Caroline Matthews, Esq.
Pathways to Citizenship
120 Stevens Avenue
Solana Beach, CA 92075
caroline@pathwayssd.org

Pro Bono Attorney for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CASTELLANOS-ABADILLO, VELVETT NAHOMI, Petitioner,

v.

CHRISTOPHER J. LAROSE, Warden at California City Detention Center; **GREGORY J. ARCHAMBEAULT**, San Diego Field Office Director ICE Enforcement Removal Operations; **TODD M. LYONS,** Acting Director, Immigration and Customs Enforcement. **MARKWAYNE MULLIN,** Secretary of the Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; **TODD BLANCHE**, Attorney General of the United States; U.S. IMMIGRATION CUSTOMS ENFORCEMENT; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Respondents

CIVIL CASE NO.: '26CV3621 CAB AHG

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

Agency No: [redacted]

Expedited Hearing Requested

TABLE OF CONTENTS

Page(s)

I. INTRODUCTION 5
II. JURISDICTION 6
III. VENUE 7
IV. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243 7
V. PARTIES 8
VI. LEGAL FRAMEWORK 9
VII. EXHAUSTION OF REMEDIES 17
VIII. FACTUAL BACKGROUND 20
IX. CLAIMS FOR RELIEF 22
X. PRAYER FOR RELIEF 26
XI. CONCLUSION 27

TABLE OF AUTHORITIES

Page(s)

Constitutional Provisions

Article I, § 9, cl. 2 of the United States Constitution 5

Statutes

28 C.F.R. § 35.13 13
28 C.F.R. § 39.130 13
28 U.S.C. § 1331 6
28 U.S.C. § 1391 7
28 U.S.C. § 1651 7
28 U.S.C. § 2201 7
28 U.S.C. § 2241 ..... passim
28 U.S.C. § 2243 ..... 7, 11
29 U.S.C. § 794 ..... 12, 13
45 C.F.R. § 84.4 14
5 U.S.C. § 706 23
6 C.F.R. § 15.30 ..... 12, 13
8 C.F.R. § 1236.1 ..... 16, 23
8 U.S.C. § 1101 6
8 U.S.C. § 1226 ..... 15, 16, 22, 23
8 U.S.C. § 1252 7
Local 5 Rule HC. 1 7

Cases

Alexander v. Choate, 469 U.S. 287 (1985) 14
Bell v. Wolfish, 441 U.S. 520 (1979) 10
Demore v. Kim, 538 U.S. 510 (2003) 20
Dept. of Com. v. New York, 139 S. Ct. 2551 (2019) 24
DeShaney v. Winnebago Cnty. Dep't of Soc. Servs., 489 U.S. 189 (1989). 10, 11
Fay v. Noia, 372 U.S. 391 (1963) 8
Franco-Gonzalez v. Holder, 767 F. Supp. 2d 1034, (C.D. Cal. 2010) 12
Gonzalez v. Bostock, No. 2:25cv01404-JNW-GJL (W.D. Wash. Oct. 7, 2025) 16
Graham v. Connor, 490 U.S. 386 n.10 (1989) 10
Harris v. Nelson, 394 U.S. 286 (1969). 11
Hernandez v. Sessions, 872 F.3d 976 (9th Cir. 2017) 17
Ingraham v. Wright, 430 U.S. 651, n.40 (1977) 10
Kingsley v. Hendrickson, 576 U.S. 389 (2015) 10
Liang v. Ashcroft, 370 F.3d 994 (9th Cir. 2004) 17
Matter of Guerra, 24 I&N Dec. 37 (BIA 2006) 15
Matter of Sugay, 17 I.&N. Dec. 637 (B.I.A. 1981) 16
Motor Vehicle Mfrs. Ass'n of U.S. Inc. v. State Farm Mut. Auto Ins. Co., 463 U.S. 29 (1983) ... 23
Nat'l Ass'n of Home Builders v. Defs. of Wildlife, 551 U.S. 644 (2007) 23

Ortega v. Bonnar, 415 F.Supp.3d 963 (N.D. Cal. 2019) 16
Parker v. Universidad de Puerto Rico, 225 F.3d 1 (1st Cir. 2000) 12
Rivera v. Rhode Island, 402 F.3d 27 (1st Cir. 2005) 11
Saravia v. Sessions, 280 F.Supp.3d 1168 (N.D. Cal. 2017) 16
Schlup v. Delo, 513 U.S. 298 (1995) 11
Tennessee v. Lane, 541 U.S. 509 (2004) 13
Toledo v. Sanchez, 454 F.3d 24 (1st Cir. 2007) 13, 14
Tran v. Noem, No. 25cv2334- JES-MSB (S.D. Cal. Sep. 29, 2025) 16
U.S. Airways, Inc. v. Barnett, 535 U.S. 391 (2002) 14
U.S. v. Trimble, 487 F.3d 752 (9th Cir. 2007) 22
Vargas v. Jennings, No. 20-cv-5785, 2020 WL 5074312 (N.D. Cal. Aug. 23, 2020) 16
Ying Fong v. Ashcroft, 317 F.Supp. 2d 398 (S.D.N.Y. 2004) 16
Youngberg v. Romeo, 457 U.S. 307 (1982) 10
Zadvydas v. Davis, 533 U.S. 678 (2001). 10, 15, 20, 22

Regulations

ICE, Directive 11063.2 14
ICE, Directive 11071.1 15

Petitioner, Velvett Nahomi Castellanos-Abadillo, petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' detaining her unlawfully, and states as follows:

I. INTRODUCTION

1. The petitioner, Velvett Nahomi Castellanos-Abadillo, was born [redacted] in Guatemala. Ms. Castellanos-Abadillo suffered [redacted] She entered the United States to flee from the persecution and torture she was subjected to in Guatemala.

2. On September 22, 2023, Ms. Castellanos-Abadillo entered the United States in the Eagle Pass, Texas, Border Patrol Sector. She was arrested and transported to the Rio Grande Valley Sector Centralized Processing Center in McAllen, Texas. She was then released under parole. She had lived in Minnesota since then. She is currently in removal proceedings and has already submitted a form I-589, Application for Asylum and for Withholding of Removal.

3. During Operation Metro Surge, conducted by Immigration Customs Enforcement (ICE) in January 2026, Ms. Castellanos-Abadillo was encountered and re-detained by ICE agents. She was beaten, tased, knee-stepped, and handcuffed for excessively long periods during the arrest. She was then detained and transferred to several different detention centers. Currently Petitioner is detained at Otay Mesa Detention Center in San Diego, California.

4. Ms. Castellanos-Abadillo has been diagnosed with severe PTSD and depression resulting from her traumatic experiences. She also suffers from other medical conditions including gastritis and obesity. Additionally, she has a one-year-old son who still lives in Minnesota. Her son was diagnosed with gastroschisis and needs adequate medical care.

5. Ms. Castellanos-Abadillo's mental state declined rapidly after her arrest and subsequent detention. During Ms. Castellanos-Abadillo's detention at El Paso Camp East Montana, she was [redacted] by a female ICE officer. While she was in a vulnerable mental state and in the psychiatric facility, several ICE Deportation Officers insisted she sign Voluntary Departure orders, agreeing to forego her indidivualize trial, under threats of duress such as she would never see her family again.

6. Petitioner has and will suffer irreparable harm if she continues to be detained. Her physical, mental, and emotion well being have deteriorated so significantly that her attorney is unable to get Petitioner's cooperation in ocnnection with her legal case.

7. Therefore, Ms. Castellanos-Abadillo respectfully requests that the Court grant this Petition for Writ of habeas corpus.

II. JURISDICTION

8. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

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

10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252 (e)(2).

III. VENUE

11. Venue is proper because Petitioner is in Respondents' custody in San Diego, California. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).

12. For these same reasons, a divisional venue is proper under Local 5 Rule HC. 1.

IV. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

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

15. Petitioner is "in custody" for the purpose of § 2241 because she is arrested and detained by Respondents.

V. PARTIES

16. Velvett Nahomi Castellanos-Abadillo ("Petitioner") is a 23-year-old citizen of Guatemala. She is presently detained by Otay Mesa Detention Center, within the state of California, as of the time of the filing of this petition.

17. Respondent Christopher J. LaRose is the Warden of the Otay Mesa City Detention Center and is a legal custodian of Petitioner.

18. Respondent Gregory J. Archambeault is the San Diego Field Office Director ("FOD") for ICE Enforcement and Removal Operations ("ERO"). As such, Respondent Gregory J. Archambeault is responsible for the oversight of ICE operations at the California City Detention Center. Respondent Gregory J. Archambeault is being sued in her official capacity.

19. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement ("ICE"). As such, Respondent Lyons is responsible for the oversight of ICE operations. Respondent Lyons is being sued in his official capacity.

20. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Mullin is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

21. Respondent Todd Blanche is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

22. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

23. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents. This action is commenced against all Respondents in their official capacities.

24. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

VI. LEGAL FRAMEWORK

The Due Process Clause Warrants Ms. Velvett Nahomi Castellanos-Abadillo's Release Because Her Health and Safety Are in Danger Due to Her Detention.

25. When the government detains or incarcerates someone, it has an affirmative duty to provide conditions of reasonable health and safety. Indeed, the U.S. Supreme Court has emphasized the government's obligation to protect individuals' "safety and general well-being" when they are taken into custody and held "against [their] will." *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 199–200 (1989).

26. Individuals in civil detention are afforded "more considerate treatment, and conditions of confinement" than individuals in criminal custody "whose conditions of confinement are designed to punish." *Youngberg v. Romeo*, 457 U.S. 307, 321–22 (1982). Immigrant detainees are civil detainees held pursuant to civil immigration laws. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

27. Because Ms. Castellanos-Abadillo is a civil detainee, her constitutional protections while in custody are derived from the Fifth Amendment. The Due Process Clause guarantees persons in civil immigration detention the right to reasonable safety and freedom from punitive conditions of confinement. *Bell v. Wolfish*, 441 U.S. 520, 535 (1979) ("[U]nder the Due Process Clause, a detainee may not be punished prior to an adjudication of guilt in accordance with due process of law."); *Kingsley v. Hendrickson*, 576 U.S. 389, 400 (2015) ("[P]retrial

detainees (unlike convicted prisoners) cannot be punished at all, much less 'maliciously and sadistically.'" (citing *Ingraham v. Wright*, 430 U.S. 651, 671–72, n.40 (1977) and quoting *Graham v. Connor*, 490 U.S. 386, 395, n.10 (1989))). ICE violates the Constitution when it fails to safeguard the health and safety of those in its custody and to meet their basic human needs, including "food, clothing, shelter, medical care, and reasonable safety." *DeShaney*, 489 U.S. at 200; see also *Youngberg*, 457 U.S. at 317 ("When a person is institutionalized—and wholly dependent on the State . . . a duty to provide certain services and care does exist[.]"); *Rivera v. Rhode Island*, 402 F.3d 27, 34 (1st Cir. 2005) ("[I]n situations in which there is a special relationship, an affirmative, constitutional duty to protect may arise when the state so restrains an individual's liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs." (internal quotation marks and citations omitted)). Respondents have failed to safeguard Ms. Castellanos-Abadillo's due process rights to safety and well-being.

28. In this case, Respondents are jeopardizing Ms. Castellanos-Abadillo's health by detaining her. She suffers from severe PTSD and depression, which was worsened because of the separation from her one-year-old son and the worrying human right condition in immigration detention centers.

29. "[H]abeas corpus is, at its core, an equitable remedy." *Schlup v. Delo*, 513 U.S. 298, 319 (1995). Habeas vests in federal courts broad, equitable authority to

"dispose of the matter as law and justice require." 28 U.S.C. § 2243. The "very nature of the writ demands that it be administered with the initiative and flexibility essential to ensure that miscarriages of justice . . . are surfaced and corrected." *Harris v. Nelson*, 394 U.S. 286, 291 (1969).

30. This Court has exercised this authority to remedy constitutional violations caused by the government's inability to protect health and safety. Releasing Ms. Castellanos-Abadillo is the only viable remedy to ensure her safety and health.

Ms. Castellanos-Abadillo Should Be Released as a Reasonable Accommodation to Ensure Meaningful Access to Her Immigration Proceedings under the Rehabilitation Act.

31. Section 504 of the Rehabilitation Act prohibits discrimination on the basis of a disability in programs, services, or activities conducted by U.S. federal agencies, including DHS and EOIR. 29 U.S.C. § 794(a); 6 C.F.R. § 15.30(a). Programs or activities include "all the operations of . . . [an agency]." 29 U.S.C. § 794(b)(1)(a).

32. To state a *prima facie* case under Section 504, an individual "must establish: (1) that he is a qualified individual with a disability; (2) that he was either excluded from participation in or denied the benefits of some public entity's services, programs, or activities or was otherwise discriminated against; and (3) that such exclusion, denial of benefits, or discrimination was by reason of the plaintiff's disability." *Parker v. Universidad de Puerto Rico*, 225 F.3d 1, 5 (1st Cir. 2000) (interpreting 42 U.S.C. § 12132).

33. Exclusion from a public entity's "service, programs, or activities" can include impeding an individual's ability to fully participate in an immigration process, such as removal proceedings. *See Franco-Gonzalez v. Holder*, 767 F. Supp. 2d 1034, 1037, 1055 (C.D. Cal. 2010) (noting that petitioner was released pursuant to habeas petition alleging, *inter alia*, violations of the Rehabilitation Act and concluding that "Defendants violated the Rehabilitation Act when they failed to provide [a noncitizen] with adequate safeguards . . . during removal proceedings").

34. Given Ms. Castellanos-Abadillo's significant mental health conditions, the Act then imposes on an agency, including DHS and EOIR, an affirmative obligation to ensure meaningful access to programs or activities, including immigration proceedings[1]. 29 U.S.C. § 794(d); *Tennessee v. Lane*, 541 U.S. 509, 511–12 (2004) (recognizing that the duty to create equal access to public services is consistent with states' "affirmative obligation" to give individuals a meaningful opportunity to be heard); *Toledo v. Sanchez*, 454 F.3d 24, 32 (1st Cir. 2007) (imposing an "affirmative obligation on public entities to make their programs accessible to qualified individuals with disabilities, except where compliance would result in a fundamental alteration of services or impose an undue burden");

[1] U.S. Commission on Civil Rights (USCCR), *Sharing the Dream: Is the ADA Accommodating All?*, https://www.usccr.gov/files/pubs/ada/ch5.htm (noting that impairments that qualify as psychiatric disabilities under the ADA include bipolar disorder).

see also 28 C.F.R. § 35.13(b)(7); 6 C.F.R § 15.30 (prohibiting discrimination by DHS); 28 C.F.R. § 39.130 (prohibiting discrimination by the Department of Justice). Meaningful access is provided when everyone has an "equal opportunity to obtain the same result, to gain the same benefit, or reach the same level of achievement." *Alexander v. Choate*, 469 U.S. 287, 305 (1985) (citing 45 C.F.R. § 84.4(b)(2)).

35. Ms. Castellanos-Abadillo's detention, which prevents her from receiving the treatment she needs, denies her "meaningful access" to the benefit sought because of her conditions.

36. Releasing Ms. Castellanos-Abadillo from detention is a reasonable accommodation that would enable her to receive the appropriate rehabilitative services she needs to participate in her immigration proceedings. *See Alexander*, 469 U.S. at 300 (requiring federal grantees bound by Section 504 to make "reasonable" accommodations); *see also U.S. Airways, Inc. v. Barnett*, 535 U.S. 391, 402 (2002) (noting that an accommodation is reasonable when it is "reasonable on its face, *i.e.*, ordinarily or in the run of cases").

37. Public entities have an affirmative obligation "to make their programs accessible to qualified individuals with disabilities, except where compliance would result in a fundamental alteration of services or impose an undue burden." *See Toledo*, 454 F.3d at 32. Release or provision of a bond hearing does not

fundamentally alter EOIR or DHS programs or impose undue financial or administrative hardship on either agency.

38. Indeed, DHS regularly releases noncitizens with severe mental disabilities who would otherwise be subject to mandatory detention. *See* ICE, Directive 11063.2: Identification, Communication, Recordkeeping, and Safe Release Planning for Detained Individuals with Serious Mental Disorders or Conditions and/or Who Are Determined To Be Incompetent By An Immigration Judge (Apr. 5, 2022), at 2, https://www.ice.gov/doclib/news/releases/2022/11063-2.pdf ("In recognition of the vulnerability of such individuals [having serious mental disorders or conditions], ICE is instituting additional safeguards."). Moreover, DHS has wide discretion to release persons from its custody for humanitarian reasons. *See* ICE, Directive 11071.1: Assessment and Accommodations for Detainees with Disabilities (Dec. 15, 2016), at 9, https://www.aila.org/library/ice-er-directive-detainees-with-disabilities (providing for release as a potential accommodation for detainees with disabilities); ICE, Directive 11063.2, supra note 9, at 13–15. Because Respondents cannot safely accommodate these complex medical needs (*See* Tab A, Reports on Detention Centers, page 24-29/page137-142), release is a reasonable accommodation for Ms. Castellanos-Abadillo.

Ms. Castellanos-Abadillo Should Be Released because ICE Re-detained her when Facts and Circumstances Do Not Warrant Re-detention Without Individualized Pre-Deprivation Hearing

39. Custody determinations for individuals in 1229(a) removal proceedings are governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if she does not present a danger to persons or property and is not a flight risk. *Zadvydas*, 533 U.S. at 690; *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). Custody determinations under § 1226(a) are individualized and based on the facts presented in those cases. Unlike § 1226(c), which can provide for categorical determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the facts and circumstances.

40. Once a determination to release an individual from custody is made pursuant to 8 U.S.C. § 1226, the release order may be revisited only if the facts and circumstances warrant revocation or reconsideration. 8 U.S.C. § 1226(b). Revocation of release and return to custody is authorized only based on the individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). "In practice, DHS re-arrests individuals only after a 'material' change in circumstances. To satisfy due process, those changed circumstances must represent individualized legal justification for detention." *Sanchez v. Larose*, No. 25cv2396-JES-MMP (S.D. Cal. Sep. 26, 2025) (internal citations omitted); *Tran v. Noem*, No. 25cv2334- JES-MSB, at *6-7 (S.D. Cal. Sep. 29, 2025) (citing *Ying Fong v. Ashcroft*, 317 F.Supp. 2d 398, 403 (S.D.N.Y. 2004). "This standard prevent[s] arbitrary revocations and ensure[s] that detention decisions rest[] on individualized assessments of changed circumstances rather than categorical

assumptions. *Gonzalez v. Bostock*, No. 2:25cv01404-JNW-GJL at *13 (W.D. Wash. Oct. 7, 2025) (discussing *Vargas v. Jennings*, No. 20-cv-5785, 2020 WL 5074312, at *22 (N.D. Cal. Aug. 23, 2020) (quoting *Ortega v. Bonnar*, 415 F.Supp.3d 963, 969 (N.D. Cal. 2019) (quoting *Matter of Sugay*, 17 I.&N. Dec. 637, 640 (B.I.A. 1981))); *Saravia v. Sessions*, 280 F.Supp.3d 1168, 1197 (N.D. Cal. 2017). Cf., *Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981) ("Where a previous bond determination has been made by an immigration judge, no change should be made by a District Director absent a change in circumstance[.]"). By regulation, revocation decisions are limited in nature and may only be made by certain authorized individuals. *Id.*

VII. EXHAUSTION OF REMEDIES

39. With regard to habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive the prudential exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." Id. (quoting *Liang v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004). Petitioner asserts that exhaustion should be waived because administrative remedies are (1) futile and (2) their continued detention results in irreparable harm;

Ms. Castellanos-Abadillo Should Be Immediately Released because Unlawful Re-detention Renders Exhaustion Inapplicable

40. The Ninth Circuit recognizes that exhaustion is not required where the petitioner challenges the fact of detention, not merely its conditions. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (exhaustion excused where petitioner challenges "the legality of the detention itself"); *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011) (exhaustion not required where no adequate administrative remedy exists).Here, Petitioner was re-detained without lawful authority, meaning there is no valid administrative mechanism capable of reviewing or correcting a detention that is void ab initio.

Immediate Medical Risk Makes Administrative Remedies Inadequate

41. Exhaustion is excused where delay would cause irreparable harm, including medical deterioration. McCarthy v. Madigan, 503 U.S. 140, 147–48 (1992) (exhaustion not required where delay risks "irreparable injury");Hernandez, 872 F.3d at 988 (exhaustion excused where delay risks "serious harm"). The Ninth Circuit has repeatedly recognized that habeas is appropriate where detention conditions pose immediate medical danger *Aamer v. Obama*, 742 F.3d 1023, 1036 (D.C. Cir. 2014) (cited favorably in Ninth Circuit district courts for medical-risk habeas jurisdiction); Jama v. INS, 22 F. Supp. 2d 353, 365 (D.N.J. 1998) (exhaustion excused where detainee faced "serious medical needs").

42.Petitioner's medical conditions require immediate safeguards, which the facility has failed to provide. Administrative processes—slow, discretionary, and multi-layered—cannot provide the urgent intervention necessary to prevent ongoing injury. Courts in this circuit routinely excuse exhaustion where medical risk is acute and ongoing.

43.Exhaustion is futile because the detaining authority has already taken a definitive position. Exhaustion is not required where the agency has predetermined the issue or where the same entity responsible for the unlawful detention controls the administrative process. *Franco-Gonzalez v. Holder*, 767 F. Supp. 2d 1034, 1054 (C.D. Cal. 2010) (exhaustion excused where agency's position made relief "virtually impossible"); *Montes v. Thornburgh*, 919 F.2d 531, 537 (9th Cir. 1990) (futility where agency "has already ruled" on the issue). Here, the agency has already executed the re-detention and continues to hold Petitioner despite known medical risks. Requiring Petitioner to pursue internal review before seeking judicial relief would be illusory and dangerous.

44.Petitioner was diagnosed with mental health diagnoses by a certified psychologist, which is also acknowledged by DHS (*See* Tab B, DHS's Opposition to Motions for Safeguard). However, in the Judicial Competency Inquiry hearing, the Immigration Court ignored Petitioner's incapability to understand and participate meaningfully in her court proceedings and recklessly denied the safeguard. Therefore, Petitioner finds that seeking a bond hearing before an

Immigration Judge would be a futile endeavor. Additionally, no change in circumstances occurred to warrant the re-detention without a pre-deprivation hearing.

45.Respondents continued detention of Petitioner results in irreparable harm. First, Petitioner has severe mental and physical health issues. In a forensic psychological evaluation, she was diagnosed with PTSD and anxiety disorder resulting from her past traumatic experiences. (See Tab C, Psychological Evaluation) Also, Petitioner was diagnosed with gastritis and obesity, which will likely deteriorate without adequate treatment (See Tab D, Medical Report). The ICE detention centers have a notorious record for failing to accommodate detainees' needs, which has resulted in a significant number of deaths of detainees just in the last two years (See Report). In fact, the Petitioner's experience being [redacted]by an ICE officer at Camp East Montana detention center has already caused irreparable harm to her mental condition. (See Tab E, Ms. Castellanos-Abadillo's Declaration) The petitioner's health will continue to suffer irreparable harm if she keeps being detained in this environment. Further, Petitioner's one-year-old son will suffer irreparable harm because he has gastroschisis and needs medical care as well as mother's companion.

VIII. FACTUAL BACKGROUND

46.Ms. Castellanos-Abadillo was born in Guatemala. She was a victim of [redacted]when she was a minor. After she was married, she unfortunately

became a victim of domestic violence. The persecution and torture to women by the Guatemalan society made it impossible for her to live safely. Therefore, she came to the US to seek safety and a stable life.

47. On September 28, 2023, Ms. Castellanos-Abadillo was immediately detained by ICE in the Eagle Pass, Texas, Border Patrol Sector when she entered the United States. She was not offered a credit fear interview and was paroled. She had lived in Minnesota ever since. During that period, she was only required to make regular ICE check-in's but was never required to wear monitoring devices like ankle monitors. Since then, she had built her life in Minnesota and gave birth to her son, who is a U.S. citizen. Her son suffers from gastroschisis and needs medical care as well as parents' companion.

48. During the Operation Metro Surge by ICE in Minnesota, Ms. Castellanos-Abadillo was encountered by ICE officers who violently arrested her. The ICE officers smashed Ms. Castellanos-Abadillo's face into the steering wheel. She was then tased while she was in the vehicle. One of the ICE officers stuck his fingers into her ribs in order to cause pain rather than merely for the arrest. The officers then pulled Ms. Castellanos-Abadillo out of the car, threw her onto the ground, and broke her teeth. They even stood on her neck with a boot so that she could not move or breathe. When she was detained, ICE officers would arbitrarily keep her handcuffed for twelve or more hours at a time.

49. When detained by ICE, Ms. Castellanos-Abadillo was transferred to multiple detention centers across the country including Camp East Montana, Texas, Florence Detention Center, Arizona, Eloy Detention Center, Arizona, and other facilities. Her mental health deteriorated during this process. At Camp East Montana, she was held in a psychiatric facility for suicidal ideation. There, she was [redacted]y a female ICE officer, and ICE tried three times to pressure her to sign Voluntary Departure papers regardless of her incompetent mental status. Ms. Castellanos-Abadillo is now detained in Otay Mesa Detention Center, California.

50. Ms. Castellanos-Abadillo was evaluated by a psychiatrist. She was diagnosed with severe PTSD and depression. However, regardless of the serious medical conditions diagnosed by the experts, the Immigration Court continuously holds her as competent and refuses to offer safeguards in the hearings.

IX. CLAIMS FOR RELIEF

COUNT ONE

Violation of Ms. Castellanos-Abadillo's Substantive Due Process Rights under the Fifth Amendment

51. Ms. Castellanos-Abadillo repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

52. The Fifth Amendment of the Constitution guarantees that civil detainees, including all immigrant detainees, may not be subjected to punishment.

Immigration detention is civil, not punitive, and must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). The Supreme Court has stated that the purpose or civil detention in this context is to "ensur[e] the appearance of [noncitizens] at future proceedings," *Zadvydas*, 533 U.S. at 690, and to prevent flight, *Demore*, 538 U.S. at 528. The federal government violates Fifth Amendment substantive due process rights when it subjects civil detainees to cruel treatment and conditions of confinement that amount to punishment or does not ensure those detainees' safety and health.

53. Ms. Castellanos-Abadillo's detention bears no relation to the purposes of civil commitment because she poses no flight risk or danger to the community. Ms. Castellanos-Abadillo has no criminal record and is described as appropriate and conversant in the medical evaluation, demonstrating that she has no danger to the community. She has strong ties to the community in Minnesota. She is in imminent need of mental health care and has to take care of her one-year-old son, which further eliminates her risk of flight.

54. The Respondents, acting unreasonably and with deliberate indifference, are subjecting Ms. Castellanos-Abadillo to a substantial risk of serious harm, in violation of her rights under the Due Process Clause.

COUNT TWO

Violation of Ms. Castellanos-Abadillo's Procedural Due Process Rights under the Fifth Amendment

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

56. Due process requires that government action be rational and non arbitrary. See, *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not "unlimited" and must comport with constitutional due process. *See*, *Zadvydas*, 533 U.S. at 698.

57. Here, Respondents have chosen to revoke Petitioner's release in an arbitrary manner, not based on a rational and individualized determination of whether he is a safety or flight risk, but based on a sweeping categorical order from Washington. Because no individualized custody revocation determination has been made and no circumstances have changed to make the Petitioner a flight risk or a danger to the community, Respondents' actions are violations of procedural due process.

COUNT THREE

Violation of the Rehabilitation Act

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

59. The Rehabilitation Act mandates that federal agencies such as DHS provide reasonable accommodation to individuals with a disability so that they are not excluded from, denied the benefits of, or otherwise discriminated against in any program or activity conducted by such agencies.

60. Ms. Castellanos-Abadillo's detention has deprived her of the necessary treatment that she needs and care for her mental health conditions. Such denial has inhibited her from meaningfully participating in her immigration proceedings.

COUNT FOUR

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

Abuse of Discretion

Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

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

62. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

63. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor*

Vehicle Mfrs. Ass'n of U.S. Inc. v. State Farm Mut. Auto Ins. Co., 463 U.S. 29, 43 (1983).

64. To prevail against such a claim, the agency must articulate "a satisfactory explanation for its action, including a rational connection between the facts found and the choice made." *Dept. of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

65. Respondents considered Petitioner's individual facts and circumstances in 2023 when Petitioner originally entered the United States. At that time, Respondents determined that Petitioner was not a flight risk or a danger to the community and that based on a positive CFI, Petitioner has viable relief to allow release form custody. There have been no changes to the Petitioner's circumstances that justify this revocation of release and re-detention. The fact that the Petitioner has already been granted release by Respondents under the same facts and circumstances that continue to exist at this time, shows that the Respondents do not consider him a flight risk or danger to the community.

66. By categorically revoking Petitioner's release and re-detaining without consideration of individualized facts and circumstances, Respondents have violated the APA by failing to exercise discretion at all, let alone find facts and make a rational choice based on those facts.

X. PRAYER FOR RELIEF

WHEREFORE, Ms. Castellanos-Abadillo asks that this Court grant the following relief:

1. Assume jurisdiction over this matter;

2. Order that Ms. Castellanos-Abadillo shall not be transferred outside the Southern District of California or deported pending these proceedings;

3. Declare that Ms. Castellanos-Abadillo's detention is unlawful;

4. Issue a Writ of Habeas Corpus requiring Respondents to release Ms. Castellanos-Abadillo immediately without conditions, or in the alternative;

5. Issue a Writ of Habeas Corpus requiring Respondents to release Petitioner on the conditions of her prior conditional parole;

6. Enjoin Respondents from re-detaining Ms. Castellanos-Abadillo unless her re-detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear and convincing evidence, that Ms. Castellanos-Abadillo is a flight risk or danger to the community;

7. Award Ms. Castellanos-Abadillo attorney's fees and costs under the Equal Access to Justice Act, as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

8. Grant any other and further relief that this Court deems just and proper.

9. I affirm, under penalty of perjury, that the foregoing is true and correct.

XI. CONCLUSION

For all these reasons, this Court should grant the petition.

Dated: 06/02/2026

/s/Caroline G. Matthews
Caroline Matthews, Esq.
CASB# 285754
caroline@pathwayssd.org
120 Stevens Avenue
Solana Beach, CA 92075
Telephone: +1 858-509-2597
Pro Bono Attorney for Petitioner

CERTIFICATE OF SERVICE

I, Caroline Matthews, CERTIFY

I am over the age of 18 and not a party to this matter. My business address is 120 Stevens Avenue, Solana Beach, CA 92075. On June 18, 2026, I served a copy of this Memorandum of Points and Authorities and Exhibits by email to the following individuals:

/s/Caroline G. Matthews
Caroline Matthews, Esq.
Pro Bono Attorney for Petitioner