UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

CATALINA SANTIAGO SANTIAGO,

***Petitioner*,**

v.

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security,

PAMELA BONDI, in her official capacity as Attorney General of the United States;

TODD LYONS, in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement;

MARY DE ANDA-YBARRA, in her official capacity as Field Office Director of the El Paso Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations;

ANGEL GARITE, in his official capacity as Assistant Field Office Director of the El Paso Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations;

***Respondents*.**

VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS

Case No. 3:25-cv-361

INTRODUCTION

1. Under the Deferred Action for Childhood Arrivals ("DACA") program, individuals brought to the United States as children who meet specific, rigorous criteria and who pose no threat to national security or public safety are protected from deportation via a two-year grant of deferred

action, subject to renewal. These young people—commonly known as "Dreamers"—have played by the rules, cooperated with the government, and relied on the promise that they may live and work in the United States without fear of arbitrary arrest or deportation.

2. Petitioner Catalina "Xóchitl" Santiago Santiago is one such Dreamer. She is an indigenous Zapotec woman who has lived in the United States since she was eight (8) years old, is married to a United States citizen, and has valid DACA protection through April 2026. As a Dreamer, Ms. Santiago submitted sensitive personal information to the government, paid the required fees, and passed rigorous background checks to receive DACA, which she was originally granted in 2012. In return, the government assured her that she would not be targeted for arrest or removal so long as she complied with the program's requirements.

3. Nevertheless, Ms. Santiago was recently arrested by U.S. Customs and Border Protection ("CBP") officers at the El Paso International Airport on August 3, 2025, without a warrant, moments before boarding a domestic flight to Dallas, Texas to attend a conference. She was then transferred to Immigration and Customs Enforcement ("ICE") custody and detained at the El Paso Service Processing Center, where she has remained ever since. At the time of her arrest—and at all times since—there had been no material change in Ms. Santiago's circumstances: her DACA was valid and she does not pose a threat to public safety or national security. In fact, she is eligible to adjust her status to become a lawful permanent resident based on her recent marriage to her U.S.-citizen spouse. And of course, as a DACA recipient, she cannot be removed from the United States.

4. Ms. Santiago's warrantless arrest violated her statutory and Fourth Amendment rights. Her detention, despite her current DACA protection, contravenes the fundamental Due Process protections of the U.S. Constitution and runs afoul of the government's own regulations

governing DACA's provision and termination. Accordingly, Ms. Santiago asks this Court to issue a writ of habeas corpus ordering her immediate release from ICE custody.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction under Art. I § 9, cl. 2 of the U.S. Constitution (Suspension Clause), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. § 2201 (Declaratory Judgment Act).

6. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (same); *Tran v. Mukasey*, 515 F.3d 478, 482 (5th Cir. 2008) (same).

7. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (e)(1) because Ms. Santiago is detained within the Western District of Texas, her immediate physical custodian is located within this District, and a substantial part of the events giving rise to this petition occurred and continue to occur within this District.

PARTIES

8. Petitioner **Catalina "Xóchitl" Santiago Santiago** is a 28-year-old indigenous Zapotec woman and Mexican national who has resided in the United States since she was eight (8) years old. She has had DACA since 2012 and renewed it six (6) times; her current DACA grant is valid until April 29, 2026. Ever since being unlawfully arrested by CBP officers on August 3, 2025, Ms. Santiago has been in ICE custody at El Paso Service Processing Center ("El Paso SPC").

9. Respondent **Angel Garite** is named in his official capacity as the Assistant Field Office Director for the El Paso Field Office of ICE Enforcement and Removal Operations ("El Paso ICE"). As Assistant Field Office Director, Respondent Garite serves a role analogous to that of a warden for the El Paso Service Processing Center, where Ms. Santiago is confined. As such, he is the immediate physical custodian of Ms. Santiago.

10. Respondent **Mary De Anda-Ybarra** is named in her official capacity as the Field Office Director for El Paso ICE. As Field Office Director, Respondent De Anda-Ybarra oversees ICE's enforcement and removal operations in El Paso. As such, she is a legal custodian of Ms. Santiago.

11. Respondent **Todd Lyons** is named in his official capacity as Acting Director U.S. Immigration and Customs Enforcement and as such is the legal custodian of Ms. Santiago.

12. Respondent **Kristi Noem** is named in her official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, she is responsible for overseeing ICE's day-to-day operations, leading approximately 20,000 ICE employees, including Respondents Lyons, De Anda-Ybarra, and Garite. Secretary Noem is the ultimate legal custodian of Ms. Santiago.

13. Respondent **Pamela Bondi** is named in her official capacity as the Attorney General of the United States. As Attorney General, Respondent Bondi oversees the immigration court system, including the immigration judges who conduct bond hearings as her designees, and is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g). She is legally responsible for administering Ms. Santiago's removal and bond proceedings, and as such, she is Ms. Santiago's legal custodian.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

14. There is no statutory requirement of administrative exhaustion before immigration detention may be challenged in federal court by a writ of habeas corpus. *See* 8 U.S.C. § 1252(d)(1); *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007) ("Under the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal.").

15. The Supreme Court has recognized that exhaustion is not required where a plaintiff "may suffer irreparable harm if unable to secure immediate judicial consideration of her claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). This is the case here, where Ms. Santiago raises constitutional and statutory claims that the agency cannot redress, and where each day that passes is one in which she is being unconstitutionally deprived of her liberty.

16. Even if the Court were to consider requiring exhaustion as a prudential matter, further action with the agency is unnecessary when pursuing administrative remedies would be futile or the agency has predetermined a dispositive issue. *McCarthy v. Madigan*, 503 U.S. 144, 147-48 (1992) (holding that an administrative remedy is inadequate when it "lacks institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute" or where the "challenge is to the adequacy of the agency procedure itself").

17. Courts in this Circuit and the Board of Immigration Appeals have held that a person who returns to the United States on advance parole, as Ms. Santiago recently did, is treated as an "arriving alien" for the purposes of immigration proceedings, and thus is not eligible for bond. *See, e.g., Matter of Oseiwusu*, 22 I. & N. Dec. 19, 19–20 (BIA 1998); *Duarte v. Mayorkas*, 27 F.4th 1044, 1057–58 (5th Cir. 2022); *Bouchikhi v. Holder*, 676 F.3d 173, 178 (5th Cir. 2012). This interpretation leaves Ms. Santiago with no remedies to exhaust.

18. Therefore, habeas corpus is an appropriate avenue to vindicate her constitutional, statutory, and regulatory rights and restore her liberty.

LEGAL FRAMEWORK

19. On June 15, 2012, the Secretary of DHS announced the DACA policy, authorizing case-by-case deferred action for certain individuals who were brought to the United States as children, met specified educational and public-safety criteria, and passed background checks. Mem. from Janet Napolitano, Sec'y of DHS, *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children* (June 15, 2012) (hereinafter "Napolitano Memorandum").[1]

20. DACA recipients are "talented young people, who, for all intents and purposes, are Americans—they've been raised as Americans, understand themselves to be part of this country." The DACA program was intended "to lift the shadow of deportation from these young people" and "to mend our Nation's immigration policy to make it more fair, more efficient, and more just." President Barack Obama, Remarks on Immigration Reform, 2012 Daily Comp. Pres. Doc. 1 (June 15, 2012).[2]

21. Under DACA, "'to prevent [these] low priority individuals from being removed from the United States,' ICE 'exercise[s] prosecutorial discretion[ ] on an individual basis ... by deferring action for a period of two years, subject to renewal.'" *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 10 (2020). Those who meet DACA's rigorous criteria are thus "granted 'affirmative … relief' from removal." *Enriquez-Perdomo v. Newman*, 54 F.4th 855, 863 (6th Cir. 2022) (citing *Regents*, 591 U.S. at 10).

[1] Available at https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf.
[2] Available at https://obamawhitehouse.archives.gov/the-press-office/2012/06/15/remarks-president-immigration.

22. In 2022, DHS promulgated a final rule codifying DACA's structure, adjudicative standards, collateral consequences, and termination procedure. *Deferred Action for Childhood Arrivals*, 87 Fed. Reg. 53,152 (Aug. 30, 2022) (codified at 8 C.F.R. §§ 236.21–236.23). The rule defines deferred action as "a form of enforcement discretion not to pursue the removal of certain [noncitizens]," or a "temporary forbearance from removal." 8 C.F.R. § 236.21(c)(1).

23. Per DHS's regulations, DACA recipients are also treated by DHS as lawfully present for the period deferred action is in effect, and are thereby entitled to certain associated benefits, such as a work authorization if they demonstrate economic need. 8 C.F.R. § 236.23(d) (2024); 87 Fed. Reg. at 53,177–80; *see also Texas v. United States*, 809 F.3d 134, 166 (5th Cir. 2015), *aff'd by an equally divided Court*, 579 U.S. 547 (2016) ("Deferred action … is much more than nonenforcement: It … affirmatively confer[s] 'lawful presence' and associated benefits ….").

24. From the program's inception to the present, DACA applicants have been required to disclose sensitive biographical and biometric information, to submit to comprehensive background and security checks, and to pay substantial filing fees. *See* Napolitano Memorandum, *supra*; 87 Fed. Reg. at 53,158–61; 8 C.F.R. §§ 236.21–236.23. They can be granted DACA only upon satisfaction of uniform criteria tied to education, residence, age at entry, and public-safety screening. *Id.*

25. A grant of DACA is valid for two years and is then indefinitely renewable. 8 C.F.R. § 236.23(a)(4). Consequently, DACA recipients must apply to renew their DACA grant every other year, going through the same rigorous application process each time. Notably, however, U.S. Citizenship and Immigration Services ("USCIS") cannot approve these applications if a person is in immigration detention. 8 C.F.R. § 236.23(a)(2).

26. The regulations also lay out specific procedures by which DACA may be terminated. 8 C.F.R. § 236.23(d). First, DHS sub-agency USCIS has exclusive jurisdiction to consider applications for DACA, and USCIS alone may terminate DACA. 8 C.F.R. §§ 236.23(a)(2), (d). With very few exceptions, none of which apply here, USCIS may only terminate an individual's grant of DACA after providing them with a Notice of Intent to Terminate and an opportunity to respond prior to termination. 8 C.F.R. § 236.23(d)(1).

27. The structured, uniform, and repeated vetting of DACA applicants creates predictable, government-induced expectations that recipients reasonably rely upon in ordering their lives, employment, education, and family responsibilities. This is the design of the program: in exchange for disclosure and compliance, recipients reasonably expect not to be targeted for arrest or detention based solely on immigration status while deferred action remains in effect. *See, e.g.*, Letter from Secretary Jeh Johnson to Rep. Judy Chu (Dec. 30, 2016);[3] Transcript of CNN Town Hall with Speaker Paul Ryan, CNN (Jan. 12, 2017),[4] (then-Speaker of the House Paul Ryan stating that the government must ensure that "the rug doesn't get pulled out from under" Dreamers, who have "organize[d] [their] li[ves] around" the DACA program"); Ted Hesson & Seung Min Kim, *Wary Democrats Look to Kelly for Answers on Immigration*, Politico (Mar. 29, 2017)[5] (then-DHS Secretary Kelly reaffirming that "DACA status" is a "commitment . . . by the government towards the DACA person, or the so-called Dreamer"); Transcript of President Elect Trump in Meet the Press, NBC News (Dec. 8, 2024)[6] (then-President Elect Trump stating "Republicans are very open to the dreamers. The dreamers, we're talking many years ago they were brought into

[3] *Available at* https://chu.house.gov/sites/evo-subsites/chu-evo.house.gov/files/documents/DHS.Signed%20Response%20to%20Chu%2012.30.16.pdf.
[4] *Available at* http://cnn.it/2oyJXJJ.
[5] *Available at* http://politi.co/2mR3gSN.
[6] Available at https://www.nbcnews.com/politics/donald-trump/trump-interview-meet-press-kristen-welker-Election-president-rcna182857.

this country. Many years ago. Some of them are no longer young people. And in many cases, they've become successful. They have great jobs. In some cases they have small businesses. Some cases they might have large businesses." When asked "You want them to be able to stay, that's what you're saying?" President Elect Trump answered with an unequivocal "I do.").

FACTS

28. Ms. Santiago is an indigenous Zapotec woman from Mexico who was brought to the United States as an eight-year-old child and has lived here ever since.

29. Upon arrival in the United States, Ms. Santiago matriculated in school and began studying English. After school and in the summers, she would work with her parents, who were farmworkers, to pick okra, beans, tomatoes, pumpkin, and other crops. In high school, she got involved in a community-based non-profit supporting local workers and taught Spanish classes to indigenous farmworkers in the area.

30. Ms. Santiago applied for and received DACA for the first time in 2012, at the program's outset. Since then, she has timely renewed her DACA grant every two years, successfully passing USCIS' rigorous background and security screenings each time—a total of six (6) times. Most recently, USCIS approved her DACA from April 30, 2024, through April 29, 2026.

31. For many years, Ms. Santiago has lived in El Paso, Texas, where she works as a community organizer. She works with low-income women and immigrant communities. As a community organizer for over a decade, Ms. Santiago has gained national recognition for her work advocating for immigrants' rights, including the rights of Dreamers such as herself, who came to the country as young children and have only ever known the United States as their home. She has

organized rallies across the country and become well known for her advocacy for immigrant workers and families.

32. Ms. Santiago's only criminal conviction is a political one—from nearly ten (10) years ago—for disorderly conduct, to which she pled guilty following her participation in a civil disobedience action. She received similar charges on two other instances in 2017, also associated with civil disobedience actions, but neither resulted in a conviction. Although she was also arrested for alleged drug and paraphernalia possession on one occasion in 2020 while traveling through the state of Arizona, no prosecutor ever filed charges against her in any court for those allegations. As such, Ms. Santiago's only criminal charges and her single conviction stem from her activism. Notably, she has successfully renewed her DACA through USCIS multiple times *after* these incidents.

33. In 2022, Ms. Santiago was accepted into a study abroad program specifically for Dreamers through the California-Mexico Studies Center, founded by a professor at California State University Long Beach. USCIS granted her advanced parole, allowing her to travel to Mexico for the program for approximately one month then re-enter the United States lawfully on June 12, 2022.

34. On January 8, 2025, Ms. Santiago married Desiree Miller, a United States citizen, in El Paso, Texas. Based on her lawful entry in 2022 and her marriage to a U.S. citizen, she is prima facie eligible to adjust her immigration status to that of a lawful permanent resident (LPR), known colloquially as a "green card holder."

35. On August 3, 2025, while preparing to board a domestic flight to Dallas, Texas at the El Paso International Airport, Ms. Santiago was arrested by CBP officers. Upon information and belief, the officers had no arrest warrant. Ms. Santiago complied with their requests to present

documentation, showing them her valid employment authorization document. Nevertheless, the officers detained her and transferred her to ICE custody.

36. Several days after the arrest, DHS issued a Notice to Appear alleging that Ms. Santiago is present in the United States "without being admitted or paroled," and charging inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i). Ms. Santiago's removal proceedings remain pending before the El Paso Service Processing Center Immigration Court.

37. Ms. Santiago has remained detained by Respondents in the El Paso Servicing Processing Center since August 3, 2025.

38. At the time of her arrest and at all times since, Ms. Santiago's DACA grant has been valid. USCIS has not given her any Notice of Intent to Terminate and, upon information and belief, has not initiated or completed any termination under 8 C.F.R. § 236.23(d), as required by law to revoke her DACA grant.

39. In the weeks since Ms. Santiago's arrest, supporters have organized vigils across the country, including in El Paso, Texas; Philadelphia, Pennsylvania; Grand Rapids, Michigan; Long Island, New York; Boston, Massachusetts; Tempe, Arizona; and Seattle, Washington.[7] Friends and colleagues have spoken out about Ms. Santiago's profound impact on communities across the country.[8] As Congresswoman Ayanna Pressley has recognized, she is "a beloved community organizer."[9]

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[7] Maanvi Singh, Immigration advocates alarmed over detention of Daca recipient: 'No legal basis', The Guardian, Aug. 27, 2025, available at: https://www.theguardian.com/us-news/2025/aug/27/daca-recipient-detention-immigration.

[8] Free Cata "Xóchitl" Santiago Now! (@freecatanow), Instagram, https://www.instagram.com/freecatanow/ (last visited Sept. 2, 2025).

[9] Congresswoman Ayanna Pressley (@RepPressley), X.com (Aug. 26, 2025), https://x.com/RepPressley/status/1960512216341336522.

40. Ms. Santiago relied on DACA in structuring her life: she has lived in the United States since childhood, worked lawfully with employment authorization, served her community, and ordered her affairs around the government's promise that, for the duration of her DACA grant, she would not be targeted for arrest or removal.

41. Nevertheless, Ms. Santiago remains deprived of her physical liberty, despite her valid DACA status. She is separated from her spouse and community; her employment and community work are interrupted; and she endures the anxiety and uncertainty of confinement even as DHS's own regulations confirm that she cannot be removed from the United States while her DACA grant remains valid. Additionally, Ms. Santiago will not be able to renew her DACA status from detention, so she also faces its de facto termination without any process whatsoever. *See* 8 C.F.R. § 263.23(a)(2).

42. The government's decision to detain Ms. Santiago, despite being unable to remove her, inflicts concrete, ongoing harm upon her and undermines the rule-of-law commitments upon which she–and all other DACA recipients–reasonably relied.

CLAIMS FOR RELIEF

CLAIM I

VIOLATION OF THE SUBSTANTIVE DUE PROCESS PROTECTIONS OF THE FIFTH AMENDMENT OF THE CONSTITUTION

43. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

44. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Freedom from physical

restraint "lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas*, 533 U.S. at 690.

45. Detention of a person with a valid, unrevoked grant of DACA violates the Fifth Amendment's protection of liberty for at least two reasons.

46. First, to comply with the Due Process Clause, detention must always bear "some reasonable relation to the purpose for which the individual was committed." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Brown v. Taylor*, 911 F.3d 235, 243 (5th Cir. 2018)

47. The only legitimate purpose, consistent with due process, for federal civil immigration detention is to prevent flight risk and ensure the detained person's attendance for a legal hearings adjudicating their status or potential removal, or to otherwise ensure the safety of the community. *Zadvydas*, 533 U.S. at 690–91.

48. Here, Ms. Santiago's detention is not reasonably related to its purpose. First, there is no reason to believe that Ms. Santiago would not attend any immigration proceedings. She is a married and longtime resident of El Paso and has made her life here. More importantly, she has reliably complied with any and all government requirements related to DACA since she first applied thirteen years ago, including through six vigorous DACA renewal processes. And, finally, the government has no authority to deport her because of her valid DACA grant. Second, there has been no material change regarding public safety since Ms. Santiago passed six different public safety assessments. Detention is constitutional only if it serves a lawful purpose, and here, there is none.

49. Second, when a noncitizen is not deportable, insofar as their DACA grant bars removal, the Due Process Clause requires that any deprivation of liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301–02 (1993) (holding

that due process "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest"); *Demore*, 538 U.S. at 528 (applying a less rigorous standard for "deportable [noncitizens]"). Here, Ms. Santiago has significant ties to the United States, and she has repeatedly passed rigorous, semiannual security checks for over a decade to maintain her DACA grant. Accordingly, she is neither a flight risk nor a threat to public safety, so the high standard applicable to her case cannot be met.

50. Ms. Santiago's continued detention is unrelated to the purposes justifying it as a constitutional matter, and therefore contravenes the fundamental Due Process protections in the Fifth Amendment of the Constitution and is causing Ms. Santiago substantial and irreparable harm.

CLAIM II

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

51. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

52. The Administrative Procedure Act provides that courts "shall . . . hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," or is "unsupported by substantial evidence." 5 U.S.C. §§ 706(2)(A), (E).

53. At the time of her arrest and at all times since, Ms. Santiago has had a valid grant of DACA, rendering her lawfully present under 8 C.F.R. § 236.21(c)(3). Indeed, it is through DACA that she received her employment authorization document, which she furnished to federal officers upon request.

54. Detaining Ms. Santiago despite her valid grant of DACA, which prohibits her removal from the United States; despite her long-standing ties to the United States; and despite no

changed circumstances suggesting she presents any risk of flight or threat to public safety is arbitrary and capricious, an abuse of discretion, and unsupported by substantial evidence.

55. The arbitrary and capricious detention of Ms. Santiago, despite her valid DACA, causes her irreparable harm with each day she remains detained.

CLAIM III

VIOLATION OF THE *ACCARDI* DOCTRINE WITH RESPECT TO 8 C.F.R. § 236.23(d)

56. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

57. Under the *Accardi* doctrine, the government and its agencies are required to follow their own binding rules. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). Where a regulation governing agency behavior has been promulgated, citizens and noncitizens alike are entitled to "that due process required by the regulations." *Id.* at 268.

58. In the present case, DHS's own regulations recognize that recipients are "lawfully present" for all relevant purposes. 8 C.F.R. § 236.21(c)(3). And relevant regulations enumerate a specific process by which DACA may be terminated. *See* 8 C.F.R. § 236.23(d). That process requires, as relevant here, that USCIS issue a Notice of Intent to Terminate DACA and an opportunity to respond prior to termination. 8 C.F.R. § 236.23(d)(1).

59. Because DACA cannot be renewed from detention, *see* 8 C.F.R. § 236.23(a)(2), detaining a DACA recipient without an opportunity for a bond hearing is tantamount to terminating DACA outside of these procedures. *See Matter of Oseiwusu*, 22 I. & N. Dec. at 19–20.

60. Here, Ms. Santiago has not received a Notice of Intent to Terminate her DACA from USCIS. Nevertheless, courts in this Circuit and the Board of Immigration Appeals have held that people in her position are "arriving aliens" subject to mandatory detention. And, so long as she is detained, she is precluded from receiving renewed DACA. Therefore, her continued

detention is a de facto DACA termination—without first following the codified termination procedures—contravene DHS's own regulations and thus run afoul of the *Accardi* doctrine.

CLAIM IV

VIOLATION OF PROCEDURAL DUE PROCESS PROTECTIONS OF THE FIFTH AMENDMENT OF THE CONSTITUTION

61. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

62. The procedural due process guarantee of the Fifth Amendment requires that individuals be provided notice and an opportunity to be heard before being deprived of liberty or property interests. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).

63. One of the first inquiries in any case of violation of procedural due process is whether the plaintiff has a protected property or liberty interest and, if so, the extent or scope of that interest. *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 569–70 (1972). Reliance on government policies and assurances may give rise to protected expectations under the Due Process Clause. *Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972).

64. Here, Ms. Santiago reasonably relied on government assurances—made explicit through innumerable public statements—that DACA provides some protection from arrest, detention, and removal for those who follow the rules, and allows its recipients to establish stable lives in the United States. This reliance has created a legally protectable liberty interest.

65. Under the familiar *Eldridge* Due Process test, then, the government's decision to arrest Ms. Santiago without any notice or an opportunity to respond, and continue to detain her without any opportunity to meaningfully challenge that detention, clearly violates her procedural due process rights. First, Ms. Santiago has a substantial, legally protectable liberty interest, created by her reliance on government DACA policies and associated assurances, at stake. Second, the

risk of erroneously depriving Ms. Santiago of that interest is severe, as she is separated from her spouse, community, and work indefinitely, and has been thrown into sudden instability. She has been afforded absolutely no process, let alone constitutionally sufficient process, prior to or since this deprivation, making the value of additional process high. *See Eldridge*, 424 U.S. at 343. Third, the government's interest in detaining Ms. Santiago is minimal. Ms. Santiago cannot be deported because of her valid DACA grant and she does not present any flight risk or danger: she has been a continuous resident in the United States since childhood, has obvious and strong ties to the United States, and has gone through semiannual vetting processes for over a decade to renew her DACA. Her detention is thus not rationally related to any purpose. And, additional process would entail little to no burden on the government, especially in light of the process the government must already follow to terminate DACA per 8 C.F.R. § 263.23(d). *See Eldridge*, 424 U.S. at 347.

66. Accordingly, Ms. Santiago's continued detention without an opportunity to be heard violates her procedural due process rights under the Fifth Amendment of the Constitution.

CLAIM V

VIOLATION OF THE FOURTH AMENDMENT OF THE CONSTITUTION AND 8 U.S.C. § 1357(a)(2)

67. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

68. The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV. The Supreme Court has consistently recognized that immigration arrests and detentions are "seizures" within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the "seizure" of the person).

69. As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). That neutral, judicial determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id*. Arrest and detention of a person, including of a noncitizen, absent a neutral, judicial determination of probable cause violates the Fourth Amendment of the Constitution. *Id.*; *see also Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991). This determination must occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstance. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

70. Congress enacted a strong preference that immigration arrests be based on warrants. *See Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The Immigration and Nationality Act thus provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C.§ 1357(a)(2). Specifically, an officer must have "reason to believe" the person is violating the immigration laws and that the person "is likely to escape before a warrant can be obtained." *Id*. Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).

71. Here, at the moment of seizure, Ms. Santiago (a) held a current, unrevoked DACA grant, making her lawfully present under 8 C.F.R. § 236.23(d), and (b) last entered the United States lawfully, on advance parole. And, she was about to board a domestic flight, within the officers' view and control.

72. Therefore, no officer could hold a reasonable belief that she was present in violation of the immigration laws, nor that she was likely to escape before a warrant could be obtained. *See* 8 U.S.C. § 1357(a)(2).

73. Without a statutory basis to arrest, the Government is required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Ms. Santiago. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57. Ms. Santiago received no such judicial determination, yet her detention continued well beyond 48 hours, rendering it presumptively unconstitutional.

74. The Government cannot salvage this seizure by invoking generalized immigration enforcement interests. The Fourth Amendment's reasonableness inquiry is fact-specific and demands individualized justification for both the arrest and the extended detention. *See United States v. Brignoni-Ponce*, 422 U.S. 873, 882–84 (1975); *Gerstein*, 420 U.S. at 114. Here, Ms. Santiago is lawfully present under DACA and has a recent parole entry.

75. Ms. Santiago's warrantless arrest occurred in violation of the clear, narrow circumstances permitted by statute. There has been no finding of probable cause or other determination by a neutral magistrate that would cure this infirmity; her arrest lacked any legal basis and there continues to be no legal basis for her detention. Therefore, her arrest and ensuing detention constitutes an unreasonable and unlawful seizure in violation of the Fourth Amendment.

CLAIM VI

VIOLATION OF THE *ACCARDI* DOCTRINE WITH RESPECT TO 8 C.F.R. § 287.8(c)(2)(i), (ii)

76. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

77. Under the *Accardi* doctrine, the government and its agencies are required to follow their own binding rules. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). Where a regulation governing agency behavior has been promulgated, citizens and noncitizens alike are entitled to "that due process required by the regulations." *Id.* at 268.

78. Regulations governing immigration enforcement require that warrantless arrests conform to the standards in 8 C.F.R. § 287.8(c). Specifically, for any arrest, immigration officers must have reason to believe that an individual committed an offense against the United States or was present illegally. 8 C.F.R. § 287.9(c)(2)(i). And, for a warrantless arrest, officers must also have reason to believe that an individual is "likely to escape before a warrant can be obtained." 8 C.F.R. § 287.8(c)(2)(ii).

79. At the time of the arrest and at all times since, Ms. Santiago has had valid DACA. Her most recent entry was a lawful entry via advanced parole. And, Ms. Santiago was about to board a domestic flight, in officers' view and control, when she was apprehended. Therefore, Ms. Santiago's arrest and continued detention contravene regulations governing immigration arrests in violation of the *Accardi* doctrine.

PRAYER FOR RELIEF

Petitioner respectfully requests that the Court grant the following relief:

A. Assume jurisdiction over this matter;

B. Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file a return within three (3) days absent good cause for a short extension, and set the matter for prompt hearing;

C. Prohibit Petitioner's removal from the United States and transfer outside the Western District of Texas during the pendency of this action;

D. Declare that Petitioner's arrest and continued detention violate the Fifth Amendment of the U.S. Constitution; the Administrative Procedure Act; the *Accardi* doctrine as to 8 C.F.R. §§ 236.23(d), 287.8(c)(2)(i), (ii); and the Fourth Amendment of the U.S. Constitution;

E. Grant the writ of habeas corpus and order Petitioner's immediate release from ICE custody;

F. In the alternative, order an immediate, constitutionally adequate individualized custody determination at which the government bears the burden to justify continued detention and the Court considers less restrictive alternatives to detention;

G. In the alternative, grant bail pending the conclusion of the habeas review; *see, e.g.*, *Sanchez v. Winfrey*, No. CIV.A.SA04CA0293RFNN, WL 1118718 (W.D. Tex. Apr. 28, 2004) (granting bail where the applicant does not pose a risk of flight or danger, and finding that such relief is necessary to "give effect to the requested habeas relief"); *Mapp v. Reno*, 241 F.3d 221 (2d Cir. 2001); and

H. Grant such other and further relief as law and justice require.

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Dated: September 2, 2025

Respectfully submitted,

/s/ Christopher Benoit
Christopher Benoit
BENOIT LEGAL PLLC
311 Montana Ave, Ste B,
El Paso, TX 79902
(915) 532-5544
chris@coylefirm.com

/s/ Luis Cortes Romero
Luis Cortes Romero*
NOVO LEGAL
19309 68th Avenue South Suite R102
Kent, Washington 98032
(206) 212-0260
Luis@novo-legal.com

/s/ Amy Rubenstein
Amy Rubenstein*
NOVO LEGAL
4280 Morrison Road
Denver, Colorado 80219
(303) 335-0250
amy@novo-legal.com

/s/ Bridget Pranzatelli
/s/ Stephanie E. Norton
/s/ Matthew Vogel
Bridget Pranzatelli*
Stephanie E. Norton*†
Matthew Vogel‡
NATIONAL IMMIGRATION PROJECT
1763 Columbia Road NW
Suite 175 #896645
Washington, DC 20009
(202) 217-4742
bridget@nipnlg.org
ellie@nipnlg.org

/s/ Marisa Ong
Marisa Ong*
SINGLETON SCHREIBER
6501 Americas Parkway NE Ste #670
Albuquerque, NM 87110
(575) 405-5192
mong@singletonschreiber.com

/s/ Norma Islas
Norma Islas
ISLAS LAW FIRM, PLLC
8201 Lockheed Drive, Ste. 216
El Paso, Texas 79925
(915) 599-9882
islaslaw@msn.com

*Motion for *pro hac vice* admission forthcoming

† Not admitted in DC; working remotely from Wyoming and admitted in New York only.

‡ Not admitted in DC; working remotely from and admitted in Louisiana only.

28 U.S.C. § 2242 VERIFICATION STATEMENT

I represent Petitioner, Catalina "Xóchitl" Santiago Santiago, and submit this verification on her behalf. I hereby verify under penalty of perjury that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED: September 2, 2025

/s/ Christopher Benoit

Christopher Benoit
BENOIT LEGAL PLLC
311 Montana Ave, Ste B,
El Paso, TX 79902
(915) 532-5544
chris@coylefirm.com