice of why she was being detained and a chance to respond, violated her due process rights and was, therefore, unlawful.

III. CLAIM 3: Violation of the APA

The allegations in the above paragraphs are realleged and incorporated herein.

Under the Administrative Procedures Act (APA), an agency action may be held unlawful and set aside if it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

For a challenged agency action to be upheld, the agency “must explain the evidence which is available, and must offer a rational connection between the facts found and the choice made.” *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983) (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)).

ICE’s decision to arrest Ms. Calzada must be vacated under the APA because it was arbitrary, capricious, and an abuse of discretion. At this point, Ms. Calzada must guess as to

Respondents' reasons for taking her back into custody. She is presumed innocent, so a criminal charge is not a materially changed circumstance. The decision to arrest her violated the APA because the agency did not "offer a rational connection between the facts found and the choice made"—i.e., the fact that Ms. Calzada had been granted parole, and nothing had materially changed since that original decision. And nothing suggests that there was a "rational" reason for this choice, given that Ms. Calzada had filed an asylum application and otherwise complied fully with the expectations of someone in her situation.

Additionally, DHS failed to consider Ms. Calzada's reliance interests. *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 140 S. Ct. 1891, 1913 (2020). She has kept all the rules and has participated in the asylum process as we would expect her to do. She never received any written notification that parole could be revoked or why. She has no other forum in which to seek judicial review of the constitutional and legal issues raised by her arbitrary re-detention without process, in violation of the law.

PRAYER FOR RELIEF

For these reasons, Ms. Calzada asks the court to order the following relief:

1. Enter an emergency order that Respondents not deport her while this petition is pending;
2. Allow Ms. Calzada to conduct discovery;
3. Order Respondents to show cause why this petition should not be granted;
4. Order Respondents to immediately release Ms. Calzada from custody;
5. Order Respondents not to take her into custody again without first holding a hearing before a neutral decisionmaker, at which the government bears the burden of establishing flight risk or danger to the community by clear and convincing evidence based on changed circumstances since Petitioner was previously released; and

6. Order all other relief that the Court deems just and proper.

* * *

Counsel verifies that Petitioner has authorized this petition. It does not personally bear Petitioner's signature because she is in custody. Counsel knows the facts asserted above to be true, or alleges them on information and belief, based on information obtained from Petitioner.

DATED this 21st day of April 2026.

/s/ Benjamin C. McMurray
BENJAMIN C. McMURRAY
Assistant Federal Public Defender