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7 Attorneys for Petitioner:
8 Maria Haydee Palacios Ramos

9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 **MARIA HAYDEE PALACIOS**
12 **RAMOS,**

13 Petitioner,


14 v.

15 Christopher LAROSE, Warden of Otay
16 Mesa Detention Center; Patrick
17 DIVVER, Field Office Director, San
18 Diego Field Office; Todd LYONS,
19 Acting Director, Immigration and
20 Customs Enforcement; Markwayne
21 MULLIN, Secretary, U.S. Department
22 of Homeland Security; U.S.
23 Department of Homeland Security;
24 Todd BLANCHE, Acting U.S.
25 Attorney General,

26 Respondents.

Case No. '26CV2730 JO DEB

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

Petitioner's DHS No: 

[Filed Concurrently with Motion for
Temporary Restraining Order and
Order to Show Cause, Declarations of
Maria Haydee Palacios Ramos, and
Gita B. Kapur, and Exhibits]

27 **PETITION FOR WRIT OF HABEAS CORPUS**
28

I. INTRODUCTION

1
2 1. Petitioner Maria Haydee Palacios Ramos is a 53-year-old citizen and
3 national of El Salvador, a 21-year resident of the United States, and a
4 grandmother. *See collectively* Ex. A at 1 (Petitioner's Passport); Ex. B at 2-
5 11 (Declaration of Petitioner). She has worked for nearly twenty years at the
6 same employer in Ventura, California. *See collectively* Ex. I at 54-55
7 (Declarations of Support, Four Points Resort Employer); Ex. J at 56-57
8 (Declaration of Support, Cafe Amiri Employer). She lives with her
9 naturalized United States citizen daughter, her four-year-old United States
10 citizen granddaughter, and a residential lease in her own name. *See*
11 *collectively* Ex. D at 27-31 (Declaration of Support, Ana Raquel Orellana
12 Palacios); Ex. F at 36-50 (Residential Lease and Tenant Ledger). She has
13 never been arrested for any offense of any kind, anywhere. *See* Ex. B at 2-11
14 (Declaration of Petitioner). Before April 6, 2026, she had never had any
15 contact with any immigration authority. *Id.*

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21 2. On April 6, 2026, Petitioner was seized at gunpoint by two active-
22 duty United States Marines at the Las Pulgas Gate of Marine Corps Base
23 Camp Pendleton. *See collectively* Ex. B at 2-11 (Declaration of Petitioner);
24 Ex. O at 75-77 (GPS Evidence). Petitioner was a passenger in her own
25 vehicle, driven by her adult daughter — a lawful B-2 visitor from El
26 Salvador — on a family day trip to Sea World in San Diego. *See* Ex. B at 2-
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1 11 (Declaration of Petitioner). Because of confusing signage near the Camp
2 Pendleton area, the driver inadvertently took an exit leading to a military
3 gate, an error the Marines themselves acknowledged was a common civilian
4 mistake. *See collectively* Ex. B at 2-11 (Declaration of Petitioner); Ex. O at
5 75-77 (GPS Evidence). Instead of permitting Petitioner and her family to turn
6 around, the Marines conducted a warrantless civil immigration arrest. *See*
7 Ex. B at 2-11 (Declaration of Petitioner). They interrogated Petitioner
8 through an ICE officer reached on a Marine's personal cell phone. *Id.* They
9 drew a sidearm on Petitioner's seven-year-old granddaughter, a lawful B-2
10 visitor herself, when the frightened child tried to follow her grandmother out
11 of the vehicle. *Id.* They handcuffed Petitioner, fingerprinted and
12 photographed her and her lawfully-admitted adult daughter, and transferred
13 Petitioner to ICE custody. *Id.*

18 3. Petitioner has been detained continuously since April 6, 2026. She is
19 currently held at the Otay Mesa Detention Center in San Diego County,
20 California. *See* Ex. H at 52-53 (ICE Online Detainee Locator System Search
21 Result). She suffers from severe hypercholesterolemia, chronic herpes
22 requiring antiviral therapy, and hemorrhoids. *See collectively* Ex. B at 2-11
23 (Declaration of Petitioner); Ex. C at 12-26 (Medical Records). Her
24 prescribed medications and her scheduled follow-up appointments have been
25 disrupted by her detention. *See* Ex. B at 2-11 (Declaration of Petitioner). She
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1 speaks only limited English; every document served upon her in detention
2 has been in English only, and facility staff have refused to provide
3 meaningful translation. *Id.*
4

5 4. Petitioner challenges the legality of her custody on four independent
6 grounds. First, her warrantless seizure and arrest by active-duty Marine
7 Corps personnel violated the Posse Comitatus Act, 18 U.S.C. § 1385, and 10
8 U.S.C. § 275. No statute authorizes Marines to effect civil immigration
9 arrests of civilians in the interior of the United States. Second, the
10 warrantless seizure violated the Fourth Amendment, 8 U.S.C. § 1357(a), and
11 8 C.F.R. § 287.8, which require both probable cause of removability and
12 probable cause of flight — neither of which existed. Third, DHS's
13 classification of Petitioner as an "applicant for admission" subject to
14 mandatory detention under 8 U.S.C. § 1225(b) is legally erroneous. Section
15 1225(b) reaches arriving aliens and those processed at or near the border. It
16 does not reach never-encountered, twenty-one-year interior residents like
17 Petitioner. Fourth, Petitioner's sudden seizure, indefinite confinement
18 without pre-deprivation notice or meaningful linguistic access, deprivation
19 of needed medical care, and the shocking conduct of drawing a firearm on
20 her young granddaughter violate the Procedural and Substantive Due
21 Process Clauses of the Fifth Amendment. *See* Ex. B at 2-11 (Declaration of
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28 Petitioner)

1 5. Petitioner seeks a writ of habeas corpus ordering her immediate
2 release, declaratory relief establishing that the arrest and detention violated
3 federal law, and injunctive relief preventing Respondents from re-detaining
4 her without pre-detention process. She does not seek a bond hearing; she
5 seeks release.
6

7
8 6. Petitioner has filed this Petition concurrently with a Motion for
9 Temporary Restraining Order and Order to Show Cause, the Declaration of
10 Petitioner, the Declaration of Counsel, and all supporting exhibits.
11

12 **II. JURISDICTION AND VENUE**

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14 7. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus);
15 28 U.S.C. § 1331 (federal question); Article I, Section 9, Clause 2 of the
16 United States Constitution (the Suspension Clause); the Declaratory
17 Judgment Act, 28 U.S.C. § 2201 *et seq.*; and the All Writs Act, 28 U.S.C. §
18 1651.
19

20
21 8. Petitioner is in the physical custody of Respondents at the Otay Mesa
22 Detention Center in San Diego, California. *See* Ex. H at 52-53 (ICE Online
23 Detainee Locator System Search Result).
24

25 9. Venue is proper in the Southern District of California. Under *Braden*
26 *v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973),
27 venue lies in the judicial district of physical custody — here, the Southern
28

1 District of California. Venue is also proper under 28 U.S.C. § 1391(e)
2 because Respondents are employees, officers, and agencies of the United
3 States, and because a substantial part of the events giving rise to the claims
4 — including Petitioner's arrest at Camp Pendleton, her detention at the Old
5 Town ICE office, and her current detention at Otay Mesa Detention Center
6 — occurred in the Southern District of California. *See* Ex. B at 2-11
7
8 (Declaration of Petitioner)
9

10 **III. PARTIES**

11
12 10. Petitioner Maria Haydee Palacios Ramos is a citizen and national of
13 El Salvador who has been in Respondents' immigration detention since April
14 6, 2026. *See collectively* Ex. A at 1 (Petitioner's Passport); Ex. B at 2-11
15 (Declaration of Petitioner); *See* Ex. H at 52-53 (ICE Online Detainee
16 Locator System Search Result)
17

18
19 11. Respondent Christopher LaRose is the Warden of the Otay Mesa
20 Detention Center in San Diego, California. He has immediate physical
21 custody of Petitioner. He is sued in his official capacity.
22

23 12. Respondent Patrick Divver is the Field Office Director of the San
24 Diego Field Office of Immigration and Customs Enforcement, Enforcement
25 and Removal Operations. Mr. Divver is Petitioner's immediate custodian and
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1 is responsible for Petitioner's detention and removal. He is sued in his
2 official capacity.

3
4 13. Respondent Todd Lyons is the Acting Director of Immigration and
5 Customs Enforcement, a federal law enforcement agency within the
6 Department of Homeland Security. ICE operates the immigration detention
7 system in which Petitioner is held. Mr. Lyons is a custodian of Petitioner and
8 is sued in his official capacity.

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11 14. Respondent Markwayne Mullin is the Secretary of the United States
12 Department of Homeland Security. Secretary Mullin is responsible for the
13 implementation and enforcement of the Immigration and Nationality Act,
14 and oversees ICE, which is responsible for Petitioner's detention. He has
15 ultimate custodial authority over Petitioner and is sued in his official
16 capacity.


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19 15. Respondent United States Department of Homeland Security is the
20 federal agency responsible for implementing and enforcing the Immigration
21 and Nationality Act, including the detention and removal of noncitizens.

22
23
24 16. Respondent Todd Blanche is the Acting Attorney General of the
25 United States. The Attorney General is responsible for the Department of
26 Justice, which includes the Executive Office for Immigration Review and
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28

1 the immigration court system that will adjudicate Petitioner's removal
2 proceedings. He is sued in his official capacity.

3 4 **IV. FACTUAL BACKGROUND**

5 **A. Petitioner's Twenty-One-Year Residence, Family, Employment, and** 6 **Community Ties**

7 17. Petitioner was born in El Salvador on  See Ex. A
8 at 1 (Petitioner's Passport). She entered the United States in or about 2005.
9 See Ex. B at 2-11 (Declaration of Petitioner).. This was her first and only
10 entry. She has resided continuously in the United States for approximately
11 twenty-one years. *Id.*

12
13
14 18. Petitioner's parents are deceased. *Id.* She has no siblings in the United
15 States. *Id.* She was divorced approximately ten years ago. *Id.* Petitioner has
16 three adult daughters:

17
18 a. Vanessa Abigail Orellana (age 32), a citizen of El Salvador who
19 visited Petitioner in the United States on a valid B-2 visitor visa during
20 the events described below and has since returned to El Salvador;

21
22 b. Ana Raquel Orellana Palacios (age 27), a naturalized United States
23 citizen who previously obtained asylum and subsequently naturalized;
24
25 and
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1 c. Ana Rebecca Orellana (age 27), Ana Raquel's twin sister, a Lawful
2 Permanent Resident who adjusted status through asylum. *See collectively*
3 Ex. D at 27-31 (Declaration of Support, Ana Raquel Orellana
4 Palacios));Ex. E at 32-35 (Declaration of Support, Ana Rebecca
5 Orellana)
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10 19. Petitioner is also a grandmother. She has a four-year-old United States
11 citizen granddaughter (the child of Ana Raquel), who lives with Petitioner in
12 Port Hueneme, California, and another United States citizen granddaughter
13 (the child of Ana Rebecca). *See collectively* Ex. B at 2-11 (Declaration of
14 Petitioner); Ex. D at 27-31 (Declaration of Support, Ana Raquel Orellana
15 Palacios);Ex. E at 32-35 (Declaration of Support, Ana Rebecca
16 Orellana);Ex. F at 36-50 (Residential Lease and Tenant Ledger). Petitioner
17 has also helped raise Vanessa's seven-year-old daughter — Petitioner's
18 granddaughter — during her visits to the United States. That granddaughter
19 was in the vehicle during the events of April 6, 2026. *See* Ex. B at 2-11
20 (Declaration of Petitioner).
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23

24 20. Petitioner resides in Ventura County, California, with Ana Raquel and
25 her four-year-old United States citizen granddaughter. *See collectively* Ex. B
26 at 2-11 (Declaration of Petitioner); Ex. D at 27-31 (Declaration of Support,
27
28

1 Ana Raquel Orellana Palacios) The residential lease is in Petitioner's name.
2 *See collectively* Ex. F at 36-50 (Residential Lease and Tenant Ledger); Ex. G
3 at 51 (Declaration of Landlord)
4

5 21. Since 2006 — for nearly twenty years — Petitioner has been
6 employed in food preparation at the [REDACTED]
7 [REDACTED] in Ventura. *See* Ex. I at 54-55 (Declarations of Support, [REDACTED]
8 [REDACTED]). Her employment was briefly interrupted by a pandemic-
9 era layoff, following which she was rehired. Petitioner has also worked for
10 more than five years at [REDACTED] Ex. J at 56-57 (Declaration of
11 Support, [REDACTED]). She is an active congregant at Central
12 Evangelical Church. *See* Ex. K at 58-60 (Declaration of Support, Church)
13
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16 22. Petitioner has never been arrested, charged with, or convicted of any
17 crime — in the United States or anywhere else. She has no criminal history
18 of any kind. *See* Ex. B at 2-11 (Declaration of Petitioner).
19

20 23. Before April 6, 2026, Petitioner had never previously sought any
21 immigration benefit, had never been in removal proceedings, had never been
22 previously encountered by immigration authorities, had never been placed
23 on an order of supervision or any alternative-to-detention program, and had
24 never received any prior custody determination from DHS. *Id.*
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1 **B. The Camp Pendleton Interagency Security Initiative**

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3 24. Petitioner's April 6, 2026 arrest occurred against the backdrop of a
4 formally announced interagency security initiative. On May 16, 2025,
5 Marine Corps Base Camp Pendleton announced that United States
6 Immigration and Customs Enforcement, United States Customs and Border
7 Protection, and Naval Criminal Investigative Service personnel would be co-
8 located with Marine Corps gate sentries at Camp Pendleton access points for
9 purposes of identity verification and immigration screening. *See collectively*
10 Ex. L at 61-62 (Marine Corps Base Camp Pendleton, Interagency Security
11 Initiative Press Release, May 16, 2025); Ex. M at 63-71 (Media Reporting on
12 Camp Pendleton Civilian Immigration Detentions)
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14
15

16 25. In announcing the initiative, Camp Pendleton officials acknowledged
17 that "most unauthorized access attempts are inadvertent, often caused by
18 civilian motorists unintentionally navigating to base gates due to GPS
19 misdirection." *See* Ex. L at 61-62 (Marine Corps Base Camp Pendleton,
20 Interagency Security Initiative Press Release, May 16, 2025). On
21 information and belief, numerous other civilian immigration arrests at Camp
22 Pendleton gates have occurred as a direct result of this initiative. *See* Ex. M
23 at 63-71 (Media Reporting on Camp Pendleton Civilian Immigration
24 Detentions)
25
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1 **C. The April 6, 2026 Warrantless Seizure at the Las Pulgas Gate**

2 26. On April 6, 2026, Petitioner was traveling southbound on Interstate 5
3 en route to Sea World in San Diego. She was a passenger in her own vehicle.
4 Her adult daughter Vanessa — who was visiting the United States from El
5 Salvador on a valid B-2 visitor visa — was driving. Vanessa's seven-year-
6 old daughter, Petitioner's granddaughter, who also held a valid B-2 visitor
7 visa, was in the back seat in her booster seat. *See* Ex. B at 2-11 (Declaration
8 of Petitioner).
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11 27. The family planned to exit the interstate to visit a Jersey Mike's
12 restaurant for food and a restroom break. *See collectively* Ex. B at 2-11
13 (Declaration of Petitioner); Ex. O at 75-77 (GPS Evidence). Due to
14 notoriously confusing signage in the Camp Pendleton area, Vanessa
15 inadvertently took an exit leading onto the perimeter of a United States
16 military installation. *Id.* At the time, approximately six or seven other
17 civilian vehicles were behind Petitioner's vehicle, having apparently made
18 the same navigation error. *See* Ex. B at 2-11 (Declaration of Petitioner).
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22 28. Two armed, uniformed United States Marines approached the vehicle.
23 Vanessa immediately apologized in English, explained the exit had been
24 taken in error, and requested permission to turn around. *Id.* One of the
25 Marines acknowledged, in substance, that this kind of wrong-way entry was
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1 a common civilian error. *Id.* Nevertheless, the Marines refused to permit the
2 vehicle to turn around and initiated a warrantless seizure.*Id.*

3
4 29. The Marines demanded identification from the driver. Vanessa
5 produced her own passport and B-2 visa, and the passport and B-2 visa of
6 her seven-year-old daughter. *Id.* The Marines examined the documents.
7 They then examined the vehicle's registration and insurance, representing
8 these demands as "normal procedure." *Id.*

9
10
11 30. Although the driver had produced valid identification for herself and
12 the child, and although the stated purpose of the stop was base-access
13 control, the Marines targeted Petitioner — a passenger — for further inquiry.
14 *Id.* They ordered Petitioner to exit the vehicle from the passenger side. *Id.*

15
16
17 31. When Petitioner stepped from the vehicle, her seven-year-old
18 granddaughter — frightened and seeking to remain near her grandmother —
19 began to exit the vehicle. *Id.* A Marine drew his firearm and shouted
20 commands at the child in English. *Id.* The child, who posed no conceivable
21 threat, froze. *Id.* The use of a drawn weapon directed toward a small child
22 during what began as a wrong-turn traffic encounter underscores the
23 unreasonableness of the Marines' conduct under any standard.

24
25
26 32. The Marines then asked Petitioner whether she possessed a "Real ID."
27 Petitioner answered that she did not. *Id.* Based solely on the absence of a
28

1 Real ID, the Marines contacted ICE by telephone using a Marine's personal
2 mobile phone. The Marine held it on speaker, permitting an ICE officer to
3 conduct a telephonic interrogation of Petitioner. *Id.*
4

5 33. The ICE officer asked Petitioner for her full name and date of entry.
6 *Id.* Petitioner truthfully answered that she had entered in 2005. *Id.*
7

8 Immediately upon that answer, the ICE officer in the phone explained he
9 could not find any record of her and promptly Marines handcuffed Petitioner
10 behind her back. *Id.* The Marines thereafter took fingerprints and
11 photographs of both Petitioner and her adult daughter Vanessa, a lawfully
12 admitted B-2 visitor. *Id.*
13
14

15 34. The Marines never presented any warrant — judicial or administrative
16 — for Petitioner's arrest. *Id.* They never articulated any basis for the seizure
17 other than Petitioner's admitted 2005 entry. *Id.* Before Petitioner was
18 transported, one of the Marines remarked to Vanessa, in substance: "If it
19 wasn't for your little girl, we would be taking you too." The same threat was
20 made *Id.*
21
22

23 35. This aggressive warrantless seizure stands in sharp contrast to
24 Petitioner's twenty-one-year history of peaceful residence, continuous
25 employment, and complete absence of any criminal record. *Id.*
26
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1 **D. Detention at the ICE Field Office, Old Town San Diego (April 6–7, 2026)**

2 36. Following her arrest, Petitioner was transported to the ICE field office
3 in Old Town, San Diego, where she was held from Monday, April 6 through
4 Tuesday, April 7, 2026. *See* Ex. B at 2-11 (Declaration of Petitioner). During
5 that two-day confinement, Petitioner was not provided a bed. *Id.* The holding
6 area was excessively cold. *Id.* She was provided only with a thin mylar
7 emergency blanket. *Id.*
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12 **E. Transfer to Otay Mesa Detention Center (April 8, 2026 to Present)**

13 37. On Wednesday, April 8, 2026, at approximately 7:30 p.m., Petitioner
14 was transferred to the Otay Mesa Detention Center in San Diego County,
15 California, where she remains in ICE custody. *See* Ex. B at 2-11
16 (Declaration of Petitioner). At Otay Mesa, Petitioner has been assigned to
17 the upper bunk of a bunk bed. *Id.* Because of her age and her medical
18 conditions, she is afraid of falling during the night and has been unable to
19 sleep. *See collectively* Ex. B at 2-11 (Declaration of Petitioner); Ex. C at 12-
20 26 (Medical Records). When Petitioner requested the officers to change her
21 bed to the lower bunk, the officer informed her that a transfer could not
22 occur unless another detainee left the facility or a doctor issued an order. *See*
23 Ex. B at 2-11 (Declaration of Petitioner). After several days, when she was
24 finally able to consult with a doctor and explained her fear and sleep
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1 difficulties, the doctor summarily dismissed her concerns, stating, in
2 substance, "You are not old. You are ok." *Id.*

3
4 **F. Petitioner's Medical Conditions and Inadequate Access to Care**

5 38. Petitioner suffers from three chronic medical conditions that require
6 ongoing care:

7
8 a. Severe hypercholesterolemia. Before her detention, her treating
9 physician had prescribed dietary modification and scheduled a three-
10 month follow-up for reassessment and likely initiation of lipid-lowering
11 medication. That follow-up was scheduled to occur during the period of
12 Petitioner's current detention, and Petitioner has been unable to keep it.
13 *See collectively* Ex. B at 2-11 (Declaration of Petitioner); Ex. C at 12-26
14 (Medical Records).

15
16
17 b. Chronic herpes, for which Petitioner requires ongoing prescription
18 antiviral medication. *Id.*

19
20 c. Hemorrhoids, which cause her pain and require ongoing treatment.

21
22 *Id.*

23
24 39. Since her detention, Petitioner has faced significant and continuing difficulty
25 accessing her prescribed medications when needed. *See* Ex. B at 2-11 (Declaration
26 of Petitioner). Her untreated hypercholesterolemia carries acute cardiovascular
27 risk; her inadequately managed chronic herpes carries the risk of outbreak and
28

1 complications; and her inability to sleep on the upper bunk compounds every other
2 risk. *See collectively* Ex. B at 2-11 (Declaration of Petitioner); Ex. C at 12-26
3 (Medical Records).
4

5 **G. Pervasive Denial of Language Access**

6 40. Petitioner's primary language is Spanish. She does not read or speak
7 English fluently. *See* Ex. B at 2-11 (Declaration of Petitioner). Since her
8 detention, every document served upon her by ICE and by immigration
9 officials has been provided exclusively in English. *Id.* Facility staff have not
10 provided oral translations, written translations, or explanations of these
11 materials in Spanish. *Id.* As a result, Petitioner does not fully understand the
12 charges against her, her legal rights in removal proceedings, or the deadlines
13 imposed on her. *Id.*
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16

17 41. This language barrier, combined with reports of misleading
18 information from officers and inconsistent access to medication, has left
19 Petitioner in a state of extreme disorientation and fear. *Id.*
20
21

22 **H. Immigration Court Proceedings**

23 42. Petitioner appeared at an initial Master Calendar hearing on April 14,
24 2026, where she was granted a continuance to seek counsel. Her next Master
25 Calendar hearing is scheduled for May 6, 2026. *See* Ex. N at 72-74
26 (Automated Case Information). Undersigned counsel has been retained
27
28

1 solely for purposes of this habeas corpus action; Petitioner has not yet been
2 able to retain counsel for her removal proceedings. Despite diligent efforts,
3 counsel has been unable to obtain a copy of the Notice to Appear or related
4 charging documents from Petitioner or from the government as of the filing
5 of this Petition. *See collectively* Ex. N at 72-74 (Automated Case
6 Information); Ex. S at 86-89 (Declaration of Gita B. Kapur, Esq.)
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10 V. LEGAL FRAMEWORK

11 A. Detention Authority Under 8 U.S.C. § 1226(a) and Misapplication of 8 12 U.S.C. § 1225(b)

13 43. The Immigration and Nationality Act provides distinct detention
14 authorities for distinct categories of noncitizens. Section 1226(a) authorizes
15 discretionary detention of noncitizens arrested on a warrant for removal
16 proceedings, with bond redetermination available before an Immigration
17 Judge. 8 U.S.C. § 1226(a). Section 1225(b), by contrast, authorizes
18 mandatory detention of "applicants for admission" encountered at or near the
19 border or processed at a port of entry. 8 U.S.C. § 1225(b); *see Jennings v.*
20 *Rodriguez*, 583 U.S. 281, 297–300 (2018).
21

22
23 44. On July 8, 2025, ICE issued interim guidance directing officers to
24 treat noncitizens arrested in the interior and charged under INA §
25 212(a)(6)(A)(i) as § 1225(b) detainees — a sharp break from decades of
26 practice under § 1226(a). *See* Ex. T at 90-91 (ICE Interim Guidance). The
27
28

1 Board of Immigration Appeals adopted this reading in *Matter of Yajure*
2 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), holding that Immigration Judges
3 lack jurisdiction over bond determinations for such individuals.
4

5 45. Numerous district courts have rejected this reading, holding that long-
6 term interior residents are detained under § 1226(a), not § 1225(b). *See, e.g.*,
7 *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025);
8 *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285
9 (C.D. Cal. Aug. 15, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-
10 02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Vasquez*
11 *Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal.
12 Sept. 3, 2025). The Central District of California certified a nationwide class
13 and vacated the contrary agency policy in *Maldonado Bautista v. Santacruz*
14 *Jr.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025). On March 6,
15 2026, the Ninth Circuit entered a limited administrative stay of the district
16 court's nationwide declaratory judgment and its order vacating *Matter of*
17 *Yajure Hurtado*, pending appeal, in *Maldonado Bautista v. U.S. Dep't of*
18 *Homeland Sec.*, No. 26-1044. That order does not resolve the merits and
19 leaves the district court's statutory holding fully operative within the Central
20 District of California. Recently, the Second Circuit has likewise affirmed
21 habeas relief on this ground, holding that a long-term resident who entered
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1 without inspection over twenty years ago is detained under § 1226(a), not §
2 1225(b)(2)(A). *Cunha v. Freden*, No. 25-3141-pr (2d Cir. Apr. 28, 2026)

3
4 **B. The Posse Comitatus Act and 10 U.S.C. § 275**

5
6 46. The Posse Comitatus Act provides: "Whoever, except in cases and
7 under circumstances expressly authorized by the Constitution or Act of
8 Congress, willfully uses any part of the Army, the Navy, the Marine Corps,
9 the Air Force, or the Space Force as a posse comitatus or otherwise to
10 execute the laws shall be fined under this title or imprisoned not more than
11 two years, or both." 18 U.S.C. § 1385. Congress added the Navy and the
12 Marine Corps to the PCA's direct statutory coverage in 2021. *See* Pub. L.
13 No. 117-81, § 1045(a), 135 Stat. 1904 (Dec. 27, 2021) (National Defense
14 Authorization Act for Fiscal Year 2022).

15
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17
18 47. Congress separately commanded in 10 U.S.C. § 275 that the Secretary
19 of Defense shall prescribe regulations to ensure that "any activity . . . does
20 not include or permit direct participation by a member of the Army, Navy,
21 Air Force, or Marine Corps in a search, seizure, arrest, or other similar
22 activity unless participation in such activity by such member is otherwise
23 authorized by law." 10 U.S.C. § 275 (emphasis added). The Department of
24 Defense has implemented § 275 through DoD Directive 5525.5 and DoD
25 Instruction 3025.21, which explicitly prohibit military personnel from
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1 conducting searches, seizures, arrests, or similar activities in civilian law
2 enforcement.

3
4 48. The Ninth Circuit, sitting en banc, has held that PCA and PCA-like
5 restrictions are violated where military personnel engage in "direct
6 participation" in civilian law enforcement, including investigation of civilian
7 offenses against civilian subjects. *United States v. Dreyer*, 804 F.3d 1266,
8 1273–78 (9th Cir. 2015) (en banc). Direct participation includes acting as an
9 investigator, conducting searches, and identifying subjects for civilian
10 prosecution. *Id.* at 1275–76; *see also United States v. Khan*, 35 F.3d 426,
11 431 (9th Cir. 1994); *Bissonette v. Haig*, 776 F.2d 1384 (8th Cir. 1985), *aff'd*
12 *by an equally divided Court*, 485 U.S. 264 (1988).
13
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15

16 **C. Statutory and Regulatory Limits on Warrantless Civil Immigration**
17 **Arrests**

18 49. Under 8 U.S.C. § 1357(a)(2), immigration officers may make
19 warrantless arrests for civil immigration violations only upon probable cause
20 to believe the person is in the United States in violation of immigration laws
21 and "is likely to escape before a warrant can be obtained." This dual
22 requirement demands an individualized, pre-arrest determination of flight
23 risk, not mere suspicion of unlawful presence. *See* 8 C.F.R. § 287.8(c)(2)(ii)
24 (requiring officers to base actions on "specific articulable facts" and
25 document them).
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1 50. ICE is bound by the *Castañon Nava* Broadcast Policy, stemming from
2 the settlement in *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-
3 3757 (N.D. Ill. Feb. 2, 2022). Pursuant to the Northern District of Illinois's
4 October 7, 2025 order, ICE reissued this policy nationwide on October 22,
5 2025, with instructions that it remain in effect through February 2, 2026.
6 Following subsequent enforcement proceedings, the district court held that
7 the consent decree—and the Broadcast Policy—did not expire on February
8 2, 2026, and remains in full force pending resolution of plaintiffs' motions to
9 enforce for repeated, material violations. *See Castañon Nava v. Department*
10 *of Homeland Security*, No. 18-cv-3757 (N.D. Ill. Feb. 17, 2026). The policy
11 mandates a totality-of-circumstances evaluation of escape risk before
12 warrantless arrest, including consideration of: (a) the officer's ability to
13 determine identity; (b) prior escapes or evasions; (c) attempts to flee
14 detection; and (d) community ties (family, home, employment). Mere
15 unlawful presence is insufficient
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21 **.D. Due Process Protections for Long-Term Residents**

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23 51. The Due Process Clause protects all persons within the United States,
24 including noncitizens, from arbitrary deprivations of liberty. *Zadvydas v.*
25 *Davis*, 533 U.S. 678, 693 (2001). Even for those without lawful status, long-
26 term presence in the country creates a protected interest in freedom from
27 arbitrary detention. *Cf. Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (noting
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1 a resident's 'weighty' interest in remaining in the U.S.). Procedural due
2 process requires notice and a meaningful opportunity to be heard before a
3 significant liberty deprivation, under the balancing framework of *Mathews v.*
4 *Eldridge*, 424 U.S. 319, 333–35 (1976). Substantive due process protects
5 against government conduct that "shocks the conscience." *Cnty. of*
6 *Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

9 VI. CLAIMS FOR RELIEF

10 COUNT I

11 *Violation of the Posse Comitatus Act (18 U.S.C. § 1385) and 10 U.S.C. § 275*

12 52. Petitioner realleges and incorporates by reference each allegation
13 contained in the preceding paragraphs as if set forth fully herein.

14 53. Civil immigration enforcement is civilian law enforcement for Posse
15 Comitatus Act purposes. Arrest authority for suspected immigration
16 violations is conferred exclusively on designated immigration officers and
17 employees of DHS under 8 U.S.C. § 1357 and implementing regulations at 8
18 C.F.R. § 287, including 8 C.F.R. § 287.8. No statute authorizes active-duty
19 members of the United States Marine Corps to conduct civil immigration
20 arrests of civilians in the interior of the United States, to interrogate civilians
21 regarding their immigration status, to perform immigration-related
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1 fingerprinting or photography, or to transfer civilian arrestees to ICE custody
2 based on suspected civil immigration violations.

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4 54. On April 6, 2026, two uniformed, armed United States Marines did all
5 of the above. *See* Ex. B at 2-11 (Declaration of Petitioner) They (i) effected
6 a warrantless seizure of Petitioner, a civilian passenger in a civilian vehicle
7 that had taken a wrong highway exit; (ii) conducted an interrogation of
8 Petitioner regarding her possession of a "Real ID," a line of inquiry
9 unrelated to base security and directed at her civilian immigration status; (iii)
10 initiated and facilitated a telephonic immigration interrogation by placing a
11 call to ICE and permitting an ICE officer to interrogate Petitioner through
12 the Marines' own phone; (iv) arrested Petitioner upon her truthful answer
13 about her 2005 entry, handcuffing her behind her back; (v) conducted
14 identification processing by taking her fingerprints and photographs, along
15 with those of her adult daughter Vanessa, a lawful B-2 visitor; and (vi)
16 transferred custody of Petitioner to ICE without any judicial or
17 administrative warrant. *Id.*

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23 55. This is not indirect support. The Marines initiated the seizure,
24 conducted the interrogation, made the arrest, performed booking activities,
25 and delivered the arrestee to ICE. *Id.* Under *Dreyer* and its progeny, this is
26 paradigmatic "direct participation" in civilian law enforcement. 804 F.3d at
27 1275–76.
28

1 56. No exception authorizes this conduct. The government cannot identify
2 any statute expressly authorizing Marines to conduct civilian immigration
3 arrests. The Insurrection Act, 10 U.S.C. §§ 251–255, has not been invoked.
4 The counterdrug and counter-transnational-crime authorities at 10 U.S.C. §
5 284 do not apply. The weapons-of-mass-destruction emergency authority at
6 10 U.S.C. § 282 does not apply. Petitioner was not arrested for any federal
7 felony committed in the Marines' presence; she was arrested because she
8 truthfully answered a telephonic question about her date of entry twenty-one
9 years ago. *See* Ex. B at 2-11 (Declaration of Petitioner).

13 57. The "military purpose" doctrine permits military personnel to take
14 actions whose primary purpose is the furtherance of a military function, even
15 if those actions incidentally affect civilians. *See Dreyer*, 804 F.3d at 1275.
16 That doctrine does not shield what happened here. The primary purpose of
17 the Marines' conduct on April 6, 2026 was not base security or force
18 protection — it was civil immigration enforcement. The driver had produced
19 valid identification for herself and her daughter, had apologized, and had
20 asked to turn around. *See* Ex. B at 2-11 (Declaration of Petitioner). The
21 Marines' own statements acknowledged that wrong-way entry of this kind
22 was a common civilian navigation error. *Id.* Any legitimate base-access
23 concern was resolved the moment the driver's identification was verified and
24 the vehicle could have been permitted to depart. Everything that followed —
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1 the order that Petitioner exit the vehicle, the "Real ID" inquiry, the call to
2 ICE, the telephonic immigration interrogation, the handcuffing, and the
3 processing — had no nexus to Camp Pendleton's force protection and every
4 hallmark of effecting a civilian immigration arrest.*Id.*

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7 58. Publicly reported facts confirm this characterization. The May 16,
8 2025 Camp Pendleton announcement acknowledged that "most unauthorized
9 access attempts are inadvertent, often caused by civilian motorists
10 unintentionally navigating to base gates due to GPS misdirection." *See Ex. O*
11 *at 75-77 (GPS Evidence)*. The interagency initiative has resulted in a pattern
12 of civilian immigration detentions arising from predictable civilian
13 navigation errors. *Id.* The pattern demonstrates that the program is being
14 used, in practice, to sweep civilian immigration enforcement into Marine
15 Corps gate operations — precisely what 18 U.S.C. § 1385 and 10 U.S.C. §
16 275 forbid.

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20 59. Petitioner's current detention is the direct and sole fruit of an arrest
21 effected by Marine Corps personnel in violation of 18 U.S.C. § 1385 and 10
22 U.S.C. § 275. But for the Marines' unlawful participation in her seizure,
23 interrogation, and arrest, Petitioner would not have been placed in ICE
24 custody. Where continuing detention is the direct result of an unlawful arrest
25 that violated express statutory prohibitions on military participation in
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1 civilian law enforcement, habeas relief is warranted. *See Boumediene v.*
2 *Bush*, 553 U.S. 723, 779 (2008).

3
4 **COUNT II**

5
6 ***Violation of the Fourth Amendment, 8 U.S.C. § 1357(a), and 8 C.F.R. § 287.8***

7 60. Petitioner realleges and incorporates by reference each allegation
8 contained in the preceding paragraphs as if set forth fully herein.

9
10 61. The Fourth Amendment forbids unreasonable seizures, and civil
11 immigration arrests are seizures subject to Fourth Amendment scrutiny.
12 *Gonzalez v. ICE*, 975 F.3d 788, 817 (9th Cir. 2020); *Gerstein v. Pugh*, 420
13 U.S. 103, 111–14 (1975). A warrantless civil immigration arrest must be
14 supported by probable cause that the person is a noncitizen in the United
15 States in violation of law **and** that the person is "likely to escape before a
16 warrant can be obtained." 8 U.S.C. § 1357(a)(2); 8 C.F.R. § 287.8(c)(2)(ii).

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18 62. Petitioner's seizure and arrest satisfied none of these requirements.
19 There was no warrant — judicial or administrative — of any kind. *See Ex. B*
20 at 2-11 (Declaration of Petitioner). There was no probable cause of
21 removability that existed independent of the coerced telephonic interrogation
22 conducted through a Marine's phone, an interrogation itself unlawful for the
23 reasons set forth in Count I. *Id.* There was no articulable basis for
24 concluding that Petitioner was likely to escape: she was a 53-year-old
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1 grandmother, a passenger in her own vehicle accompanied by family on a
2 family outing, with a verifiable twenty-one-year residence in Port Hueneme,
3 California, two decades of stable employment at a single employer, two
4 adult children in the United States (including a naturalized United States
5 citizen daughter with whom she resides), two United States citizen
6 grandchildren, and no criminal record of any kind. *See collectively* Ex. B at
7 2-11 (Declaration of Petitioner); Ex. D at 27-31 (Declaration of Support,
8 Ana Raquel Orellana Palacios); Ex. E at 32-35 (Declaration of Support, Ana
9 Rebecca Orellana); Ex. F at 36-50 (Residential Lease and Tenant Ledger); Ex.
10 G at 51 (Declaration of Landlord); Ex. I at 54-55 (Declarations of Support,
11 Four Points Resort Employer); Ex. P at 78-80 (Declarations of Support,
12 Hannah E. Martinez); Ex. Q at 81-83 (Declarations of Support, Omar G.
13 Martinez Jr.); Ex. R at 84-85 (Declarations of Support, Ruben Gutierrez).

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18 63. The purported "probable cause" supporting Petitioner's arrest was
19 generated entirely by the Marines' own unlawful conduct: a military demand
20 for immigration-related identification (a "Real ID"), followed by a military-
21 facilitated ICE interrogation, followed by immediate arrest based on the
22 admitted fact of a 2005 entry. *See* Ex. B at 2-11 (Declaration of Petitioner).
23 Permitting the government to bootstrap probable cause from an unlawful
24 military interrogation would read the Posse Comitatus restrictions out of the
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1 United States Code and would vitiate the Fourth Amendment's protections
2 against unreasonable seizures.

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4 64. Even under the *Castañon Nava* Broadcast Policy's totality-of-
5 circumstances test — which requires pre-arrest consideration of identity,
6 prior escapes, attempts to flee, and community ties — no officer could
7 lawfully have concluded that Petitioner posed a flight risk. Every factor
8 weighs decisively against flight risk. ICE agents acting on information
9 provided by the Marines nonetheless directed Petitioner's arrest without any
10 individualized flight-risk assessment or documentation of specific articulable
11 facts as required by statute, regulation, and binding policy.

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15 65. The Ninth Circuit has recognized an "egregious violation" exception
16 to the general rule that the exclusionary rule does not apply in civil
17 immigration proceedings. *Lopez-Rodriguez v. Mukasey*, 536 F.3d 1012,
18 1018 (9th Cir. 2008) (applying *INS v. Lopez-Mendoza*, 468 U.S. 1032
19 (1984)); *Orhorhaghe v. INS*, 38 F.3d 488 (9th Cir. 1994). The facts here are
20 egregious: an active-duty Marine officer drew a firearm on a seven-year-old
21 child — a child who was a lawfully admitted B-2 visitor to the United States
22 — to accomplish a warrantless civil immigration arrest of her
23 grandmother. *See* Ex. B at 2-11 (Declaration of Petitioner). That conduct is
24 precisely the kind of "widespread" and "bad faith" violation that takes this
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1 case outside any *Lopez-Mendoza* safe harbor. It was unreasonable,
2 disproportionate, and shocking.

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4 66. Because Petitioner's arrest violated the Fourth Amendment, 8 U.S.C. §
5 1357(a), and 8 C.F.R. § 287.8, and because her current detention is the direct
6 and sole fruit of that unlawful arrest, she is entitled to release.
7

8
9 **COUNT III**

10 ***Unlawful Detention Under 8 U.S.C. § 1225(b) — Section 1225(b) Does Not***
11 ***Reach a Never-Encountered Twenty-One-Year Interior Resident***

12 67. Petitioner realleges and incorporates by reference each allegation
13 contained in the preceding paragraphs as if set forth fully herein.
14

15 68. DHS detains Petitioner as an "applicant for admission" under 8 U.S.C.
16 § 1225(b), relying on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA
17 2025). This classification is legally erroneous.
18

19 69. Section 1225 is titled "Inspection by immigration officers; expedited
20 removal of inadmissible arriving aliens." Its structure, context, and text
21 confirm that § 1225(b) is reserved for persons encountered at or near the
22 border or processed at a port of entry. *See Jennings v. Rodriguez*, 583 U.S.
23 281, 297–300 (2018) (§ 1225(b) and § 1226 govern distinct populations).
24 Section 1225(a)(1) defines an applicant for admission as "an alien present in
25 the United States who has not been admitted or who arrives in the United
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1 States." Read in the statute's structural context, "present in the United States
2 who has not been admitted" functions as a synonym for "arriving," not as a
3 freestanding interior-detention category.
4

5 70. Petitioner does not fit anywhere within § 1225(b). She was not
6 "arriving." She was not at a port of entry. She was not encountered at or near
7 the border. She was, instead, a twenty-one-year interior resident seized on a
8 family outing on Interstate 5 in the interior of the State of California, nearly
9 100 miles from the nearest international port of entry. *See* Ex. B at 2-11
10 (Declaration of Petitioner). Her first and only contact with immigration
11 authorities occurred on April 6, 2026, nearly twenty-one years after her 2005
12 entry. *Id.* She was never paroled, never placed in expedited removal
13 proceedings, never placed on an order of supervision, never issued a Notice
14 to Appear, and never received any custody determination from DHS.
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19 71. Treating Petitioner as subject to § 1225(b) mandatory detention
20 produces a result fundamentally at odds with the statute's text and structure:
21 a person who has built a twenty-one-year life in the interior — working,
22 raising United States citizen children, contributing to her community —
23 would be treated identically to a person stopped at the physical border hours
24 after arrival. *See collectively* Ex. B at 2-11 (Declaration of Petitioner); Ex. D
25 at 27-31 (Declaration of Support, Ana Raquel Orellana Palacios); Ex. E at
26 32-35 (Declaration of Support, Ana Rebecca Orellana); Ex. G at 51
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1 (Declaration of Landlord);Ex. I at 54-55 (Declarations of Support, Four
2 Points Resort Employer);Ex. P at 78-80 (Declarations of Support, Hannah E.
3 Martinez);Ex. Q at 81-83 (Declarations of Support, Omar G. Martinez
4 Jr.);Ex. R at 84-85 (Declarations of Support, Ruben Gutierrez). The
5 Supreme Court has repeatedly emphasized that statutes must be read in their
6 entire context, with attention to structure and purpose, *King v. Burwell*, 576
7 U.S. 473, 492 (2015), and has rejected constructions that create structural
8 incoherence, *Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 485–86 (2001).
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12 72. Moreover, the canon of constitutional avoidance requires that where a
13 statute is susceptible to two readings, the one raising serious constitutional
14 doubts must yield. *See Clark v. Suarez Martinez*, 543 U.S. 371, 380–81
15 (2005); *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Reading § 1225(b) to
16 reach a twenty-one-year interior resident would raise grave due-process
17 concerns, as *Landon v. Plasencia* confirms that long-term residents enjoy
18 full due-process rights. 459 U.S. at 32–34. Constitutional avoidance forbids
19 that reading.
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23 73. Because Petitioner is not a § 1225(b) detainee, DHS's asserted
24 mandatory-detention authority collapses. And because the arrest that
25 initiated her custody was itself unlawful — having been effected by Marine
26 Corps personnel in violation of the Posse Comitatus Act and the Fourth
27 Amendment, as set forth in Counts I and II — there is no lawful basis for
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1 any continued custody. The remedy for unlawful detention premised on a
2 statutory authority that does not reach the petitioner, where the antecedent
3 arrest was itself unlawful, is release. *See Zadvydas*, 533 U.S. at 699; *Preiser*
4 *v. Rodriguez*, 411 U.S. 475, 484 (1973). Petitioner does not seek a bond
5 hearing. She seeks release.
6

7
8 **COUNT IV**

9
10 ***Matter of Yajure Hurtado Cannot Lawfully Be Extended to Sweep Never-***
11 ***Encountered Long-Term Interior Residents Into Section 1225(b) Mandatory***
12 ***Detention***

13 74. Petitioner realleges and incorporates by reference each allegation
14 contained in the preceding paragraphs as if set forth fully herein.

15 75. In *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), the
16 Board held that certain noncitizens who entered without inspection and were
17 subsequently processed may be treated as "applicants for admission" subject
18 to § 1225(b) mandatory detention. Whatever the merits of that decision on
19 its facts, it cannot be lawfully extended to Petitioner.
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21
22 76. Petitioner was never processed. She was never paroled, never
23 encountered at the border, never placed in expedited removal, never placed
24 on supervision, and never issued any prior Notice to Appear, warrant of
25 arrest, order of supervision, or custody determination. *See Ex. B at 2-11*
26 (Declaration of Petitioner) Her status on April 6, 2026 was that of a twenty-
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1 one-year interior resident who had never had any contact whatsoever with
2 immigration authorities. *Id.* To treat such a person as an "applicant for
3 admission" subject to mandatory detention is to expand § 1225(b) beyond
4 anything the statutory text or *Yajure Hurtado* itself contemplated.
5

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7 77. An agency interpretation that departs from statutory text and lacks any
8 limiting principle is entitled to no deference. *See Loper Bright Enterprises v.*
9 *Raimondo*, 603 U.S. 369 (2024) (overruling *Chevron* deference); *INS v.*
10 *Cardoza-Fonseca*, 480 U.S. 421, 446–48 (1987). To the extent DHS reads
11 *Yajure Hurtado* as authorizing § 1225(b) mandatory detention of never-
12 encountered long-term interior residents, that reading is contrary to the
13 statute and to the constitutional-avoidance principles articulated in *Clark v.*
14 *Martinez*, 543 U.S. at 381, and must be rejected.
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18 78. Numerous district courts have held that § 1226(a) — not § 1225(b)(2)
19 — governs noncitizens who were not apprehended upon arrival and who
20 have long been present in the United States. *See, e.g., Rodriguez Vazquez v.*
21 *Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No.
22 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Arrazola-*
23 *Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, 2025 WL 2379285 (C.D. Cal.
24 Aug. 15, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS
25 (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Vasquez Garcia v.*
26 *Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
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1 2025). The Central District of California certified a nationwide class of
2 noncitizens who entered without inspection, were apprehended in the
3 interior, and were not subject to other mandatory-detention provisions, in
4 *Maldonado Bautista v. Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM (C.D.
5 Cal. Dec. 18, 2025). The Second Circuit has likewise affirmed habeas relief
6 on this ground, holding that a long-term resident who entered without
7 inspection over twenty years ago is detained under § 1226(a), not §
8 1225(b)(2)(A). *Cunha v. Freden*, No. 25-3141-pr (2d Cir. Apr. 28, 2026).

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12 79. On March 6, 2026, the Ninth Circuit entered a limited administrative
13 stay of certain aspects of the class-wide relief in *Maldonado Bautista v. U.S.*
14 *Dep't of Homeland Sec.*, No. 26-1044 (9th Cir. Mar. 6, 2026), pending
15 appeal, temporarily staying the district court's nationwide declaratory
16 judgment and vacatur of *Matter of Yajure Hurtado* outside the Central
17 District of California, but leaving the judgment fully in effect within that
18 District. The district court's declaratory judgment that 8 U.S.C. § 1226(a),
19 rather than § 1225(b), governs the detention of long-term interior residents
20 remains binding within the Central District and continues to operate as
21 persuasive authority in other districts, including this Court. More
22 importantly, the Ninth Circuit's administrative stay does not address —
23 much less foreclose — the distinct statutory and constitutional theories
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28 Petitioner advances here. Even if the Court does not reach the § 1225(b) / §

1 1226(a) statutory question, the Posse Comitatus Act, Fourth Amendment,
2 and Due Process theories in Counts I, II, and VII independently entitle
3 Petitioner to release.
4

5 80. A divided panel of the Fifth Circuit in *Buenrostro-Mendez v. Bondi*,
6 166 F.4th 494 (5th Cir. Feb. 6, 2026), and a divided panel of the Eighth
7 Circuit in *Herrera Avila v. Bondi*, No. 25-3248 (8th Cir. Mar. 25, 2026),
8 have accepted DHS's expansive view of § 1225(b)(2). Those decisions are
9 not binding here, and they addressed a different statutory posture: petitioners
10 who conceded applicant-for-admission status under § 1225(a)(1). They did
11 not decide whether a long-term resident arrested in the interior by military
12 personnel, never before encountered by immigration authorities, may be
13 swept into mandatory detention without bond. Nor did they address whether
14 an unlawful arrest in violation of the Posse Comitatus Act or the Fourth
15 Amendment can support continued detention under § 1225(b)(2)(A).
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21 **COUNT V**

22 ***Violation of the Castañon Nava Broadcast Policy***

23 81. Petitioner realleges and incorporates by reference each allegation
24 contained in the preceding paragraphs as if set forth fully herein.
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26 82. Under the *Accardi* doctrine, federal agencies must follow their own
27 binding rules and policies, and departures can render agency action
28

1 unlawful. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–
2 68 (1954). ICE is bound by its *Castañon Nava* Broadcast Policy, stemming
3 from the settlement in *Castañon Nava et al. v. Dep't of Homeland Sec.*, No.
4 18-cv-3757 (N.D. Ill. Feb. 2, 2022) and reissued pursuant to the Northern
5 District of Illinois's October 7, 2025 order, with instruction that it remain in
6 effect through February 2, 2026. In February 2026, the district court held
7 that the consent decree—and the Broadcast Statement of Policy—did not
8 expire on February 2, 2026, but instead remain in full force while plaintiffs'
9 motions to enforce for repeated, material violations are pending, and ordered
10 DHS to recirculate the Broadcast Policy nationwide and to instruct that it
11 continues to govern ICE's warrantless arrests. *See Castañon Nava v.*
12 *Department of Homeland Security*, No. 18-cv-3757 (N.D. Ill. Feb. 17, 2026).
13 Accordingly, the *Castañon Nava* Broadcast Policy remained in effect on
14 April 6, 2026, the date of Petitioner's arrest.

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20 83. The *Nava* Broadcast Policy requires officers, before any warrantless
21 civil immigration arrest, to conduct a totality-of-circumstances evaluation of
22 flight risk, including consideration of: (a) the officer's ability to determine
23 identity; (b) prior escapes or evasions; (c) attempts to flee detection; and (d)
24 community ties (family, home, employment). Mere unlawful presence is
25 insufficient. Officers must document specific, particularized facts in
26 narrative form on Form I-213 as soon as practicable.
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1 84. On information and belief, the ICE officer who authorized Petitioner's
2 arrest — conducted telephonically through a Marine's phone — did not
3 consider the totality of circumstances or the required factors. *See* Ex. B at 2-
4 11 (Declaration of Petitioner). The officer had no basis to determine
5 Petitioner's identity independent of the Marines' unlawful demands;
6 Petitioner had no prior escapes or evasions (she had had no prior contact
7 with immigration authorities at all); she made no attempt to flee (she was
8 standing still at a military gate answering questions); and her community ties
9 were overwhelming — a 21-year interior resident, 20 years of single-
10 employer employment, three adult children including a naturalized USC, and
11 a four-year-old USC granddaughter living with her. *See collectively* Ex. B at
12 2-11 (Declaration of Petitioner); Ex. D at 27-31 (Declaration of Support,
13 Ana Raquel Orellana Palacios); Ex. E at 32-35 (Declaration of Support, Ana
14 Rebecca Orellana); Ex. G at 51 (Declaration of Landlord); Ex. I at 54-55
15 (Declarations of Support, Four Points Resort Employer); Ex. P at 78-80
16 (Declarations of Support, Hannah E. Martinez); Ex. Q at 81-83 (Declarations
17 of Support, Omar G. Martinez Jr.); Ex. R at 84-85 (Declarations of Support,
18 Ruben Gutierrez).

19 85. The Form I-213 and any related contemporaneous arrest
20 documentation are in Respondents' exclusive possession. Undersigned
21 counsel appears as habeas counsel only and is not Petitioner's counsel of
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1 record in her removal proceedings; counsel therefore has no independent
2 access to her A-file. *See* Ex. S at 86-89 (Declaration of Gita B. Kapur, Esq.).
3 On information and belief, based on Petitioner's account of her arrest and the
4 absence of any particularized findings in the charging documents disclosed
5 to her, the arresting officers did not document specific, particularized facts in
6 narrative form establishing the *Castañon Nava* factors — identity
7 determination, prior escapes or evasions, attempts to flee, or community ties
8 — as the Broadcast Policy requires. Petitioner reserves the right to seek
9 expedited production of the I-213 and related arrest records, and to
10 supplement this Petition upon their disclosure.
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14 86. Respondents' failure to comply with their own binding policy —
15 which ICE is obligated to follow both as a matter of agency self-regulation
16 and pursuant to the Northern District of Illinois's court order — violates the
17 *Nava* Broadcast Policy and renders Petitioner's arrest and continued
18 detention unlawful.
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22 **COUNT VI**

23 ***Violation of the Administrative Procedure Act (5 U.S.C. § 706(2))***

24 87. Petitioner realleges and incorporates by reference each allegation
25 contained in the preceding paragraphs as if set forth fully herein.
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1 88. The Administrative Procedure Act requires courts to "hold unlawful
2 and set aside agency action, findings, and conclusions found to be . . .
3 arbitrary, capricious, an abuse of discretion, or otherwise not in accordance
4 with law," or "in excess of statutory jurisdiction, authority, or limitations." 5
5 U.S.C. § 706(2)(A), (C).
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8 89. In *M-J-M-A- v. Hermosillo*, No. 6:25-cv-02011-MTK (D. Or. Feb. 4,
9 2026), the District of Oregon found "ample evidence" of a pattern and
10 practice of executing warrantless immigration arrests without pre-arrest
11 individualized determinations of flight risk, amounting to final agency action
12 likely unlawful and subject to set-aside under 5 U.S.C. § 706(2). The same
13 pattern is on display here.
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16 90. The Camp Pendleton interagency security initiative, under which
17 Petitioner was seized, constitutes final agency action within the meaning of
18 5 U.S.C. § 704. The initiative: (i) co-locates ICE, CBP, and NCIS personnel
19 with Marine Corps gate sentries; (ii) uses predictable civilian GPS-
20 misdirection navigation errors as a pipeline for identity verification and
21 immigration screening; (iii) causes Marine personnel to conduct civilian
22 immigration interrogations, arrests, and booking activities without statutory
23 authority; and (iv) delivers civilians to ICE custody without the probable-
24 cause-of-escape determinations required by 8 U.S.C. § 1357(a)(2).
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1 91. Respondents' adoption and operation of the Camp Pendleton initiative,
2 and the individual ICE decision to authorize Petitioner's arrest through a
3 Marine's telephone without individualized flight-risk assessment, are
4 arbitrary and capricious and not in accordance with law. They are also in
5 excess of statutory jurisdiction and authority — exceeding what the Posse
6 Comitatus Act, 10 U.S.C. § 275, 8 U.S.C. § 1357, and 8 C.F.R. § 287.8
7 permit. Petitioner's arrest and continued detention pursuant to this unlawful
8 agency action must be set aside under 5 U.S.C. § 706(2).
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12 **COUNT VII**

13 *Violation of the Due Process Clause of the Fifth Amendment*

14 92. Petitioner realleges and incorporates by reference each allegation
15 contained in the preceding paragraphs as if set forth fully herein.
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18 93. The Due Process Clause protects all persons within the United States,
19 including noncitizens, from arbitrary deprivations of liberty. *Zadvydas v.*
20 *Davis*, 533 U.S. 678, 693 (2001). Even for those without lawful status, long-
21 term presence in the country creates a protected interest in freedom from
22 arbitrary detention. Cf. *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (noting
23 a resident's 'weighty' interest in remaining in the U.S.). Procedural due
24 process requires notice and a meaningful opportunity to be heard before a
25 significant liberty deprivation, under the balancing framework of *Mathews v.*
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1 *Eldridge*, 424 U.S. 319, 333–35 (1976). Substantive due process further
2 protects against executive conduct that 'shocks the conscience.' *Cnty. of*
3 *Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).
4

5 94. Under *Mathews v. Eldridge*, 424 U.S. 319, 333–35 (1976), three
6 factors govern the procedural due-process analysis: (1) the private interest
7 affected; (2) the risk of erroneous deprivation under the procedures used and
8 the probable value of additional safeguards; and (3) the government's
9 interest. Each factor tips decisively in Petitioner's favor. The private interest
10 — liberty after twenty-one years of residence — is among the most
11 substantial interests the Due Process Clause protects. The risk of erroneous
12 deprivation is high, given that Petitioner received zero procedural safeguards
13 before her seizure: no warrant, no probable-cause determination, no neutral
14 decisionmaker, no notice, no opportunity to contest the basis for her seizure.
15 *See* Ex. B at 2-11 (Declaration of Petitioner). The government's interest in
16 detaining Petitioner — a 53-year-old grandmother with a 21-year clean
17 record, a stable home, and a two-decade employment history — is minimal
18 and easily served by less restrictive alternatives. *See collectively* Ex. B at 2-
19 11 (Declaration of Petitioner); Ex. D at 27-31 (Declaration of Support, Ana
20 Raquel Orellana Palacios); Ex. E at 32-35 (Declaration of Support, Ana
21 Rebecca Orellana); Ex. G at 51 (Declaration of Landlord); Ex. I at 54-55
22 (Declarations of Support, Four Points Resort Employer); Ex. P at 78-80
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1 (Declarations of Support, Hannah E. Martinez);Ex. Q at 81-83 (Declarations
2 of Support, Omar G. Martinez Jr.);Ex. R at 84-85 (Declarations of Support,
3 Ruben Gutierrez).
4

5 95. Petitioner received none of the process the Constitution requires. After
6 twenty-one years of unconditioned liberty in the interior of the United
7 States, during which she worked continuously at a single employer and
8 raised three daughters, including a U.S. citizen daughter, she was seized on a
9 family outing, handcuffed by Marines, transferred to ICE, and confined. *See*
10 *collectively* Ex. B at 2-11 (Declaration of Petitioner); Ex. D at 27-31
11 (Declaration of Support, Ana Raquel Orellana Palacios);Ex. E at 32-35
12 (Declaration of Support, Ana Rebecca Orellana);Ex. G at 51 (Declaration of
13 Landlord);Ex. I at 54-55 (Declarations of Support, Four Points Resort
14 Employer);Ex. P at 78-80 (Declarations of Support, Hannah E.
15 Martinez);Ex. Q at 81-83 (Declarations of Support, Omar G. Martinez
16 Jr.);Ex. R at 84-85 (Declarations of Support, Ruben Gutierrez). She received
17 no pre-deprivation notice. She received no pre-deprivation hearing. She has
18 not had an opportunity to be heard before any neutral decisionmaker about
19 the lawfulness of her detention.
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25 96. The deprivation has been compounded by the government's failure to
26 provide meaningful linguistic access. The charging documents served on
27 Petitioner since her detention have been exclusively in English, a language
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1 she cannot read or speak fluently. *See* Ex. B at 2-11 (Declaration of
2 Petitioner). Facility staff have not provided oral translations, written
3 translations, or explanations of these materials. *See Perez-Funez v. District*
4 *Director, INS*, 619 F. Supp. 656, 666–68 (C.D. Cal. 1985) (meaningful
5 linguistic access is a component of procedural due process in immigration
6 proceedings); *Amadou v. INS*, 226 F.3d 724, 726–28 (6th Cir. 2000).

9 97. Separate and apart from the procedural due-process violation, the
10 conduct of Respondents' agents on April 6, 2026 violates substantive due
11 process. Substantive due process prohibits government conduct that "shocks
12 the conscience." *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

14 98. A uniformed, active-duty United States Marine drawing a firearm on a
15 seven-year-old child — a lawfully admitted B-2 visitor who posed no threat
16 of any kind — to effect a civil immigration arrest of her grandmother is
17 conduct that shocks the conscience. *See* Ex. B at 2-11 (Declaration of
18 Petitioner). The child was reaching for her grandmother. *Id.* She was visibly
19 frightened. She was seven years old. *Id.* There was no imaginable threat that
20 justified the drawing of a lethal weapon. *Id.*

24 99. The Marines' further statement that they would have arrested
25 Petitioner's adult daughter Vanessa — a lawfully admitted B-2 visitor — "if
26 it wasn't for your little girl" underscores the arbitrariness and irrationality of
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1 the seizure. *Id.* The Marines had no lawful basis to arrest Vanessa; her only
2 apparent "offense" was her family relationship to Petitioner. *Id.*
3
4 Government's conduct that arbitrarily targets lawful visitors based on family
5 relationship, and that uses the presence of a small child as the only brake on
6 that arbitrary conduct, shocks the conscience.
7

8 **COUNT VIII**

9 *Unconstitutional Conditions of Confinement*

10
11 100. Petitioner realleges and incorporates by reference each allegation
12 contained in the preceding paragraphs as if set forth fully herein.
13

14 101. The Due Process Clause prohibits conditions of confinement for civil
15 detainees that are punitive or that amount to deliberate indifference to
16 serious medical needs. *Bell v. Wolfish*, 441 U.S. 520, 535 (1979); *Jones v.*
17 *Blanas*, 393 F.3d 918, 932–35 (9th Cir. 2004); *Youngberg v. Romeo*, 457
18 U.S. 307, 324 (1982).
19

20
21 102. Petitioner's conditions of confinement have violated these standards in
22 multiple respects. At the ICE field office in Old Town San Diego, Petitioner
23 was held for approximately two days without a bed, in an excessively cold
24 holding area, with only a thin mylar emergency blanket for warmth. *See Ex.*
25 *B* at 2-11 (Declaration of Petitioner). At Otay Mesa, she has been assigned
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1 to the upper bunk of a bunk bed, from which she is afraid of falling due to
2 her age and medical conditions, and she has been unable to sleep. *Id.*

3
4 103. Petitioner has had three serious chronic conditions: severe
5 hypercholesterolemia, chronic herpes (requiring ongoing prescription
6 antiviral therapy), and hemorrhoids. *See collectively* Ex. B at 2-11
7 (Declaration of Petitioner); Ex. C at 12-26 (Medical Records). These are
8 serious medical needs. *Id.* The delay and interference with her medication
9 regimen reflect deliberate indifference and carry accumulating
10 cardiovascular and infectious-disease risks. *See* Ex. B at 2-11 (Declaration
11 of Petitioner)

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15 104. Petitioner's conditions of confinement, taken together, constitute
16 unconstitutional punishment without adjudication and unconstitutional
17 deliberate indifference to serious medical needs, in violation of the Fifth
18 Amendment Due Process Clause.

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21 **VII. PRAYER FOR RELIEF**

22 WHEREFORE, Petitioner respectfully prays that this Court grant the
23 following relief:

- 24
25 1. Assume jurisdiction over this matter;

1 2. Order that Petitioner shall not be transferred outside the Southern
2 District of California, or removed from the United States, while this Petition
3 is pending;
4

5 3. Issue an Order to Show Cause requiring Respondents to show cause
6 why this Petition should not be granted within three (3) days of the Order;
7

8 4. Issue a Writ of Habeas Corpus requiring Respondents to release
9 Petitioner from custody immediately;
10

11 5. Declare that Petitioner's warrantless seizure by United States Marine
12 Corps personnel at the Las Pulgas Gate of Marine Corps Base Camp
13 Pendleton on April 6, 2026 violated the Posse Comitatus Act, 18 U.S.C. §
14 1385, and 10 U.S.C. § 275;
15

16 6. Declare that Petitioner's warrantless seizure violated the Fourth
17 Amendment, 8 U.S.C. § 1357(a), and 8 C.F.R. § 287.8;
18

19 7. Declare that Petitioner's warrantless arrest without individualized
20 assessment of flight risk violated the *Castañon Nava* Broadcast Policy;
21

22 8. Declare that Respondents' operation of the Camp Pendleton
23 interagency security initiative and the agency action authorizing Petitioner's
24 arrest constitute final agency action that is arbitrary, capricious, not in
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1 accordance with law, and in excess of statutory authority, in violation of 5
2 U.S.C. § 706(2);

3
4 9. Declare that Petitioner is not an "applicant for admission" subject to
5 mandatory detention under 8 U.S.C. § 1225(b);

6
7 10. Declare that Petitioner's deprivation of liberty through unlawful
8 arrest, classification, and detention violates the Procedural and Substantive
9 Due Process Clauses of the Fifth Amendment;

10
11 11. Declare that Petitioner's conditions of confinement violate the Fifth
12 Amendment Due Process Clause;

13
14 12. Enjoin Respondents from re-detaining Petitioner, absent exigent
15 circumstances, without first providing her with written notice and a pre-
16 detention hearing before a neutral adjudicator, at which the government
17 bears the burden, by clear and convincing evidence, to establish that
18 Petitioner poses a danger to the community or a risk of flight and that no less
19 restrictive alternative can reasonably ensure her appearance and community
20 safety;
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1 13. Award Petitioner reasonable attorneys' fees and costs under the
2 Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, and on any
3 other basis justified under law; and
4

5 14. Grant such other and further relief as this Court deems just and
6 proper.
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10 DATED: April 29, 2026

Respectfully submitted,

11
12 /s/ Gita B. Kapur
13 Gita B. Kapur, Esq.
14 Attorney for Petitioner
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

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3 I, Gita B. Kapur, Esq., represent Petitioner Maria Haydee Palacios Ramos
4 and submit this Verification on her behalf pursuant to 28 U.S.C. § 2242, which
5
6 permits a habeas petition to be "signed and verified by the person for whose relief
7 it is intended or by someone acting in his behalf."
8

9 I have personally reviewed the foregoing Petition for Writ of Habeas Corpus
10 with Petitioner, including through a video conference and a phone call with her at
11 the Otay Mesa Detention Center on April 24, 2026 and April 28, 2026, with the
12 assistance of a qualified Spanish-language interpreter. Petitioner affirmed the
13 factual statements set forth in the Petition and authorized its filing on her behalf.
14
15

16 I hereby verify that the factual statements made in the foregoing Petition for
17 Writ of Habeas Corpus are true and correct to the best of my knowledge,
18 information, and belief based on my communications with Petitioner, my review of
19 the concurrently filed Declaration of Petitioner, and my review of the exhibits
20 attached to the Petition.
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1 I declare under penalty of perjury under the laws of the United States of
2 America that the foregoing is true and correct.

3
4 Executed on April 29, 2026, at Los Angeles, California.

5
6 /s/ Gita B. Kapur

7 Gita B. Kapur, Esq.
8 Attorney for Petitioner
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on **April 29, 2026**, I caused a true and correct copy of the foregoing **PETITION FOR WRIT OF HABEAS CORPUS** to be served by electronic mail upon the following:

Erin Dimbleby
Chief, Civil Division
United States Attorney's Office, Southern District of California
880 Front Street, Room 6293
San Diego, CA 92101
Email: Erin.Dimbleby@usdoj.gov

As OPLA prosecutes the underlying removal case against Petitioner, I also served a copy by mail upon:

Immigration and Customs Enforcement
Office of the Principal Legal Advisor (OPLA)
880 Front Street, Suite 2246
San Diego, CA 92101

/s/ Gita B. Kapur

Gita B. Kapur, Esq.
Attorney for Petitioner