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

12 Yenny Fernanda Gonzalez Rodriguez,
13 Petitioner,

14 vs.

15
16 CHRISTOPHER J. LAROSE, Senior
17 Warden of Otay Mesa Detention Center,
18 GREGORY J. ARCHAMBEAULT,
19 Field Officer Director for the San Diego
20 Immigration and Customs Enforcement
21 Office; TODD LYONS, Acting Director
22 of United States Immigration and
23 Customs Enforcement; MARKWAYNE
24 MULLIN, Secretary of the United States
25 Department of Homeland Security,
26 TODD BLANCHE, Acting Attorney
27 General of the United States, acting in
28 their official capacities,

Respondents.

Case No.26-CV-3729 CAB

AMENDED
PETITION FOR WRIT OF
HABEAS CORPUS

Challenge to Unlawful
Incarceration; Request for
Declaratory and Injunctive Relief

ORAL ARGUMENT REQUESTED

PREFACE

Is Ms. Gonzalez Rodriguez’s (“Ms. Gonzalez”) March 4, 2026, arrest and continued detention by Immigration and Customs Enforcement (“ICE”) lawful, after her admission and parole into the United States nearly four years earlier, on August 24, 2022? Several courts in this district have ruled in favor of similarly situated petitioners on this issue recently, finding detention unlawful, and ordering their immediate release from custody. *See, e.g., de la Cruz v. Christopher LaRose, et al Sayed Naser Noori v. Christopher LaRose, et al.*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *14 (S.D. Cal. Oct. 1, 2025) (holding that revocation of petitioner’s parole with no notification or individualized determination violated the APA and denied petitioner his due process rights); *N.A. v. Christopher J. LaRose, et. Al.*, 25-CV-2384-RSH-BLM; 2025 WL --- (S.D. Cal. Oct. 07, 2025). (explaining that the petitioner, who had entered and been granted parole eight months prior, was not subject to mandatory detention as an arriving alien (citing 8 U.S.C. § 1225(b)(1)); *Aquino de la Cruz v. Christopher LaRose, et al.*, No. 25-CV-3770-LL-MSB, at 4 (S.D. Cal. Jan. 9, 2026) (holding that petitioner was entitled to notice of the revocation of her parole and a hearing before a neutral decision maker is required to determine detention); *Parra Mozo v. Jeremy Casey, et. al.*, No. 26-CV-01251-BAS-BLM, at 3 (S.D. Cal. Mar. 16, 2026) (holding petitioner’s re-detention without notice and without noticeably changed circumstances violated petitioner’s due process rights).

This Court should also rule in favor of Ms. Gonzalez and order her immediate release.

INTRODUCTION

1. Petitioner, Yenny Fernanda Gonzalez Rodriguez (“Ms. Gonzalez”), an asylum seeker from Colombia, seeks to remedy Respondents’ unlawful detention

1 of her after they lured her to their ICE Field Office ostensibly for a credible fear
2 interview that her attorney requested. *See*, Exhibit A, Email exchange between
3 Petitioner's attorney and ICE field office. Instead of conducting the interview, they
4 illegally arrested and detained Ms. Gonzalez, after paroling her into the United
5 States four years earlier. Ms. Gonzalez now petitions this Court for a writ of
6 habeas corpus under 28 U.S.C. § 2241 because the termination of her parole
7 without notice and her detention violates the Constitution and is not authorized by
8 any statute.

9 2. Ms. Gonzalez is an asylum seeker who fled Colombia after being
10 persecuted based on her gender and other grounds. She is currently detained at the
11 Otay Mesa Detention Facility (OMDC), which is operated by Core Civic.

12 3. On August 14, 2022, Ms. Gonzalez arrived in the United States
13 through Eagle Pass, Texas, and surrendered herself to United States Border Patrol.
14 She was initially placed in expedited removal proceedings on August 15, 2022.
15 *See*, Exhibit B, Notice of Inadmissibility. Nine days later, however, Respondents
16 changed course and on August 24, 2022, granted admission to Ms. Gonzalez under
17 parole pursuant to 8 U.S.C. § 1182(d)(5). By granting Ms. Gonzalez parole,
18 Respondents found that Ms. Gonzalez is not a flight risk nor a danger to the
19 community. 8 U.S.C. § 1182(d)(5).¹ *See*, Exhibit C, Parole Authorization.

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22 ¹ Based on the file available to Petitioner, it appears Respondents only issued
23 a Notice to Appear (NTA) to Ms. Gonzalez on April 23, 2026. This commenced
24 removal proceedings against Ms. Gonzalez in immigration court, entitling her to
25 present her asylum claim with the due process rights under 8 U.S.C. § 1229a.
26 Respondents charged Ms. Gonzalez with removability under INA §
27 212(a)(7)(A)(i)(I), arguing that she lacked proper immigration documents at the
28 time of admission into the United States. *See*, Exhibit H, Notice to Appear (NTA).

1 4. Ms. Gonzalez's Authorization of Parole indicates her parole is valid
2 "pending the final determination of [her] exclusion/deportation hearing." *Id.* p.2.
3 The determination of Ms. Gonzalez's exclusion or deportation hearing remains
4 pending of the date of the instant petition and no individual hearing has been
5 calendared.

6 5. On February 27, 2024, Respondents provided Ms. Gonzalez with a social
7 security card and work authorization, which is valid through February 2029. *See*
8 Exhibit D, Petitioner's Work Authorization Card, and Exhibit E, Petitioner's
9 Social Security Card. Ms. Gonzalez had a job when she was arrested.

10 6. Ms. Gonzalez complied with all parole requirements including attending her
11 ice check-ins, and her court appearances. *See*, Exhibit G, ICE check-in notice dated
12 September 2, 2025 for check-in on September 4, 2026.

13 7. On June 9, 2025, she received an Order of Dismissal of her Application for
14 Asylum. *See* Exhibit F, Notice of Dismissal of Form i589. The Form instructed
15 Petitioner on how to reschedule a credible fear interview, specifically instructing
16 her to contact ICE/ERO, and request a credible fear interview (CFI). According to
17 the DHS letter and notice to Ms. Gonzalez, ICE/ERO would then refer her to an
18 asylum officer who would conduct the CFI. *Id.*

19 8. On December 5, 2025, Ms. Gonzalez's office wrote to the ICE Field Office to
20 schedule a Credible Fear Interview. The ICE Office responded the same day,
21 instructing "[p]lease have your client report to ICE/ERO Charleston at [address] on
22 March 4, 2026, at 9:00 a.m.." *See*, Exhibit A, email correspondence.

23 9. On March 4, 2026, Ms. Gonzalez voluntarily appeared at the ICE office in
24 Charleston, South Carolina, pursuant to their email instructing her to appear. *See*.
25 Exhibit A. Ms. Gonzalez and her United States citizen fiancé drove approximately
26 three hours to attend that appointment, not knowing that it was a trap.

1 10. Upon her arrival at the ICE Field Office with her fiancé, ICE officers
2 unexpectedly placed Ms. Gonzalez in handcuffs. The officers informed Ms.
3 Gonzalez that no Credible Fear Interviews were conducted at that office and that the
4 officers did not know why she was instructed to appear there because no interview
5 had been scheduled. *See* Exhibit I, Petitioner's declaration in support of her
6 Petition for a Writ of Habeas Corpus.

7 11. Instead of conducting a credible fear interview as their email falsely
8 indicated they would, the ICE officers illegally terminated her parole, arrested her
9 and shipped her to the other side of the United States where she is detained far from
10 family, friends and her attorney.

11 12. On July 1, 2026, Ms. Gonzalez, through counsel, filed an amended I-589,
12 Application for Asylum, Withholding of Removal and Protection under CAT. *See*
13 Exhibit J, Petitioner's Amended Form I589.

14 13. Ms. Gonzalez has been detained since March 6, 2026. She was transferred
15 from Irwin Detention Center to Stewart Detention Center and later to Otay Mesa
16 Detention Center in San Diego California. This required multiple flights over
17 several days, while Ms. Gonzalez was handcuffed and made to sleep on the floors
18 of the aircraft. *See* Exhibit I.

19 14. Ms. Gonzalez never received written notification that her parole was being
20 revoked prior to her detention on March 4, 2026. Additionally, since her detention,
21 she has not received any written communication regarding the reasons her parole
22 was revoked, any written communication indicating an individualized
23 determination was made, nor has she been provided with an opportunity to refute
24 any purported reasons for revoking her parole.

25 15. Individuals within the United States have constitutional rights. "[T]he Due
26 Process Clause applies to all 'persons' within the United States, including aliens,
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1 whether their presence here is lawful, unlawful, temporary, or permanent.”

2 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

3 16. ICE officers apprehended her at the ICE office in Charleston, South
4 Carolina, without notice or due process, and transferred her to the Southern District
5 of California before her court dates and away from her United States citizen fiancé,
6 child, and the life she built in South Carolina. As she remains in Respondents’
7 physical and legal custody, Respondents now seek to keep Ms. Gonzalez detained
8 indefinitely. *See* 8 U.S.C. § 1225. As explained below, Respondents do so based
9 not on her personal or changed circumstances since Respondents placed her on
10 parole, or any individualized facts.

11 17. Ms. Gonzalez has complied with all terms of her parole by attending court
12 hearings, timely filing for asylum, and remaining law abiding. Despite that, and
13 with no prior notice, Respondents revoked her parole abruptly and without notice,
14 by tricking her into appearing for a credible fear interview that Respondents had no
15 intention of conducting.

16 18. Ms. Gonzalez’s arrest and detention are causing her tremendous and
17 ongoing harm. While detained at Stewart Detention Center, Ms. Gonzalez
18 experienced constant fear, anxiety, and emotional distress. The environment was
19 extremely stressful. Officers frequently yelled at detainees, and obtaining basic
20 hygiene supplies such as sanitary pads, towels, and toilet paper was often difficult.
21 Exhibit I. The food and medical care were poor, and the facility was in poor
22 condition. Exhibit I.

23 19. Additionally, Ms. Gonzalez and her fiancé had to postpone their wedding
24 due to her current detention, and he is suffering financial hardship due to Ms.
25 Gonzalez’s continued detention. *See*, Exhibit I.

26 20. Two days before Ms. Gonzalez’s scheduled immigration hearing, she was
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1 unexpectedly transferred to Otay Mesa Detention Center in San Diego without
2 being told where she was going or why she was being moved. Ms. Gonzalez was
3 not provided an opportunity to notify her fiancé of the transfer. *See*, Exhibit I.

4 21. During the transfer from South Carolina to San Diego, Ms. Gonzalez
5 remained restrained with handcuffs, leg shackles, and a waist chain for
6 approximately three consecutive days while being transported by bus and airplane.
7 During part of the transfer, Ms. Gonzalez was forced to sleep on the floor without a
8 blanket in a cold holding cell and was unable to shower or maintain basic personal
9 hygiene for several days. *See*, Exhibit I.

10 22. Ms. Gonzalez's detention has caused her severe emotional suffering. Ms.
11 Gonzalez has experienced anxiety, depression, insomnia, panic attacks,
12 hopelessness, persistent sadness, fear, and emotional instability. *Id.*.

13 23. She has been moved across the country from Greenville, South Carolina
14 where her fiancé, her job, and her community are, to San Diego, California where
15 she is detained. *Id.*

16 24. The United States Constitution protects Ms. Gonzalez—and every other
17 person present in this country—from arbitrary deprivations of her liberty and
18 guarantees her due process of law. The government's power over immigration is
19 broad but, as the Supreme Court has declared, it "is subject to important
20 constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). "Freedom
21 from bodily restraint has always been at the core of the liberty protected by the Due
22 Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S.
23 71, 80 (1992). Ms. Gonzalez therefore respectfully seeks a writ of habeas corpus
24 ordering the government to immediately release her from her ongoing, unlawful
25 detention.

26 25. Additionally, Ms. Gonzalez seeks declaratory and injunctive relief to
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1 declare her detention unlawful at Otay Mesa Detention Center, where she has been
2 held by the Department of Homeland Security (DHS) since being unlawfully
3 detained on March 4, 2026, without first being provided a due process hearing to
4 determine whether her incarceration is justified.

5 **JURISDICTION**

6 26. This action arises under the Constitution of the United States and the
7 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq. The Court has
8 subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28
9 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),
10 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the
11 Suspension Clause), the Fourth and Fifth Amendments to the U.S. Constitution,
12 and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

13 **VENUE**

14 27. Venue is proper in this district and division pursuant to 28 U.S.C. §
15 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Ms. Gonzalez is physically
16 detained within this district. Venue is further proper because a substantial part of
17 the events or omissions giving rise to Ms. Gonzalez’s claims occurred in this
18 District, where she is now in Respondents’ custody. 28 U.S.C. § 1391(e).

19 **REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

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

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

4 30. Ms. Gonzalez is “in custody” for the purpose of § 2241 because she is
5 arrested and is detained by Respondents.

6 **PARTIES**

7 31. Ms. Yenny Fernanda Gonzalez Rodriguez is a thirty-three-year-old
8 resident of Greenville, South Carolina and citizen of Colombia. She has no
9 criminal history and is pursuing asylum based on a fear of persecution in Colombia
10 based on her gender, which if approved, would give her lawful permanent
11 residency, and eventually, U.S. citizenship. She is presently in the physical custody
12 of Immigration and Customs Enforcement (ICE) at the Otay Mesa Detention
13 Center, 7488 Calzada de la Fuente, San Diego, CA 92154.

14 32. Respondent Christopher J. LaRose is the Senior Warden of the Otay
15 Mesa Detention Center. He is the physical custodian of Ms. Gonzalez. In this
16 capacity, he is responsible for overseeing the operations of Otay Mesa Detention
17 Center, including the detention of Ms. Gonzalez. Respondent LaRose is sued in his
18 official capacity.

19 33. Respondent Gregory J. Archambeault is the Field Office Director of
20 the San Diego ICE Field Office. In this capacity, he is responsible for the
21 administration of immigration laws and the execution of immigration enforcement
22 and detention policy within ICE’s San Diego Area of Responsibility, including the
23 detention of Ms. Gonzalez. Respondent Archambeault maintains an office and
24 regularly conducts business in this district. Respondent Archambeault is sued in his
25 official capacity.

26 34. Respondent Todd M. Lyons is the Acting Director of ICE. As the
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1 Senior Official Performing the Duties of the Director of ICE, he is responsible for
2 the administration and enforcement of the immigration laws of the United States,
3 routinely transacts business in this District, and is legally responsible for pursuing
4 any effort to detain and remove Ms. Gonzalez. Respondent Lyons is sued in his
5 official capacity.

6 35. Respondent Markwayne Mullin is the Secretary of Homeland Security
7 and has ultimate authority over DHS. In that capacity and through his agents,
8 Respondent Mullin has broad authority over and responsibility for the operation
9 and enforcement of the immigration laws, routinely transacts business in this
10 District, and is legally responsible for pursuing any effort to detain and remove Ms.
11 Gonzalez. Respondent Mullin is sued in his official capacity.

12 36. Respondent Todd Blanche is the Acting Attorney General of the
13 United States and the most senior official at the Department of Justice. In that
14 capacity and through his agents, he is responsible for overseeing the
15 implementation and enforcement of the federal immigration laws. The Attorney
16 General delegates this responsibility to the Executive Office for Immigration
17 Review, which administers the immigration courts and the BIA. Respondent
18 Blanche is sued in his official capacity.

19 **LEGAL BACKGROUND**

20 **A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary**
21 **Arrest and Detention.**

22 37. This case concerns the unlawful revocation of Ms. Gonzalez's release
23 on parole without notice or review. "Procedural due process imposes constraints
24 on governmental decisions which deprive individuals of 'liberty' or 'property'
25 interests within the meaning of the Due Process Clause of the Fifth or Fourteenth
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1 Amendment.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring notice
2 and an opportunity to be heard before deprivation of a legally protected interest).

3 38. “[T]he Due Process Clause applies to all ‘persons’ within the United
4 States, including aliens, whether their presence here is lawful, unlawful, temporary, or
5 permanent.” *Zadvydas v. Davis*, 533 U.S. at 693.

6 39. Respondents tricked Ms. Gonzalez by luring her to the ICE office
7 where they arrested her as soon as she arrived for her credible fear interview. ICE
8 revoked Ms. Gonzalez’s parole, arrested, and detained her without any notice,
9 review or opportunity to object as she arrived at ICE offices *at ICE’s request* for a
10 credible fear interview. Her attorney requested the interview and ICE instructed
11 Ms. Gonzalez to come to their office, which she did. *See* Exhibit A, Email
12 exchange between attorney and ICE.

13 40. Ms. Gonzalez has a vital interest in her liberty, which is a legally
14 protected interest. *See Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL
15 2084921, at *4 (N.D. Cal. July 24, 2025) (citing *Diaz v. Kaiser*, No. 3:25-CV-
16 05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025) (explaining that a non-citizen
17 that ICE released from custody after initial apprehension “has a substantial private
18 interest in remaining out of custody” which includes an interest in “...obtaining
19 necessary medical care, [and] maintaining her relationships in the community...”).
20 Indeed, once they are present in the United States, noncitizens have a “weighty”
21 liberty interest in remaining, as they “stand[] to lose the right to stay and live and
22 work in this land of freedom,” and “may lose the right to rejoin [their] immediate
23 family, a right that ranks high among the interests of the individual.” *Landon v.*
24 *Plasencia*, 459 U.S. 21, 34 (1982).

25 41. On July 8, 2025, ICE, “in coordination with” the Department of
26 Justice, announced a new policy of immigration detention that rejected the well-
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1 established understanding of the statutory framework and reversed decades of
2 practice where non-citizens who were paroled into the United States remained free
3 on parole pending resolution of their immigration cases. The policy changed to
4 begin detaining people who had been previously paroled into the United States,
5 many who had established jobs and lives in the United States, and some who live
6 in the interior of the United States.

7 **B. Respondent's Arbitrary and Illegal Revocation of Parole and Arrest of**
8 **Ms. Gonzalez Violate the Administrative Procedure Act 5 U.S.C. § 706(2)**

9 42. Under the Administrative Procedure Act, a court must “hold unlawful
10 and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or
11 otherwise not in accordance with the law,” that is “contrary to constitutional right
12 [or] power,” or that is “in excess of statutory jurisdiction, authority, or limitations,
13 or short of statutory right.” 5 U.S.C. § 706(2)(A)-(C).

14 43. Respondents' revocation of Ms. Gonzalez's parole and continued
15 detention of Ms. Gonzalez is arbitrary and capricious and violates the INA as well
16 as the Fifth Amendment. Respondents do not have statutory authority under
17 1225(b)(2) or any other statute to detain Ms. Gonzalez. Ms. Gonzalez was not
18 provided the opportunity to respond or object to the revocation of her parole. Ms.
19 Gonzalez's detention is arbitrary, capricious, an abuse of discretion, violative of the
20 Constitution, and without statutory authority in violation of 5 U.S.C. § 706(2).

21 **FACTUAL BACKGROUND**

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23 44. Ms. Gonzalez is a thirty-three-year-old citizen of Colombia. Ms.
24 Gonzalez fled Colombia after suffering physical violence, death threats, based on
25 particular social group membership. She suffered gender-based violence for many
26 years.

1 45. On August 14, 2022, Ms. Gonzalez arrived in the United States
2 through Eagle Pass, Texas, and voluntarily surrendered herself to United States
3 Border Patrol. Respondents granted her parole based on the individualized facts in
4 her case, under 8 U.S.C. § 1182(d)(5). *See* Exhibit C, Parole Authorization.

5 46. Ms. Gonzalez timely filed an I-589, application for asylum and for
6 withholding of removal on August 10, 2023. Respondents provided her work
7 authorization on February 27, 2024. *See* Exhibit D.

8 47. On March 4, 2026, Ms. Gonzalez voluntarily appeared at the ICE
9 office in Charleston, South Carolina, because she was informed that she had a
10 scheduled Credible Fear Interview. *See*, Exhibit A.

11 48. After checking in, ICE officers unexpectedly placed Ms. Gonzalez in
12 handcuffs. The officers informed Ms. Gonzalez that no Credible Fear Interviews
13 were conducted at that office and that the officers did not know why she was
14 instructed to appear there because no interview had been scheduled. The ICE
15 officers made this claim even though ICE instructed her to arrive for an
16 appointment, as is evident in exhibit A, the email exchange between ICE and Ms.
17 Gonzalez's attorney. *Id.* She was initially detained at Irwin Detention Center, then
18 transferred to Stewert Detention Center, and then flown out to San Diego, where
19 she is detained at Otay Mesa Detention Center.

20 49. Ms. Gonzalez has been detained since March 4, 2026.

21 50. Ms. Gonzalez never received written notification that her parole was
22 being revoked prior to her detention on March 4, 2026. Additionally, since her
23 detention, she has not received any written communication regarding the reasons
24 her parole was revoked, any written communication indicating an individualized
25 determination was made, nor has she been provided with an opportunity to refute
26 any purported reasons for revoking her parole.

1 51. Ms. Gonzalez's detention has caused her severe emotional suffering.
2 Ms. Gonzalez has experienced anxiety, depression, insomnia, panic attacks,
3 hopelessness, persistent sadness, fear, and emotional instability. *See* Exhibit I,
4 Petitioner's Declaration.

5 52. Ms. Gonzalez remains in DHS custody at Otay Mesa Detention
6 Center.

7 **CLAIMS FOR RELIEF**

8 **FIRST CLAIM FOR RELIEF**

9 **Ms. Gonzalez's Detention is in Violation of the Fifth Amendment's**
10 **Procedural Due Process Protections**

11 53. Ms. Gonzalez incorporates by reference the allegations of fact set forth in
12 the preceding paragraphs.

13 54. The Due Process Clause of the Fifth Amendment to the U.S. Constitution
14 prohibits the federal government from depriving any person of "life, liberty, or
15 property, without due process of law." U.S. Const. Amend. V. Due process protects all
16 'persons' within the United States, including [non-citizens], whether their presence
17 here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

18 55. What due process protections apply depend on the situation and accounts
19 for 1) the private interest at issue, 2) the risk of erroneous deprivation of that interest
20 through the procedures used, and 3) the Government's interest. *Mathews v. Eldridge*,
21 *supra*, 424 U.S. at 334-35.

22 56. Detention constitutes "a loss of liberty that is . . . irreparable." *Moreno*
23 *Galvez v. Cuccinelli*, 492 F. Supp. 3d 1169, 1181 (W.D. Wash. 2020) (*Moreno II*), *aff'd*
24 *in part, vacated in part on other grounds, remanded sub nom. Moreno Galvez v.*
25 *Jaddou*, 52 F.4th, 821 (9th Cir. 2022). It "is well established that the deprivation of
26 constitutional rights unquestionably constitutes irreparable injury." *Melendres v.*

1 *Arpaio*, 695 F.3d 990,1002 (9th Cir. 2012) (citation modified); *Warsoldier v.*
2 *Woodford*, 418 F.3d 989,1001-02 (9th Cir. 2005). *See also Hernandez v. Sessions*, 872
3 F.3d 976,994-95 (9th Cir. 2017) ("Thus, it follows inexorably from our conclusion
4 that the government's current policies [which fail to consider financial ability to
5 pay immigration bonds] are likely unconstitutional-and thus that members of the
6 plaintiff class will likely be deprived of their physical liberty unconstitutionally in
7 the absence of the injunction-that Plaintiffs have also carried their burden as to
8 irreparable harm."); *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-
9 BFM (C.D. Cal. July 28,2025), Order Granting Temporary Restraining
10 Order,Dkt.14 at 9 ("[T]he Court finds that the potential for Petitioners' continued
11 detention without an initial bond hearing would cause immediate and irreparable
12 injury, as this violates statutory rights afforded under§ 1226(a).")

13 57. Ms. Gonzalez has a private interest in remaining free. She has almost four
14 years of presence in the United States, family ties, and work authorization. She was
15 working at the time of her arrest, and is engaged to be married to a United States
16 citizen. Ms. Gonzalez was detained amid her removal proceedings, without any
17 opportunity to be heard prior to being arrested and detained.

18 **SECOND CLAIM FOR RELIEF**

19 **Ms. Gonzalez's Detention Violates her Fifth Amendment Right to** 20 **Substantive Due Process**

21 58. Ms. Gonzalez incorporates by reference each and every allegation in
22 the paragraphs above as if fully set forth herein.

23 59. The Due Process Clause of the Fifth Amendment to the U.S.
24 Constitution prohibits the federal government from depriving any person of "life,
25 liberty, or property, without due process of law." U.S. Const. Amend. V. Due
26 process protects "all 'persons' within the United States, including [non-citizens],
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1 whether their presence here is lawful, unlawful, temporary, or permanent.”

2 *Zadvydas*, 533 U.S. at 693. “Freedom from imprisonment—from government
3 custody, detention, or other forms of physical restraint—lies at the heart of the
4 liberty that the Clause protects.” *Zadvydas*, 533 U.S. at 690.

5 60. Due process requires that government action be rational and non-arbitrary.
6 *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

7 61. As already stated, Ms. Gonzalez has a vital liberty interest in remaining free
8 from DHS custody. *See Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL
9 2084921, at *4 (N.D. Cal. July 24, 2025) (citing *Diaz v. Kaiser*, No. 3:25-CV-
10 05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025) (explaining that a non-citizen
11 that ICE released from custody after initial apprehension “has a substantial private
12 interest in remaining out of custody” which includes an interest in “...obtaining
13 necessary medical care, [and] maintaining her relationships in the community...”).

14 62. Ms. Gonzalez, prior to her detention, complied with all aspects of her parole.
15 Further, she obtained work authorization, developed community ties, and built a
16 life for herself in South Carolina.

17 63. Prior to granting parole, Respondents considered Ms. Gonzalez’s facts and
18 circumstances and determined she was not a flight risk or a danger to the
19 community. There have been no changes to the facts that justify a revocation of her
20 parole.

21 **THIRD CLAIM FOR RELIEF**

22 **Petitioners’ Detention Violates the Administrative Procedure Act,** 23 **5 U.S.C. § 706(2)**

24 64. Ms. Gonzalez incorporates by reference the allegations of fact set
25 forth in the preceding paragraphs.

26 65. Under the Administrative Procedure Act, a court must “hold unlawful
27 and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or

1 otherwise not in accordance with the law,” that is “contrary to constitutional right
2 [or] power,” or that is “in excess of statutory jurisdiction, authority, or limitations,
3 or short of statutory right.” 5 U.S.C. § 706(2)(A)-(C).

4 66. Ms. Gonzalez’s detention is arbitrary, capricious, an abuse of
5 discretion, violative of the Constitution, and without statutory authority in violation
6 of 5 U.S.C. § 706(2).

7 **FOURTH CLAIM FOR RELIEF**

8 **Respondent’s Arrest of Ms. Gonzalez Violates Her Fourth Amendment to**
9 **Be Free from Unreasonable Seizures**
10 **(Unlawful Arrest)**

11 74. Ms. Gonzalez repeats and re-alleges the allegations contained in the
12 preceding paragraphs of this Petition as if fully set forth herein.

13 75. The Fourth Amendment protects the right of persons present in the United
14 States to be free from unreasonable seizures by government officials.

15 76. As a corollary to that right, the Fourth Amendment prohibits government
16 officials from conducting repeated arrests on the same grounds. In the immigration
17 context, this prohibition means that a person who immigration authorities released
18 from initial custody cannot be re-arrested “solely on the ground that he is subject to
19 removal proceedings” and without some new, intervening cause. *Saravia v.*
20 *Sessions*, 280 F. Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff’d sub nom.*, *Saravia for*
21 *A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

22 **PRAYER FOR RELIEF**

23 Ms. Gonzalez respectfully requests that this Court:

- 24 1. Assume jurisdiction over this matter;
- 25 2. Issue an Order to Show Cause ordering Respondents to show cause why
26 this Petition should not be granted within three days.
- 27 3. Declare that Ms. Gonzalez’s detention without an individualized

determination violates the Due Process Clause of the Fifth Amendment;

4. Issue a Writ of Habeas Corpus ordering Respondents to release Ms. Gonzalez from custody forthwith;
5. Issue an Order prohibiting the Respondents from transferring Ms. Gonzalez from this district without the Court's approval;
6. Award Ms. Gonzalez's counsel reasonable attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law;
7. Grant such further relief as the Court deems just, equitable, and Appropriate.

Date: July 20, 2026

Respectfully Submitted,
/s/Janice Deaton
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