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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

YANLING XIE,

Petitioner,

v.

SERGIO ALBARRAN, Field Office Director of the San Francisco Immigration and Customs Enforcement Office; DAVID VENTURELLA, Acting Director of United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of the United States Department of Homeland Security; TODD BLANCHE, Acting Attorney General of the United States, acting in their official capacities,

Respondents.

CASE NO. 5:26-cv-07571

PETITIONER'S SUPPLEMENTAL BRIEFING

ALIEN NUMBER: A [redacted]

Petitioner submits this supplemental brief to address the five questions posed by the Court.

A. *Rauda* does not preclude the Court from granting Petitioner's Habeas Petition.

The Court has jurisdiction over Petitioner's habeas petition and over her request for a stay of removal, notwithstanding *Rauda v. Jennings*, 55 F.4th 773 (9th Cir. 2022). In *Rauda*, the Ninth Circuit held that the district court lacked jurisdiction because the petitioner sought only to stay his removal pending resolution of his motion to reopen before the Board of Immigration Appeals.

Petitioner's claim is inapposite to *Rauda*. She is not seeking a direct challenge of her removal order. She challenges her re-detention as unconstitutional because Respondents failed to comply with Judge Sheriff's prior order. *Garcia v. Andrews*, 2025 WL 1927596, *FN1 (E.D. Cal. July 14, 2025). That challenge is directed at the lawfulness of Respondents' custody decision, not at the execution of a removal order.

Rauda is further distinguishable on the posture of the underlying motion to reopen. The petitioner there sought reopening on grounds the IJ had already considered and rejected. Petitioner, by contrast, asks the IJ to adjudicate an asylum application on which the IJ never ruled, because the ill advice of prior counsel caused her to withdraw it. Petitioner therefore does not directly challenge a removal order or contest the correctness of any decision, which is the type of challenge the statute expressly prohibits. *Sied v. Nielsen*, 2018 WL 1142202, at *13-14 (N.D. Cal. March 2, 2018).

Accordingly, the Court has jurisdiction over Petitioner's matter.

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B. The Court has jurisdiction to rule on the merits of the petition while that injunction remains in force.

Here, Respondents failed to comply with the Eastern District's order. That order required compliance with 8 C.F.R. §§ 241.4(l) and 241.13(i), and Respondents did not comply with either provision.

8 C.F.R. §§ 241.4(l) states:

(l) Revocation of release—(1) Violation of conditions of release. Any alien described in paragraph (a) or (b)(1) of this section who has been released under an order of supervision or other conditions of release who violates the conditions of release may be returned to custody. Any such alien who violates the conditions of an order of supervision is subject to the penalties described in section 243(b) of the Act. Upon revocation, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.

8 C.F.R. § 241.13(i) states:

(i) Revocation of release—(1) Violation of conditions of release. Any alien who has been released under an order of supervision under this section who violates any of the conditions of release may be returned to custody and is subject to the penalties described in section 243(b) of the Act. In suitable cases, the HQPDU shall refer the case to the appropriate U.S. Attorney for criminal prosecution. The alien may be continued in detention for an additional six months in order to effect the alien's removal, if possible, and to effect the conditions under which the alien had been released.

Petitioner, Ms. Xie, is a citizen of China who suffered [redacted] before fleeing to the United States in September 2019. An asylum

officer found that she established a credible fear of persecution. While detained and suffering from severe, undiagnosed mental illness, and without counsel, she withdrew her asylum application and accepted a removal order to escape detention, a waiver she lacked the competence to make in that context.

On or about October 14, 2025, ICE re-detained Petitioner by revoking her order of supervision without notice or opportunity to be heard, on the decision of an individual without authority to do so, without findings required by law, and in violation of agency rules. Petitioner filed a habeas action with the Eastern District of California.

On May 1, 2026, in *Yan-Ling X. v. Lyons*, No. 1:25-cv-01412 KES CDB (HC), this Court granted her petition for writ of habeas corpus, held that Respondents violated her procedural due process rights under the Fifth Amendment, entered judgment in her favor, and enjoined and restrained Respondents "from re-detaining Petitioner Yan-Ling X. unless and until they obtain a travel document for her removal, and unless and until they follow all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other applicable statutory and regulatory procedures."

At her ICE check-in on July 17, 2026, ICE wanted to take Petitioner into custody. She was accompanied by undersigned counsel. At the check-in, an ICE officer informed undersigned counsel that Respondents planned to re-detain Petitioner and transport her to a detention facility in Bakersfield, California. Petitioner had received no prior notice that Respondents intended to re-detain her. Upon learning of the plan, Petitioner suffered a mental breakdown and burst into tears. In light of Petitioner's fragile and suicidal mental state, Respondents had no choice but to release her and directed her to report again on July 22, 2026.

Before that intended revocation of Petitioner's release under an Order of Supervision on July 17, 2026, the Government provided no advance notice and no hearing. It disclosed instead that it had obtained a travel document from China dated June 15, 2026, but it did not show Petitioner or undersigned counsel any evidence of the purported travel document. Respondents offered no evidence that a departure date had been scheduled for Petitioner at the time of her arrest. Respondents failed to comply with Judge Sheriff's order.

Respondents' practice departs from ICE's own prior and long-established practice. The agency used to notify individuals that it had obtained a travel document, arrange for the person's removal, and communicate both through written notice directing the person to appear for removal at a designated place and time.

ICE previously used Forms I-166 and G-56 to state explicitly that a travel document existed, that arrangements had been made for departure, and that the individual would be detained for removal. Form G-56 advised the individual that his or her release was revoked and that he or she was required to report for detention so that the final order of removal could be executed. Respondents gave Petitioner a Form G-56 that identified the reason for her July 15, 2026 check-in as a "case review." It never stated that Respondents would detain Petitioner and execute her final order of removal.

A "case review" is not notice. The G-56 concealed the true purpose of the appointment, which was re-detention and summary removal. It thereby deprived Ms. Xie of the precise procedural protections this Court ordered: knowledge of the reasons for revocation, and a meaningful opportunity to respond before her liberty is taken. A travel document satisfies only the first condition of this Court's injunction. It does not excuse noncompliance with the second.

ICE also failed to notify Petitioner of the reasons for the revocation of her release and did not conduct an initial informal interview on the day of her arrest, as 8 C.F.R. §§ 241.13(i)(3) and 241.14(l) require. That failure violates Judge Sheriff's order.

Respondents served no paperwork on Petitioner on July 17, 2026 and did not ask her to sign any documents, including any acknowledgment that she had been served with a Notice of Revocation of Release. Petitioner has had no conversation and no informal interview with any ICE officer about the basis for her re-detention. She received no notice and no opportunity to respond. ICE never provided Petitioner with a copy of her travel document. Without access to that document, which is the sole asserted basis for her re-detention, affording Petitioner an opportunity to respond to the reasons for her revocation would have been impossible.

Respondents then directed Petitioner to report to 630 Sansome Street for another check-in on July 22, 2026. When she appeared, Respondents took her into custody.

Respondents cite no legal authority supporting their argument that this Court lacks jurisdiction over Petitioner's habeas petition. Moreover, Respondents' failure to comply with the Eastern District's order is a new event and a change in circumstances, so the petition is not a successive habeas petition. Even assuming arguendo that the Court finds the petition successive, filing it is necessary to prevent a "fundamental miscarriage of justice" and is supported by "cause" because "prejudice would result." *Victor Manuel U.M. v. Warden, Golden State Annex Det. Facility*, No. 26-cv-4358, 2026 WL 2030177 at *1 (E.D. Cal. July 14, 2026), report and recommendation adopted, 2026 WL 2171703 (E.D. Cal. July 28, 20276). Contrary to Respondents' assertion, prejudice exists because Respondents were insistent on taking Petitioner into custody even though they had not complied with Judge Sheriff's order

Petitioner is not seeking to overturn or modify the decision of the Eastern District, but is seeking to ensure that Respondents comply with the 8 C.F.R. §§ 241.4(l), 241.13(i).

Finally, Petitioner has at all relevant times been in custody, because an individual released on an order of supervision remains in constructive custody. *J.P. v. Santacruz*, 2025 WL 2633198, at *2 (C.D. Cal. August 27, 2025). When undersigned counsel contacted Respondents' office on about the possibility that Petitioner would be re-detained on July 22, 2026, the only response undersigned counsel received was that ICE has a travel document for Petitioner. Petitioner's petition therefore does not challenge a future confinement, as Respondents improperly label it, but an imminent and foreseeable re-detention.

C. Ibarra Perez

Under *Ibarra-Perez v. United States,* 154 F.4th 989 (9th Cir. 2025), Petitioner is not barred by 8 U.S.C. § 1252(g) to bring forth her due process claims.

This Court has jurisdiction over Petitioner's habeas petition because Petitioner challenges the Government's violation of her due process rights. Respondents failed to comply with 8 C.F.R. §§ 241.4(l) and 241.13(i) when they decided to re-detain her on July 17, 2026 and July 22, 2026.

Respondents' argument to effectuate the removal order against Petitioner is foreclosed when Petitioner seeks to use habeas to challenge the lawfulness of her re-detention. *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999).

D. This Court does not lack jurisdiction under the All Writs Act

The Court has jurisdiction to "preserve the status quo" "while a petition is pending resolution from the courts" under the All Writs Act. *Qu v. Mullin*, 2026 WL 1658501, at *1-2 (C.D. Cal. June 5, 2026); *See F.T.C. v. Dean Foods Co.*, 384 U.S. 597, 604 (1966).

Here, Petitioner has asserted due process claims, and this Court has not issued a final determination on the underlying petition. A stay of removal pending that decision is therefore warranted.

E. Jurisdiction over mental-health related safeguards

The Court has jurisdiction to impose mental-health related safeguards on removal. *Garrido v. Mullin*, No. 5:26-cv-02230-AB-AJR, 2026 WL 1250271, at *1, *5 (C.D. Cal. May 1, 2026).

Contrary to Respondents' assertion, Petitioner has had a history of suicidal thoughts and depression. Respondents' assertion is disingenuous because Respondents were made aware of Petitioner's mental condition in Petitioner's motion to reopen before the Immigration Judge and during Petitioner's check-ins on July 17, 2026 and July 22, 2026.

Respondent's lack of care "to an incarcerated individual's serious medical need—even where the condition is not immediately life-threatening—may constitute deliberate indifference." *Id.* at *6 citing *Watanabe v. Derr*, 115 F.4th 1034, 1042 (9th Cir. 2024).

Respectfully submitted,

Date: August 28, 2026

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