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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

7 Patience Ukattah,

8 Petitioner,

9 v.

10 Christopher Chestnut, Warden of California
City Detention Center; Sergio
11 ALBARRAN, Acting Field Office Director of
Immigration and Customs Enforcement, San
12 Francisco Field Office; David VENTURELLA,
Acting Director, Immigration and Customs
13 Enforcement, U.S. Department of Homeland
Security; Markwayne MULLIN, Secretary, U.S.
14 Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
15 SECURITY; Todd W. BLANCHE, Acting U.S.
Attorney General; EXECUTIVE OFFICE FOR
16 IMMIGRATION REVIEW,

17 Respondents.
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Case No.

**PETITIONER'S REPLY TO
RESPONDENTS' ANSWER TO
PETITION FOR HABEAS CORPUS;**

**REPLY TO RESPONDENTS'
OPPOSITION TO MOTION FOR
TEMPORARY RESTRAINING
ORDER;**

**REPLY TO RESPONDENTS'
RESPONSE TO ORDER TO SHOW
CAUSE; and**

**OPPOSITION TO RESPONDENTS'
REQUEST TO DISSOLVE THE DO
NOT REMOVE/TRANSFER ORDER**

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INTRODUCTION

Petitioner Patience Ukattah (“Petitioner”) hereby submits this reply to: 1) Respondents’ Answer to Petition for Habeas Corpus; 2) Respondents’ Opposition to Temporary Restraining Order; 3) Respondents’ Response to Order to Show Cause submitted on July 13, 2026. Dkt. 6. Further, Petitioner opposes Respondents’ request to dissolve the do not remove/transfer order. *Id.*

As demonstrated below, this Honorable Court should grant Petitioner’s Temporary Restraining Order and Petition for Writ of Habeas Corpus providing for her immediate release from custody.

ARGUMENT

A. This Court has jurisdiction to prevent the Respondents from unlawfully detaining Petitioner in Violation of the Constitution and laws of the U.S.

Respondents argue that this Court lacks jurisdiction to prevent the government from removing Petitioner to Ghana. *See* Dkt. 6 at 5. Respondents cite to 8 U.S.C § 1252(g), which provides that “no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.” *Id.*; *see* 8 U.S.C. § 1252(g). Respondents seem to assert that 8 U.S.C. § 1252(g) divests this Court from granting the Petition for Writ of Habeas Corpus and TRO because Petitioner is detained to “carry out his (*sic*) final removal order. Dkt. No. 6. This is not correct and mischaracterizes Petitioner’s claims.

The Ninth Circuit has held that § 1252(g) does not divest courts of jurisdiction over cases that do not address prosecutorial discretion and address ‘a purely legal question, which does not

1 challenge the Attorney General's discretionary authority'. *Sied v. Nielsen*, No. 17-cv-06785-LB,
2 2018 WL 1142202, at *21 (N.D. Cal. Mar. 2, 2018) (citing *United States v. Hovsepian*, 359 F.3d
3 1144, 1155 (9th Cir. 2004) (en banc)).

4 Here, the bases of Petitioner's claims are not challenges to a removal order. Instead, she
5 permissibly challenges the unconstitutional and unlawful detention she has been subjected to by
6 Respondents. *Yang v. Kaiser*, No. 2:25-CV-02205-DAD-AC (HC), 2025 WL 2791778 (E.D. Cal.
7 Aug. 20, 2025); *Garcia v. Andrews*, No. 2:25-cv-01884-TLN-SCR, 2025 WL 1927596, at *1 n.1
8 (E.D. Cal. July 14, 2025); *see also* *Nak Kim Chhoeun v. Marin*, No. 17-cv-01898-CJC-GJS,
9 2018 WL 1941756, at *4 (C.D. Cal. Mar. 26, 2018) (finding that § 1252(g) does not bar federal
10 court jurisdiction over due process challenges to a petitioner's re-detention). Therefore, § 1252(g)
11 is inapplicable.

12 Thus, this Court has jurisdiction over this matter under 28 U.S.C. § 2241, and should
13 grant the TRO and Petition for Writ of Habeas if it finds Petitioner's arrest and detention are
14 unconstitutional and unlawful.

15
16 *B. Petitioner is not subject to detention under 8 U.S.C. § 1231(a)(6)*

17 Respondents argue that Petitioner is subject to detention under 8 U.S.C. § 1231(a)(6), and
18 therefore, the only limitation to her post removal detention is an "indefinite" detention. Dkt. 6 at
19 5. This is incorrect.

20
21 8 U.S.C. § 1231(a)(6) provides for a period of continued detention for certain classes of
22 people who have not been removed at the conclusion of the ninety-day removal period. 8 U.S.C.
23 § 1231(a)(6) doesn't provide the Government a free-roaming right to arrest and detain people
24

1 any time Respondents see fit. *See Diallo v. Joyce*, 817 F. Supp. 3d 202 (S.D.N.Y. 2025). Once the
2 90-day removal period expires, if a non-citizen is not in custody, they are subject to supervision
3 under § 1231(a)(3), not detention. Here, Petitioner's order of removal became final in 2005. The
4 90-day removal period started on January 10, 2005, and expired on April 10, 2005. Therefore,
5 since April 10, 2005, Petitioner has been subject to § 1231(a)(3).

6 Respondents seem to argue that the procedures found at § 1231(a)(3) are inapplicable to
7 Petitioner because she was never placed on an order of release or supervision. Dkt. 6 at 5, n. 2.
8 This Court must reject this argument as the Respondents failure to detain Petitioner during the
9 90-day mandatory removal period cannot provide a perpetual license to arrest and detain a non-
10 citizen.

11 Thus, Petitioner has a protected liberty interest in her continued freedom protected by due
12 process. At a minimum, Respondents must comply with their own regulations under §
13 1231(a)(3).
14

15 *C. This Court should grant the Petition for Writ of Habeas Corpus because Petitioner's*
16 *arrest and detention violate the Due Process Clause of the U.S. Constitution, the INA,*
and agency regulations

17 1) Petitioner's detention violates the due process clause of the Fifth Amendment of the
18 U.S. Constitution

19 The Due Process Clause of the Fifth Amendment of the U.S. Constitution prohibits the
20 Government from depriving individuals of their life, liberty, or property, without due process.
21 U.S. Const. amend V. The Due Process Clause applies to "all 'persons' within the United States,
22 including [noncitizens], whether their presence here is lawful, unlawful, temporary, or
23 permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "The touchstone of due process is
24 protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418

1 U.S. 539, 558 (1974), including “the exercise of power without any reasonable justification in
2 the service of a legitimate government objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833,
3 846 (1998). “Freedom from imprisonment—from government custody, detention, or other forms
4 of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at
5 690. This is so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*,
6 864 F.3d 671, 683 (D.C. Cir. 2017).

7 Here, Petitioner was free from confinement from 2001 until her unlawful re-detention on
8 July 07, 2026. Therefore, she exercised her freedom (the protected liberty interest) for more than
9 24 years while legally residing in the U.S. and working with authorization. Petitioner suffers
10 from diabetes, high blood pressure, and asthma. Outside of detention she is able to properly
11 medicate and control her health issues. Since being detained, Respondents have deprived
12 Petitioner of medications and have gone up to three days without checking her blood sugar
13 levels. Petitioner reasonably fears her health will continue to decline or she may die in detention.
14 Therefore, Petitioner has a substantial private interest in being out of custody and her detention
15 denies her of that liberty. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom from
16 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
17 the heart of the liberty that [the Due Process] Clause protects.”).

18 Thus, Respondents violated the Fifth Amendment of the U.S. Constitution when they
19 unlawfully arrested and detained Petitioner on July 07, 2026.

20
21 2) Petitioner’s detention violates the INA and applicable regulations

22 Respondents revoked Petitioner’s release in violation of the INA and governing
23 regulations. Respondents have the authority to detain noncitizens with final orders of removal to
24

1 effectuate deportation. See 8 U.S.C § 1231; *Zadvydas v. Davis*, 533 U.S. 678, 697 (2001).
 2 However, when a noncitizen has been released from immigration detention, certain ICE
 3 regulations govern how and when the agency may revoke release and re-detain the noncitizen. 8
 4 C.F.R. §§ 241.13(i), 241.4(l). These procedures protect important due process rights owed to
 5 noncitizens. See *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 152 (D. Mass. 2025)(noting that 8 C.F.R.
 6 § 241.13(i) was ‘promulgated to protect a fundamental right derived from the Constitution’.)

7
 8 Under 8 C.F.R. § 241.13(i)(1) and (2), ICE is authorized to revoke a noncitizen’s release
 9 for purposes of removal. Specifically, a noncitizen’s release may be revoked if they violate any
 10 of the conditions of their release -or- “if, on account of changed circumstances,” it is determined
 11 that “there is a significant likelihood that the [noncitizen] may be removed in the reasonably
 foreseeable future.” 8 C.F.R. § 241.13(i)(1) and (2). Upon making this determination:

12 The Alien will be notified of the reasons for revocation of his or her release. The
 13 Service will conduct an initial informal interview promptly after his or her return
 14 to service custody to afford the alien an opportunity to respond to the reasons for
 15 revocation stated in the notification. The alien may submit any evidence or
 16 information that he or she believes shows there is no significant likelihood he or
 she be removed in the reasonably foreseeable future, or that he or she has not
 violated the order of supervision. The revocation custody review will include an
 evaluation of any contested facts relevant to the revocation and a determination
 whether the facts as determined warrant revocation and further denial of release. 8
 C.F.R. § 241.13(i)(3).

17 Respondents did not arrest and re-detain Petitioner on July 07, 2026 based on a violation
 18 of any conditions of her prior release over 24 years ago. They also have made no determination
 19 that there was a significant likelihood that she would be removed within a reasonably foreseeable
 20 future on account of changed circumstances. Respondents cannot show that a changed
 21 circumstances determination was made at or before Petitioner’s re-detention on July 07, 2026.
 22 Respondents also cannot show that, at the time of re-detention, they had determined that
 23 Petitioner would be removed in the foreseeable future. In fact, Respondents have not
 24 demonstrated any evidence other than a declaration that Petitioner is being removed to Ghana.
 Importantly, Respondents never notified Petitioner nor her counsel that Petitioner was being

1 processed for removal to Ghana. On a phone call with the undersigned yesterday, July 13, 2026,
2 Petitioner stated that she first learned of Respondent's plan to remove her to Ghana through the
3 undersigned. At the time of this filing no official or representative of the Respondents has
4 provided Petitioner with notice of her "planned" third country removal. She has not had the
5 opportunity to demonstrate her reasonable fear of being removed to Ghana¹. See *Duong v.*
6 *Charles*, No. 1:25-cv-01375-SKO, 2025 WL 3187313, at *3 (E.D. Cal. Nov. 14, 2025)(finding
7 no evidence of changed circumstances where the government "did not even submit a request to
8 Vietnam for travel documents" until a month after re-detaining petitioner); *Sphabmixay v. Noem*,
9 No. 25-cv-2648-LL-VET, 2025 WL 3034071, at *2 (S.D. Cal. Oct. 30, 2025) (finding no
10 evidence of changed circumstances where the government "did not even submit a request to Laos
11 for travel documents" until a week after re-detaining petitioner).

12 Moreover, Petitioner did not receive a formal "Notice of Revocation of Release"
13 document as required under 8 C.F.R. § 241.13(i)(3). Petitioner was required to be notified of
14 what circumstances have changed and why there was a significant likelihood of removal, to have
15 a fair opportunity to respond and submit evidence.

16 "ICE, like any agency, 'has the duty to follow its own federal regulations.'" *Rombot v.*
17 *Souza*, 296 F Supp. 3d 383, 388 (D. Mass. 2017)(quoting *Haoud v. Ashcroft*, 350 F.3d 201, 205
18 (1st Cir. 2003)); see also *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260
19 (1954)(reversing dismissal of habeas petition where BIA failed to follow its own regulations).
20 "Where an immigration 'regulation is promulgated to protect to protect a fundamental right
21 derived from the Constitution or a federal statute,' like the opportunity to be heard, 'and [ICE]
22 fails to adhere to it, the challenged [action] is invalid.'" *Rombot*, 296 F. Supp. 3d at 388 (quoting
23 *Waldron v. I.N.S.*, 17 F.3d 511, 518 (2d Cir. 1993)); *Hoac v. Becerra*, No. 2:25-cv-01740-DC-

24 ¹ Petitioner has informed the undersigned that she does in fact fear persecution in Ghana on account of her
nationality, religion, and particular social group (gender).

1 JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025)(“Because there is no indication that ICE
2 Regulations were followed. . .[petitioner’s] re-detainment was unlawful.”).

3
4 Thus, Petitioner has demonstrated she is likely to succeed on the merits of her claim that
5 Respondents violated the regulations at 8 C.F.R. § 241.13(i).

6
7 3) Respondents violated procedural due process and the APA due to the constitutionally
8 inadequate procedures regarding Petitioner purported third country removal to
9 Ghana²

10 Respondents’ process of removing Petitioner to a third country, Ghana, violates due
11 process because she has not received sufficient notice nor an opportunity to be heard.

12 Under Ninth Circuit precedent, failing to notify individuals who are subject to
13 deportation that they have the right to apply ... for withholding of deportation to the country to
14 which they will be deported violates both INS regulations and the constitutional right to due
15 process.” *Andriasian v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999) (citing *Kossov*, 132 F.3d at
16 408–09); *see also Sadychov v. Holder*, 565 F. App’x 648, 651 (9th Cir. 2014) (“[S]hould
17 circumstances change such that Azerbaijan is the designated country of removal, the agency
18 must provide Sadychov with notice and an opportunity to reopen his case for full adjudication of
19 his claim of withholding of removal from Azerbaijan.”). In the context of country of removal
20 designations, last minute orders of removal to a country may violate due process if an immigrant
21 was not provided an opportunity to address his fear of persecution in that country. *Najjar v.*
22 *Lynch*, 630 Fed. App’x 724 (9th Cir. 2016) (citing *Andriasian*, 180 F.3d at 1041); *El Himri v.*

23 ² Petitioner has prepared this response based only on the Respondents assertion that they are processing Petitioner to
24 Ghana. However, Respondents also state, “Respondents have shown that his (*sic*) removal to Moldova in relative
short order is certain.” Dkt. 6 at 7, lines 1-2. Petitioner has also not received any notice of a third-country removal to
Moldova. This further demonstrates that the ability to remove Petitioner to a third country in the reasonably
foreseeable future is dubious.

1 *Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004).

2 Respondents state Petitioner is on notice that the Government intends to remove him (*sic*)
3 to Ghana. Dkt. 6 at 5, n. 2. The record is conspicuously devoid of any proof that she has been
4 placed on notice. Respondents state that Petitioner has not provided any evidence that she
5 expressed a fear of being removed to Ghana. *Id.* While this may be true, the reason she has not
6 provided evidence is because she was not notified that she would be removed to Ghana until the
undersigned reviewed Respondents' Answer (Dkt. 6) on July 13, 2026.

7 Thus, Petitioners arrest and detention are unlawful and violate the U.S. Constitution,
8 INA, and relevant agency regulations.

9
10 **CONCLUSION**

11 Petitioner respectfully requests that this Court:

- 12 1. Deny Respondents Request To Dissolve the Do Not Remove/Transfer Order;
- 13 2. Grant Petitioner's Motion for a Temporary Restraining Order providing for her
14 immediate release from custody and enjoin Respondent's from re-detaining her absent further order
15 of this Court;
- 16 3. Issue a writ of habeas corpus ordering Respondents to immediately release
17 Petitioner from custody in the Eastern District of California³;
- 18 4. Declare that Petitioner's arrest and detention violated the Due Process Clause of
19 the Fifth Amendment;
- 20 5. Enjoin Respondents from re-detaining Petitioner unless her re-detention is
21 ordered at a custody hearing before a neutral arbiter in which the government bears the burden of

22
23 ³ Petitioner is currently being held at ERO El Paso Camp East Montana, 6920 Digital Road, El Paso, TX 79936.
24 Petitioner informed the undersigned that an officer stated that "there is a comment in her detention profile to return her to the California City Detention Center". However, Petitioner has not been provided any details of her planned transfer back to California City Detention Center.

1 proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the
2 community;

3 6. Declare that Petitioner's detention is unlawful;

4 7. Enjoin Respondents from re-detaining Petitioner absent compliance with
5 constitutional protections, including seven-days' notice to Petitioner and a pre-deprivation hearing
6 before a neutral fact-finder where (a) Respondents show material changed circumstances
7 demonstrate a significant likelihood of Petitioner's removal in the reasonably foreseeable future,
8 or (b) Respondents demonstrate by clear and convincing evidence before a neutral decisionmaker
9 that Petitioner poses a danger to the community or a flight risk. At any such hearing, petitioner
10 shall be allowed to have counsel present;

11 8. Enjoin Respondents from removing Petitioner to any third-country, without first
12 following the procedures of 8 U.S.C. § 1231(b)(2) and the following process (*see D.V.D. v. U.S.*
13 *Dep't of Homeland Sec.*, No. CV 25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21,
2025):

- 14 (a) written notice to both Petitioner and Petitioner's counsel in a language
Petitioner can understand;
- 15 (b) a meaningful opportunity, and a minimum of ten days, to raise a fear-based
claim for CAT protection prior to removal;
- 16 (c) if Petitioner is found to have demonstrated "reasonable fear" of removal to the
country, Respondents must move to reopen Petitioner's immigration
proceedings;
- 17 (d) if Petitioner is not found to have demonstrated a "reasonable fear" of removal
18 to the country, a meaningful opportunity, and a minimum of fifteen days, for
the Petitioner to seek reopening of his immigration proceedings.

19 9. Enjoin Respondents from re-detaining Petitioner without first following all
20 procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other applicable statutory and
21 regulatory procedures;

22 10. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
23 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

24 11. Grant such further relief as the Court deems just and proper.

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DATED this 14th of July 2026,

/s/ Winthrop Brian Hedrick
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on July 14, 2026, I filed the foregoing **PETITIONER'S REPLY TO RESPONDENTS' ANSWER TO PETITION FOR HABEAS CORPUS; REPLY TO RESPONDENTS' OPPOSITION TO MOTION FOR TEMPORARY RESTRAINING ORDER; REPLY TO RESPONDENTS' RESPONSE TO ORDER TO SHOW CAUSE; and OPPOSITION TO RESPONDENTS' REQUEST TO DISSOLVE THE DO NOT REMOVE/TRANSFER ORDER** electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

Dated: July 14, 2026

/s/Winthrop Brian Hedrick

Attorney for Petitioner