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4
5 **UNITED STATES DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
6 **SAN DIEGO**

7 Maria Luisa SANCHEZ HIDALGO,
Petitioner,

Case No. '26CV3363 TWR GC

Agency No. 

8 v.

9 Todd Blanche, Acting Attorney General
of the United States, Department of
10 Justice;

11 Markwayne Mullin, Secretary of
Homeland Security;

12 David J. Venturella, Senior Official
13 Performing the Duties of the Director of
U.S. Immigration and Customs
14 Enforcement;

15 Patrick Divver, Field Office Director of
the San Diego Immigration and Customs
16 Enforcement Office;

17 Jorge Velarde, Assistant Field Office
Director of the Immigration and Customs
18 Enforcement, Otay Mesa Detention
Center;

19 Christopher J. LaRose; Senior Warden,
20 Otay Mesa Detention Center;

**PETITION FOR WRIT OF
HABEAS CORPUS BY A
PERSON IN FEDERAL
CUSTODY UNDER
28 U.S.C. § 2241 AND ORDER TO
SHOW CAUSE**

1 Respondents.

2 **INTRODUCTION**

- 3 1. Petitioner, Maria Luisa Sanchez Hidalgo  (hereinafter “Petitioner”
4 or “Mrs. Sanchez”), alleges she has been detained unjustly in violation of his U.S.
5 Constitutional right to liberty and due process of law. Additionally, that she has
6 been detained without access to a bond hearing. Therefore, she requests this court
7 make an order to show cause and that she may not be transferred during the
8 pendency of this petition.
9 2. Petitioner prefers not to file a temporary restraining order given the clear legal
10 precedent in this case substantiating Petitioner’s claims, and would instead request
11 Respondents be required to provide a response within three days or alternatively
12 timing pursuant to Chief Judge Order No. 144.

13 **JURISDICTION**

- 14 3. This action arises under the Constitution of the United States and the Immigration
15 and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
16 4. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
17 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States
18 Constitution (Suspension Clause).
19 5. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et*
20 *seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs
21 Act, 28 U.S.C. § 1651.

1 6. The provisions in 8 U.S.C. §§ 1252(g) and 1252(b)(9) do not strip this Court of
2 jurisdiction. Petitioner is not contesting the commencement or adjudication of
3 removal proceedings against him, nor is he raising an issue with respect to the
4 execution of removal. Petitioner does challenge his re-detention and prolonged
5 detention. The petition is independent of the removal proceedings and all
6 questions related to the commencement of removal proceedings or any part of the
7 removal process. “[C]laims that are independent of or collateral to the removal
8 process do not fall within the scope of § 1252(b)(9).” *J.E.F.M. v. Lynch*, 837 F.3d
9 1026, 1032 (9th Cir. 2016). Additionally, Section 1252(g) “does not prohibit
10 challenges to unlawful practices merely because they are in some fashion
11 connected to removal orders.” *Ibarra-Perez v. United States*, 154 F.4th 989, 997
12 (9th Cir. 2025). Thus, this Court is not stripped of jurisdiction by Sections 1252(g)
13 and 1252(b)(9).

14 VENUE

15 7. Venue is proper because Petitioner is detained at the Otay Mesa Detention Center
16 in the County of San Diego, which is within the jurisdiction of this District. When
17 she was not detained, she lived with her family in San Diego, California. Further,
18 a substantial part of the events or omissions giving rise to her claims occurred in
19 this District and no real property is involved in this action. 28 U.S.C. § 1391(e).

20 REQUIREMENTS OF 28 U.S.C. § 2243

21 8. The Court must grant the petition for writ of habeas corpus or issue an order to

1 show cause (OSC) to the respondents “forthwith,” unless the petitioner is not
 2 entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court
 3 must require respondents to file a return “within *three days* unless for good cause
 4 additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

5 9. Courts have long recognized the significance of the habeas statute in protecting
 6 individuals from unlawful detention. The Great Writ has been referred to as
 7 “perhaps the most important writ known to the constitutional law of England,
 8 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
 9 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

10 PARTIES

11 *Petitioner*

12 10. Petitioner, Mrs. Sanchez, is a Mexican national who is in custody at the Otay
 13 Mesa Detention Center located at 7488 Calzada De La Fuente, San Diego, CA
 14 92154. She is in the custody, and under the direct control, of Respondents and
 15 their agents.

16 *Respondents*

17 11. Respondent Todd Blanche, Acting U.S. Attorney General, is sued in their official
 18 capacity as the Attorney General of the United States and the senior official of the
 19 U.S. Department of Justice (“DOJ”). In that capacity, they have the authority to
 20 adjudicate removal cases and to oversee the Executive Office for Immigration
 21 Review (“EOIR”), which administers the immigration courts and the Board of

1 Immigration Appeals. Respondent U.S. Attorney General is a legal custodian of
2 Petitioner.

3 12. Respondent Markwayne Mullin, Secretary of U.S. Department of Homeland
4 Security (“DHS”), is sued in their official capacity as the Secretary of the DHS. In
5 this capacity, Respondent Secretary is responsible for the implementation and
6 enforcement of the Immigration and Nationality Act, and oversees U.S.
7 Immigration and Customs Enforcement (“ICE”), the component agency
8 responsible for Petitioner’s detention and custody. Respondent Secretary is a legal
9 custodian of Petitioner.

10 13. Respondent David J. Venturellas is sued in his official capacity as the Senior
11 Official Performing the Duties of the Director ICE. Respondent Venturellas is the
12 legal custodian of Petitioner.

13 14. Respondent Patrick Divver is sued in his official capacity as the Field Office
14 Director of the San Diego ICE Office. Respondent Divver is a legal custodian of
15 Petitioner and has authority to release him.

16 15. Respondent Jorge Velarde is sued in his official capacity as Assistant Field Office
17 Director of the ICE at the Otay Mesa Detention Center. Respondent Velarde is a
18 legal custodian of Petitioner and has direct authority to release him.

1 16. Respondent Christopher J. LaRose is sued in his official capacity as the Senior
2 Warden, Otay Mesa Detention Center. Respondent LaRose is the direct physical
3 custodian of Petitioner and has direct authority to release him.

4 **STATEMENT OF FACTS**

5 17. Mrs. Sanchez is first and foremost a beloved mother of three children, one
6 Mexican and one U.S. citizen who are adults, and one 13-year-old U.S. citizen
7 survivor of Leukemia. Ex. A, Declaration of Tessa Cabrera, ¶ 26. She is a 50-year-
8 old national of Mexico who has resided in the United States since approximately
9 March 2001. Ex. A, ¶ 5. She initially entered the United States in approximately
10 March 2001, and last entered the United States in May 2010, both times without
11 inspection. *Id.*; *see also* Ex. B, Notice to Appear (“NTA”).

12 18. Mrs. Sanchez is a survivor of domestic violence which is why she hired our office
13 in 2024, to prepare and file an application for U nonimmigrant status with U.S.
14 Citizenship and Immigration Services. Ex. A, ¶ 2, 24. Her application for U
15 nonimmigrant status has been pending since February 3, 2025, following
16 certification of her helpfulness to law enforcement by a California Superior Court
17 Judge. *Id.* at ¶ 25.

18 19. Mrs. Sanchez has no criminal record. *Id.* at ¶ 27.

19 20. On May 14, 2026, Mrs. Sanchez’s unlawful detention began when she was on her
20 way to a church event in Corona, California, riding in a car driven by a close
21 friend. *Id.* at ¶ 6. There were two other passengers in the car along with Mrs.

1 Sanchez and the driver. *Id.* All passengers were Hispanic. *Id.* The car was stopped
2 by U.S. immigration officers while driving along Interstate 15 for an undisclosed
3 reason. *Id.* According to Mrs. Sanchez's account provided to counsel, the only
4 questions once stopped were related to immigration status. *Id.* Mrs. Sanchez and
5 one other passenger were taken into custody. *Id.* at ¶ 7.

6 21. It is believed Mrs. Sanchez was taken first to the Murrieta Border Patrol Station
7 where she was able to make one phone call, but she was held in incommunicado
8 from that moment until May 20, 2026. *Id.* at ¶¶ 8 – 19. Counsel's office repeatedly
9 and consistently attempted to locate her. *Id.* Her location was not displayed in the
10 ICE Detainee Locator System¹ online. *Id.* at ¶¶ 9, 13, 17, and 19.

11 22. Not only was Petitioner's location unknown to Counsel, but also it appears her
12 location was unknown to DHS. On May 19, 2026, after ICE Officer Richardson at
13 the San Diego ICE office in Downtown San Diego could not locate Mrs. Sanchez
14 in the basement of the building where initially he had indicated she would be, he
15 told Attorney Cabrera who went there in person that Mrs. Sanchez was never in
16 ICE custody and that she would be transferred to McAllen, Texas, by Border
17 Patrol. *Id.* at ¶¶ 13 – 15.

18 23. Counsel's office began to prepare a pro bono habeas petition to simply locate
19 Mrs. Sanchez, but ultimately her location was confirmed when she made a call
20 from the Otay Mesa Detention Center before Counsel could file a petition.

21 ¹ Accessible here: <https://locator.ice.gov/odls/#/search>.

1 24. Border Patrol officers allegedly served Mrs. Sanchez a Notice to Appear on May
2 15, 2026, dated May 14, 2026, indicating Mrs. Sanchez had a hearing scheduled at
3 the Otay Mesa Detention Center on May 26, 2026, yet no officer at DHS could
4 confirm her location on May 15 or 16. Ex. B.

5 25. DHS has alleged that Mrs. Sanchez is removable for being present in the United
6 States without inspection and admission or parole pursuant to 8 U.S.C.
7 1182(a)(6)(A)(i) and that she is not in possession of a valid unexpired immigration
8 document. *Id.*

9 26. Mrs. Sanchez is a loving mother who qualifies for relief from removal
10 proceedings pursuant to 8 U.S.C. 1229b(b)(1) (cancellation for removal for certain
11 non-permanent residents). She meets all requirements, including presence in the
12 United States for 10 years, at least 10 years of good moral character, and her 13-
13 year-old U.S. citizen daughter will suffer exceptional and extremely unusual
14 hardship without her.

15 27. Therefore, upon consideration of the legal bases below, Petitioner requests this
16 court issue a habeas order requiring she be immediately released from custody
17 because there is no basis for her continued detention following an unlawful arrest
18 or that she be provided a lawful bond hearing before a fair, neutral, and open-
19 minded arbiter.

20 **LEGAL FRAMEWORK**

1 28. The Immigration and Nationality Act (“INA”) prescribes three basic forms of
2 detention for the vast majority of noncitizens in removal proceedings conducted
3 pursuant to 8 U.S.C. § 1229a. The INA provides for mandatory detention of
4 noncitizens subjected to an expedited removal order imposed pursuant to 8 U.S.C.
5 § 1225(b)(1) and for certain other noncitizen applicants for admission to the U.S.
6 who are deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2).

7 29. Immigration detention “has two regulatory goals: ensuring the appearance of
8 [noncitizens] at future immigration proceedings and preventing danger to the
9 community.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (internal citations
10 omitted); *see also* 8 U.S.C. 1226(a), (b); 8 C.F.R. 1236.1(c)(8).

11 30. The Constitution establishes due process rights for “all ‘persons’ within the
12 United States, including [noncitizens], whether their presence here is lawful,
13 unlawful, temporary, or permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990
14 (9th Cir. 2017) (quoting *Zadvydas v. Davis*, 533 U.S. 678 (2001)). These due
15 process rights are both substantive and procedural.

16 31. “The touchstone of due process is protection of the individual against arbitrary
17 action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including
18 “the exercise of power without any reasonable justification in the service of a
19 legitimate government objective.” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833,
20 846 (1998).

1 32. These protections extend to noncitizens facing detention, as “[i]n our society
2 liberty is the norm, and detention prior to trial or without trial is the carefully
3 limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).
4 Accordingly, “[f]reedom from imprisonment—from government custody,
5 detention, or other forms of physical restraint—lies at the heart of the liberty that
6 [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

7 33. Substantive due process thus requires that all forms of civil detention—including
8 immigration detention—bear a “reasonable relation” to a non-punitive purpose.
9 *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has
10 recognized only two permissible non-punitive purposes for immigration detention:
11 ensuring a noncitizen’s appearance at immigration proceedings and preventing
12 danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*,
13 538 U.S. 510, 519–20, 527–28, 31 (2003).

14 34. Generally, “the Constitution requires some kind of a hearing *before* the State
15 deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127
16 (1990) (emphasis added). This is so even in cases where that freedom is lawfully
17 revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d at 683 (citing *Young v. Harper*, 520
18 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision
19 requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)

1 (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in
2 parole context).

3 35. The Fourth Amendment guarantees “[t]he right of the people to be secure in their
4 persons, houses, papers, and effects, against unreasonable searches and seizures
5” U.S. Const. amend. IV. “The touchstone of the Fourth Amendment is
6 reasonableness” *United States v. Knights*, 534 U.S. 112, 118, 122 S.Ct. 587,
7 151 L.Ed.2d 497 (2001). This is “generally assessed by carefully weighing ‘the
8 nature and quality of the intrusion on the individual’s Fourth Amendment interests
9 against the importance of the governmental interests alleged to justify the
10 intrusion.’ ” *County of Los Angeles v. Mendez*, 581 U.S. 420, 427, 137 S.Ct. 1539,
11 198 L.Ed.2d 52 (2017) (quoting *Tennessee v. Garner*, 471 U.S. 1, 8, 105 S.Ct.
12 1694, 85 L.Ed.2d 1 (1985)). Overall, reasonableness is an objective inquiry that
13 “is evaluated by looking at the ‘totality of the circumstances.’ ” *Case v. Montana*,
14 607 U.S. —, 146 S. Ct. 500, 508, — L.Ed.2d — (2026) (first quoting
15 *Barnes v. Felix*, 605 U.S. 73, 80, 145 S.Ct. 1353, 221 L.Ed.2d 751 (2025); and
16 then quoting *Ohio v. Robinette*, 519 U.S. 33, 39, 117 S.Ct. 417, 136 L.Ed.2d 347
17 (1996)).

36. Even should Petitioner's detention be deemed permissible, she remains eligible for a bond hearing for the same reasons provided in *Maldonado Bautista*², that Section 1226(a) governs the detention of noncitizens "inside the United States" and "present in the country." *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018).

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fourth Amendment and 8 C.F.R. § 287.8(b)(2): Unlawful Detention Without Reasonable Suspicion

37. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

38. Respondents detained Petitioner without reasonable suspicion.

39. Respondents impermissibly relied on Petitioner's race as a basis for stopping the car with three passengers³ and then detaining her at that time when she has been known by DHS to be in the United States since at least February 2025. DHS had the opportunity to issue a warrant for her arrest. It is unreasonable for DHS to

² Notably, on March 6, 2026, the U.S. Court of Appeals for the Ninth Circuit granted an administrative stay of the *Maldonado Bautista* decision "insofar as the district court's judgment extends beyond the Central District of California." *Maldonado Bautista, et al. v. United States Department of Homeland Security, et al.*, No. 26-1044, ECF No. 5 (9th Cir. March 6, 2026).

³ Counsel is presently working to obtain declarations from the passengers in the car to verify firsthand the reason given for the stop but felt it necessary to file the Petition as soon as possible given the egregious circumstances surrounding Petitioner's unlawful arrest and detention and the needs of her family for reunification.

1 have arrested and detained her at an unlawful stop and held her incommunicado
2 for seven days, all while her location has been known for over a year.

3 40. Respondents' detention of Petitioner violated the Fourth Amendment and the
4 regulations at 8 C.F.R. § 287.8(b)(2).

5 **COUNT TWO**
6 **Violation of Fourth Amendment and 8 C.F.R. § 287.8(c)(2):**
7 **Unlawful Arrest Without Probable Cause**

8 41. Petitioner repeats, re-alleges, and incorporates by reference each and every
9 allegation in the preceding paragraphs as if fully set forth herein.

10 42. Respondents arrested Petitioner without probable cause.

11 43. Respondents impermissibly relied on Petitioner's race as a basis for stopping the
12 car and then detaining her at that time when she has been known by DHS to be in
13 the United States since at least February 2025. DHS had the opportunity to issue a
14 warrant for her arrest. It is unreasonable for DHS to have arrested and detained
15 her at an unlawful stop and held her incommunicado for seven days, all while her
16 location has been known for over a year.

17 44. Respondents' arrest of Petitioner violated the Fourth Amendment and the
18 regulations at 8 C.F.R. § 287.8(c)(2).

19 **COUNT THREE**
20 **Violation of 8 U.S.C. § 1357(a)(2): Warrantless Arrests Without**
21 **Probable Cause of Flight Risk**

1 45. Petitioner repeats, re-alleges, and incorporates by reference each and every
2 allegation in the preceding paragraphs as if fully set forth herein.

3 46. Respondents arrested Petitioner without probable cause and without a warrant.
4 Petitioner has been known by DHS to be in the United States since at least
5 February 2025. DHS had the opportunity to issue a warrant for her arrest. It is
6 unreasonable for DHS to have arrested and detained her at an unlawful stop and
7 held her incommunicado for seven days, all while her location has been known for
8 over a year.

9 47. Before the arrest, Respondents failed to make an individualized finding of flight
10 risk. The failure to meet these requirements is a violation of 8 U.S.C. §
11 1357(a)(2).

12 **COUNT FOUR**
13 **Violation of 8 C.F.R. § 287.8(c)(2)(ii): Warrantless Arrests**
14 **Without Reason to Believe of Flight Risk**

15 48. Petitioner repeats, re-alleges, and incorporates by reference each and every
16 allegation in the preceding paragraphs as if fully set forth herein.

17 49. Respondents arrested Petitioner without a warrant and without “reason to believe”
18 that she was “likely to escape before a warrant can be obtained” in violation of 8
19 C.F.R. § 287.8(c)(2)(ii). Notably, Petitioner provided her home address to DHS
20 when she filed her U Nonimmigrant application in February 2025. She lives with
21 her husband and 13-year-old U.S. citizen daughter who is a survivor leukaemia,

1 which means she has ongoing and regular doctors' appointments for her daughter,
2 which demonstrates an additional tie to the San Diego community where she gains
3 treatment. There are no reasonable facts in this case that would justify arrest and
4 detention here.

5 50. Arrest in violation of the regulation is unlawful. *See Sanchez v. Sessions*, 904 F.3d
6 643, 650 (9th Cir. 2018); *Perez Cruz v. Barr*, 926 F.3d 1128, 1137 (9th Cir. 2019).

7 CLAIM FIVE

8 Violation of the Fifth Amendment to the United States Constitution (Substantive Due Process – Detention)

9 51. Petitioner incorporates by reference the allegations of fact set forth in the
10 preceding paragraphs.

11 52. The Due Process Clause of the Fifth Amendment protects all "person[s]" from
12 deprivation of liberty "without due process of law." U.S. Const. amend.
13 V. "Freedom from imprisonment—from government custody, detention, or other
14 forms of physical restraint—lies at the heart of the liberty that [the Due Process]
15 Clause protects." *Zadvydas*, 533 U.S. at 690.

16 53. Immigration detention is constitutionally permissible only when it furthers the
17 government's legitimate goals of ensuring the noncitizen's appearance during
18 removal proceedings and preventing danger to the community. *See id.*

19 54. Numerous California district courts are finding immediate release for individuals
20 who have a protected liberty interest when previously released from custody.

1 “[E]ven when ICE has the initial discretion to detain or release a noncitizen
2 pending removal proceedings, after that individual is released from custody she
3 has a protected liberty interest in remaining out of custody.” *Pinchi v. Noem*, 792
4 F. Supp 3d 1025, 1032 (N.D. Cal. 2025) (citing *Romero v. Kaiser*, No. 22-cv-
5 02508, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022); *Jorge M. F. v.*
6 *Wilkinson*, No. 21-cv-01434, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021);
7 *Ortiz Vargas v. Jennings*, No. 20-cv-5785, 2020 WL 5074312, at *3 (N.D. Cal.
8 Aug. 23, 2020); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019)).

9 55. Many courts in this district have joined a number of district courts to recognize
10 that noncitizens have a significant liberty interest in “continued freedom after
11 release on own recognizance,” *Alegria Palma v. Larose*, No. 25-cv-1942-BJC-
12 MMP, ECF No. 14, at *6 (S.D. Cal. Aug. 11, 2025) (emphasis added), and in
13 “freedom from imprisonment” after “the government grants a [noncitizen] parole
14 into the country,” *Sanchez v. LaRose*, No. 25-CV-2396-JESMMP, 2025 WL
15 2770629, at *3 (S.D. Cal. Sept. 26, 2025) (emphasis added). *See also Miguel v.*
16 *Bondi et al.*, 26-CV-1636 JLS (SBC) (S.D. Cal. Mar. 27, 2026) (“Petitioner has a
17 protected liberty interest in remaining out of custody.”); *Prieto-Cordova*, No. 25-
18 cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Faizyan v.*
19 *Casey*, No. 25-cv-02884-RBM-JLB, 2025 WL 3208844 (S.D. Cal. Nov. 17,
20 2025); *Ramazan M. v. Andrews*, No. 25-cv-01356-KES-SKO (HC), 2025 WL

1 3145562 (E.D. Cal. Nov. 20, 2025); *Gomez Vilela v. Robbins*, No. 25-cv-01393-
2 KES-HBK (HC), 2025 WL 3101334 (E.D. Cal. Nov. 6, 2025); *Pablo Sequen v.*
3 *Albarran*, No. 25-cv-06487-PCP, 2025 WL 2935630 (N.D. Cal. Oct. 15, 2025);
4 *Hyppolite v. Noem*, No. 24-cv-4304 (NRM), 2025 WL 2829511 (E.D. N.Y. Oct. 6,
5 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D.
6 Tex. Sept. 22, 2025); *Ramirez Tesara v. Wamsley*, No. 25-cv-01723-MJPTLF,
7 2025 WL 2637663 (W.D. Wash. Sept. 12, 2025); *E.A. T.-B. v. Wamsley*, No. C25-
8 1192-KKE, 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025).

9 56. Here, while Petitioner has not previously been in custody by DHS, Petitioner is
10 not a flight risk or danger to the community, as evidenced by her complete lack of
11 criminal record and significant ties to the U.S. community through her U.S. citizen
12 daughter who relies on regular review of her health given her infant leukemia
13 diagnosis. Moreover, given she has affirmatively filed for status through the U
14 nonimmigrant application process and has been known to DHS to be in the United
15 States since at least February 2025, DHS had the opportunity to issue a warrant
16 for her arrest. It is unreasonable for DHS to have arrested and detained her at an
17 unlawful stop and held her incommunicado for seven days, all while her location
18 has been known to DHS for over a year. Accordingly, Petitioner is being detained
19 in violation of the Due Process Clause of the Fifth Amendment.

20 **CLAIM THREE**
21 **Violation of the INA - 8 U.S.C. 1226(a)**

1 57. Petitioner repeats, re-alleges, and incorporates by reference each and every
2 allegation in the preceding paragraphs as if fully set forth herein.

3 58. In an alternative claim for relief, Petitioner is entitled to consideration for release
4 on bond under 8 U.S.C. § 1226(a). The immigration courts have been instructed to
5 follow the decision in *Matter of Yajure Hurtado*, an administrative decision that
6 goes against longstanding law defining who is eligible for a bond hearing. *Matter*
7 *of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) (holding a person who enters the
8 United States without inspection is subject to mandatory detention under 8 U.S.C.
9 § 1225(b)(2)(A)). On this basis, Petitioner has been unable to request a bond
10 hearing.

11 59. Petitioner was not “seeking admission” at the time of her entry to the United
12 States, so her detention is governed by section 1226(a). *See, e.g., Arias Torres v.*
13 *Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025);
14 *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D.
15 Cal. Oct. 30, 2025); *Beltran v. Noem*, No. 25cv2650-LL-DEB, 2025 WL 3078837
16 (S.D. Cal. Nov. 4, 2025); *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal. 2025);
17 *Esquivel-Ipina v. LaRose*, No. 25-CV-2672 JLS (BLM), 2025 WL 2998361 (S.D.
18 Cal. Oct. 24, 2025); *Lucas-Miguel v. LaRose*, No. 25-cv-3022-RSH-JLB, 2025
19 WL 3251580 (S.D. Cal. Nov. 21, 2025); *Vasquez-Diaz v. LaRose*, No. 25-cv-
20 3038-TWR-JLB, ECF No. 6 (S.D. Cal. Nov. 13, 2025); *Cardoso v. LaRose*, No.

25-cv-3043-BJC-VET, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Maceda-Garcia v. Noem*, No. 25-cv-2968-JO-JLB, ECF No. 9 (S.D. Cal. Nov. 13, 2025); *A.S. v. LaRose*, No. 25-cv-2876-RBM-VET, ECF No. 9 (S.D. Cal. Nov. 19, 2025); *Prieto-Cordova v. LaRose*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025); *Lagarda-Vega v. Noem*, No. 25-cv-2970-GPC-DDL, 2025 WL 3558931 (S.D. Cal. Dec. 11, 2025); *Nayyer v. LaRose*, No. 25-cv-3111-AGS-DDL, ECF No. 7 (S.D. Cal. Dec. 12, 2025); *Amaya v. Noem*, No. 25cv2892-BTM-DEB, 2025 WL 3182998 (S.D. Cal. Nov. 13, 2025).

60. By denying Petitioner a bond hearing under § 1226(a) and asserting that she is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA.

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Issue an order preventing Respondents from transferring Petitioner away from the Otay Mesa Detention Center, the closest detention center to counsel's office and Petitioner's family;
- 3) Issue an order to show cause and require a response within three days from Respondents as to why this petition should not be granted, pursuant to 28 U.S.C. § 2243 or another timeline so determined by the Court;

- 1 4) Declare that Petitioner's arrest and detention is unlawful;
- 2 5) Issue a writ of habeas corpus requiring Respondents to immediately release
- 3 Petitioner; or in the alternative that EOIR must provide a bond hearing before a
- 4 fair, neutral, open-minded arbiter, or release Petitioner immediately;
- 5 6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
- 6 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law;
- 7 and
- 8 7) Grant any other and further relief that this Court deems just and proper.

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10 Dated: June 2, 2026

Respectfully submitted,

11 /s/ Leah L. Chavarria
12 Leah L. Chavarria
13 Counsel for Petitioner
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Maria Luisa Sanchez Hidalgo, and submit this verification on her behalf. I hereby verify under penalty of perjury under the laws of the United States and the State of California that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 2nd day of June, 2026.

/s/ Leah L. Chavarria
Leah L. Chavarria
Counsel for Petitioner