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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Mirta Amarilis CO TUPUL,

Petitioner-Plaintiff,

v.

Case No. 25-at-99908

Kristi NOEM, in her official capacity as
Secretary, U.S. Department of Homeland
Security;

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

Todd M. LYONS, in his official capacity as
Acting Director of Immigration and Customs
Enforcement;

John CANTU, in his official capacity as Field
Office Director, ICE Phoenix Office of
Detention and Removal; and

**PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Fred FIGUEROA, in his official capacity as
Warden, Eloy Detention Facility,

Respondents-Defendants.

INTRODUCTION

1. Petitioner-Plaintiff Mirta Amaralis Co Tupul (“Ms. Co Tupul” or “Petitioner-Plaintiff”), by and through her undersigned counsel, hereby files this petition for writ of habeas corpus and complaint for declaratory and injunctive relief to prevent U.S. Immigration and Customs Enforcement (“ICE”) from subjecting her to Expedited Removal without statutory authority and to release her from ICE detention, for which there is also presently no statutory authority.

2. Ms. Co Tupul is a 38-year-old, single mother of three U.S. citizen children, aged 8, 16 and 18. She entered the United States on or about 1996, when she was nine years old, and has lived in the United States continuously ever since.

3. Ms. Co Tupul is at imminent risk of being unlawfully removed from the United States. There are two independent reasons why her removal would be unlawful and why this Court should order her release forthwith. First, the Expedited Removal Order is the poisonous fruit of an unlawful arrest by an officer believed to be a Customs and Border Patrol (“CBP”) agent on July 22, 2025. Second, Ms. Co Tupul’s 30 years of residency clearly and unambiguously mean she cannot be subjected to expedited removal under 8 U.S.C. § 1225(b)(1), and Respondents-Defendants brazenly denied her the opportunity to establish her continuous residency.

1 4. Ms. Co Tupul's arrest and the subsequent Expedited Removal Order are
2 unlawful because the CBP agent conducted a detentive stop of Ms. Co Tupul without
3 reasonable suspicion that she was in the country unlawfully and effected a warrantless
4 arrest without probable cause or an individualized determination as to flight risk. Ms. Co
5 Tupul's privileged refusal to identify her immigration status to the CBP agent during the
6 unlawful detentive stop and subsequent arrest was unlawfully used to make an alienage
7 determination on which the Expedited Removal Order is based.
8
9

10 5. As to the second basis for ordering release, ICE failed to afford Ms. Co Tupul
11 the opportunity to challenge the applicability and manner in which the Expedited Removal
12 process was used against her within the interior of the United States, including a
13 meaningful and adequate opportunity to demonstrate that she is not subject to Expedited
14 Removal pursuant to 8 U.S.C. § 1225(b)(1)(A)(iii)(II) because of her almost thirty-year
15 presence in the United States.
16
17

18 6. ICE's detention and issuance of an expedited removal order are therefore
19 without statutory authority and violate Ms. Co Tupul's rights under the Fourth Amendment
20 and the Fifth Amendment's Due Process Clause. She should therefore be released
21 immediately and the expedited removal order vacated.
22

23 **JURISDICTION & VENUE**

24 7. This Court has jurisdiction over the present action pursuant to 28 U.S.C. §
25 2241, *et seq.* (habeas corpus); 28 U.S.C. § 1331 (federal question); 5 U.S.C. § 702 (waiver
26 of sovereign immunity); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2201 (Declaratory
27 Judgment Act); and Art. 1, § 9, cl. 2 of the United States Constitution (Suspension Clause).
28

1 official performing the duties of Director of ICE, he is responsible for the administration
2 and enforcement of the immigration laws and is legally responsible for pursuing any effort
3 to confine and remove Petitioner-Plaintiff; and as such is a custodian of Petitioner-Plaintiff.

4
5 13. Respondent-Defendant John CANTU is named in his official capacity as
6 Director of the ICE Phoenix Field Office in Phoenix, Arizona. In this capacity, he is
7 responsible for the execution of immigration confinement and the institution of removal
8 proceedings within the Phoenix area, in which Petitioner-Plaintiff is confined. As such, he
9 is a custodian of Petitioner-Plaintiff.
10

11 14. Respondent-Defendant Fred FIGUEROA is named in his official capacity as
12 Warden of the Eloy Detention Center. In this capacity, he oversees the daily administration
13 of the detention center in which Petitioner-Plaintiff is in custody. As such, he is the
14 immediate custodian of Petitioner-Plaintiff.
15

16 STATEMENT OF FACTS

17
18 15. Ms. Co Tupul has resided in the United States continuously since 1996 when
19 she was nine years old. Decl. of Mindy Butler-Christensen, Exh. 1 ¶ 5.

20 16. She has three U.S. citizen children, aged 8, 16, and 18, and is a single mother.
21 *Id.* ¶ 6. After nearly thirty years in the United States, Ms. Co Tupul has established
22 substantial connections here.
23

24 17. On July 22, 2025, Ms. Co Tupul was driving in a majority-Latino area of
25 Phoenix, Arizona, when she was pulled over by an officer believed to be a CBP agent who
26 asked her about her immigration status. When Ms. Co Tupul did not answer, he held her
27 there while he contacted ICE.
28

1 18. Ms. Co Tupul's detentive stop was escalated to a warrantless arrest without
2 an evaluation of whether she posed a flight risk.

3 19. Ms. Co Tupul was transported to Florence Processing Center for temporary
4 processing and then moved to Eloy Detention Center ("Eloy") where she remains. *Id.* ¶ 7.

5 20. On July 25, 2025, at 11:40AM, Ms. Butler-Christensen, Ms. Co Tupul's
6 attorney, contacted Eloy and spoke to Ms. Co Tupul's Deportation Officer. The officer
7 explained to Ms. Butler-Christensen that Ms. Co Tupul was placed in Expedited Removal
8 proceedings and would be removed in the next one to three weeks. *Id.* ¶ 10.

9 21. When Ms. Butler-Christensen asked the officer why Ms. Co Tupul would be
10 subject to Expedited Removal, he explained that ICE had a "new policy" of utilizing
11 Expedited Removal for non-citizens with "their first contact with ICE." *Id.* ¶ 11. The officer
12 refused to provide any documentation of this policy. *Id.* ¶ 12.

13 22. After this conversation, Ms. Butler-Christensen compiled overwhelming
14 evidence that Ms. Co Tupul has been continuously present in the United States for decades,
15 including several official documents, Ms. Co Tupul's Maricopa County vaccination
16 records from 1996, and sixteen signed affidavits attesting to her long-term residence. *Id.*
17 ¶¶ 13-14.

18 23. Ms. Butler-Christensen sent this evidence to several officials at Eloy and the
19 ICE Phoenix Field Office, including Respondent-Defendant Cantu. *Id.* ¶ 15.

20 24. On July 29, 2025, Ms. Co Tupul's Deportation Officer emailed Ms. Butler-
21 Christensen, informing her that "the case was reviewed and [Ms. Co Tupul] will remain in
22 Expedited Removal proceedings." *Id.* ¶ 18.

1 25. She followed up with the officer later that day to ensure he was able to review
2 the documentation she provided, but he never responded. *Id.* ¶¶ 20-21.

3 26. After several phone calls to supervisors at Eloy and officers at the ICE
4 Phoenix Field Office, a Supervising Deportation Officer responded via email that he would
5 review the documents the following morning. *Id.* ¶ 23.

6 27. On July 30, 2025, Ms. Butler-Christensen called the supervising officer to
7 ask if he had reviewed the evidence of Ms. Co Tupul’s long-term presence in the United
8 States. *Id.* ¶ 25. He expressed confusion as to why Ms. Butler-Christensen was so
9 concerned about Ms. Co Tupul being placed into Expedited Removal processing and why
10 she believed a Notice to Appear (“NTA”) was required in Ms. Co Tupul’s matter, asking
11 “What’s the difference? Why do you need an NTA so bad?” *Id.*

12 28. After she explained the difference, the supervising officer stated that Ms. Co
13 Tupul did not disclose her immigration status at the detentive stop. *Id.* ¶ 27. When Ms.
14 Butler-Christensen responded that Ms. Co Tupul had no obligation to do so and offered to
15 provide the law regarding the applicability of Expedited Removal, the supervising officer
16 became agitated, stepped away from the phone for several minutes, and, upon his return,
17 stated that Ms. Co Tupul would remain subject to Expedited Removal. *Id.* ¶¶ 28-32.

18 29. He went on to state that Ms. Co Tupul would receive a credible fear interview
19 and associated review, but that was all the “process” she would get. *Id.* ¶ 32.

20 30. Following this conversation, Ms. Butler-Christensen contacted the Assistant
21 Phoenix Field Office Director who confirmed that Ms. Co Tupul would be subject to
22 Expedited Removal and her process would be limited to a credible fear interview. *Id.* ¶ 35.

31. As of the filing of this petition, upon information and belief, Ms. Co Tupulu remains in Expedited Removal proceedings.

LEGAL FRAMEWORK

32. The process of Expedited Removal is laid out in 8 U.S.C. § 1225(b). Section 1225(b)(1)(A)(iii)(II) provides that Expedited Removal shall not be applied to non-citizens who have “been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility[.]”

33. The detention authority for individuals placed in Expedited Removal derives from §1225(b)(1)(B)(ii), which mandates detention pending a credible fear interview. For non-citizens physically present in the U.S. (aside from the exception not applicable here described at §1225(b)(1)(F)), this detention authority only applies to individuals who cannot meet the 2-year residency period. §1225(b)(1)(B)(iii) (“*Application to certain other [non-citizens]*”) (emphasis added).

34. For non-citizens who have been continuously present in the United States during the two years prior to an inadmissibility determination, removal proceedings are governed by 8 U.S.C. §§ 1229 and 1229(a). Unlike Expedited Removal, the general removal process provides for the opportunity to obtain legal counsel, prepare evidence, and present a case before an immigration judge.

CAUSES OF ACTION

Count I: Fourth Amendment

Alienage Determinations Relied Upon by ICE to Issue Petitioner-Plaintiff's Expedited Removal Order Were Based on Evidence Obtained in Violation of the Fourth Amendment

1 35. Petitioner-Plaintiff realleges and incorporates by reference each and every
2 allegation contained above.

3 36. Evidence obtained as a result of an egregious violation of the Fourth
4 Amendment must be excluded in immigration proceedings. *See Orhorhaghe v. INA*, 38
5 F.3d 488, 493 (9th Cir. 1994); *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1050 (1984)
6 (suppression may be required if there are “egregious violations of Fourth Amendment or
7 other liberties that might transgress notions of fundamental fairness.”).
8
9

10 37. Subjecting an individual to a detentive stop without reasonable suspicion is
11 an egregious violation of the Fourth Amendment. *See, e.g., Sanchez v. Sessions*, 904 F.3d
12 643 (9th Cir. 2018).
13

14 38. The detentive stop to which Ms. Co Tupul was subjected occurred without
15 reasonable suspicion and therefore constitutes an egregious violation of the Fourth
16 Amendment. Statements or other evidence obtained as a result of the detentive stop must
17 be excluded and cannot be used to support the necessary alienage determination required
18 to issue the Expedited Removal Order.
19

20 **Count II: Immigration & Nationality Act, 8 U.S.C §§ 1225(b)(1)(A)(iii)(II),**
21 **1252(e)(2)(B)**

22 *Petitioner-Plaintiff’s Expedited Removal Order Lacks a Factual Basis as Required by 8*
23 *U.S.C. § 1225(b)(1)(A)(iii)(II)*

24 39. Petitioner-Plaintiff realleges and incorporates by reference each and every
25 allegation contained above.

26 40. Expedited Removal Orders may only be issued to an individual who is
27 encountered within the interior of the United States if certain requirements are met,
28

including, as relevant here, the requirement that the individual has been physically present in the United States for less than two years. 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

41. Expedited Removal Orders which at the time of issuance lack a factual basis for the determination that an individual has been physically present in the United States for less than two years are invalid.

42. Ms. Co Tupul has been physically present in the United States for almost thirty years. As such, ICE's determination that she has been physically present for less than two years lacked any factual basis required to issue the Expedited Removal Order.

Count III: Fifth Amendment Due Process

Petitioner-Plaintiff Was Not Afforded an Adequate or Meaningful Process to Challenge the Use of the Expedited Removal Process, to Defend Herself, or to Offer Evidence Regarding the Length of Her Physical Presence Before Being Subjected to an Expedited Removal Order in Violation of the Fifth Amendment's Due Process Clause

43. Petitioner-Plaintiff realleges and incorporates by reference each and every allegation contained above.

44. Individuals present within the interior of the United States, especially those with substantial connections therein, are unquestionably protected by the Due Process Clause. "[T]he Due Process Clause applies to all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

45. Due process protections apply to individuals present within the interior of the United States in connection with Expedited Removal, even if due process protections may not apply to individuals encountered at an international border or those who have been present for less than two years.

46. Ms. Co Tupul has resided in the United States for almost 30 years. As such, she may only be removed pursuant to an order of removal issued by an immigration judge after a hearing. *See* 8 U.S.C. § 1225(b)(1)(A)(iii)(II); *see also El Gamal v. Noem et al.*, Order, ECF No. 29, at 3, Case No. SA-25-CV-00665-OLG (W.D. Tex. July 2, 2025 (“[T]he INA does not permit the use of expedited removal proceedings in Petitioners’ case[because] Petitioners have been physical present in the United States continuously [for more than two years].”).

47. The issuance of an Expedited Removal Order against Ms. Co Tupul, despite her almost thirty-year presence, and without a meaningful opportunity to challenge the Expedited Removal process’ applicability violates Ms. Co Tupul’s due process rights guaranteed by the Fifth Amendment.

Count IV: *Ultra Vires* Policy

Respondents-Defendants’ Policy to Subject Individuals to Expedited Removal Regardless of Length of Physical Presence in the United States is Beyond their Authority

48. Petitioner-Plaintiff realleges and incorporates by reference each and every allegation contained above.

49. This Court has authority to set aside executive actions and policies that are *ultra vires*. *See City of Arlington, Tex. v. FCC*, 569 U.S. 290, 297 (2013) (where agencies “act improperly, no less than when they act beyond their jurisdiction, what they do is *ultra vires*”); *Hawaii v. Trump*, 878 F. 3d 662, 682 (9th Cir. 2017), *rev’d on other grounds*, 585 U.S. 667 (2018) (an equitable cause of action outside of the APA “allows courts to review *ultra vires* actions” by federal officials that go beyond their statutory authority); *Mirzaie v. Dep’t of State*, No. 2:24-cv-00830-MRA-AJR (C.D. Cal. Jan. 31, 2024).

50. Respondents-Defendants assert that Ms. Co Tupul’s purported expedited removal order is based on a “new policy.” The issuance of the purported expedited removal and the underlying policy are *ultra vires*. Respondents-Defendants plainly lack statutory authority to subject Ms. Co Tupul to expedited removal. Congress unambiguously established that an individual may not be subject to expedited removal if they can establish that they resided in the United States continuously for two years prior to the initiation of expedited removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(A)(iii)(II). Ms. Co Tupul has resided in the U.S. continuously for almost thirty years. Respondents-Defendants’ attempt to implement their “new policy” by subjecting her to expedited removal is *ultra vires* and must be set aside.

Count V: Suspension Clause

If the INA’s Jurisdiction-Stripping Provisions Foreclose Review of the Application of Expedited Removal to a Non-Citizen with Long-Term Presence, They Violate the Suspension Clause

51. Petitioner-Plaintiff realleges and incorporates by reference each and every allegation contained above.

52. Respondents-Defendants are unlawfully subjecting Ms. Co Tupul to expedited removal, despite her almost three-decade-long presence in the United States.

53. The United States Constitution provides that, “The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.” U.S. Const., art. I, § 9, cl. 2.

54. No “Rebellion or Invasion” exists that would permit suspension of the writ for Ms. Co Tupul.

1 55. The limitations of the Suspension Clause apply to the jurisdiction-stripping
2 provisions of the INA.

3 56. As relevant here, the INA permits judicial review of expedited removal
4 orders to determine (1) “whether the petitioner is a[non-citizen],” (2) “whether the
5 petitioner was ordered removed[,]” and (3) whether the petitioner is a lawful permanent
6 resident, refugee, or asylee. 8 U.S.C. § 1252(e)(2)(A)-(C).

7
8 57. In *Dep’t of Homeland Security v. Thuraissigiam*, the Supreme Court held that
9 § 1252(e) did not violate the Suspension Clause as applied to non-citizens “at the threshold
10 of initial entry[,]” but noted that non-citizens “who have established connections in this
11 country have due process rights in deportation proceedings[.]” 591 U.S. 103, 107 (2020).
12
13 *See also United States v. Verdugo-Urquidez*, 494 U.S. 259, 271 (1990) (noting that non-
14 citizens “receive constitutional protections when they have come within the territory of the
15 U.S. and developed substantial connections with the country.”).

16
17 58. Ms. Co Tupul has resided in the United States for almost thirty years and is
18 the single mother of three U.S. citizen children. As such, she has substantial connections
19 in the United States. She has no criminal record beyond traffic tickets.

20
21 59. If the INA prevents judicial review of Respondents-Defendants’ expressly
22 unlawful decision to subject Ms. Co Tupul to expedited removal after thirty years of
23 presence in the United States, the statute renders the writ of habeas corpus an inadequate
24 and ineffective remedy.

25
26 60. In doing so, the government has, in effect, suspended the privilege of the writ
27 in violation of Article I, Section 9, Clause 2 of the United States Constitution.
28

PRAYER FOR RELIEF

WHEREFORE, Ms. Co Tupul prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order vacating the Expedited Removal Order and requiring Respondents-Defendants to provide Petitioner-Plaintiff with a hearing pursuant to 8 U.S.C. § 1229a. *See* 8 U.S.C. § 1252(e)(4);
- (3) Issue a Writ of Habeas Corpus and order the release of Petitioner-Plaintiff because her detention and the process by which the Expedited Order was issued violated the Fourth and Fifth Amendments;
- (4) In the alternative, issue injunctive relief ordering Respondents-Defendants to release Petitioner-Plaintiff on the ground that her continued detention and the process by which the Expedited Order was issued violated the Fourth and Fifth Amendments;
- (5) Declare that Respondents-Defendants' application of expedited removal to Ms. Co Tupul is *ultra vires* and violates the INA and Fifth Amendment and that her arrest violated the Fourth Amendment;
- (6) Award Petitioner-Plaintiff their costs and reasonable attorneys' fees in this action under the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified by law; and

(7) Grant any other and further relief that this Court may deem just and proper.

Dated: August 2, 2025

Respectfully Submitted,

/s/ Mindy Butler-Christensen

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/s/ Christopher Godshall-Bennett

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/s/ Eric Lee

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**Pro Hac Vice* forthcoming

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner-Plaintiff because I am one of Petitioner-Plaintiff's attorneys. I have discussed with the Petitioner-Plaintiff the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 2nd day of August 2025.

/s/ Mindy Butler-Christensen
Mindy Butler-Christensen
Attorney for Petitioner-Plaintiff
Mirta Amaralis Co Tupul

EXHIBIT 1

DECLARATION OF MINDY BUTLER-CHRISTENSEN

I, Mindy Butler-Christensen, hereby declare as follows:

1. I am an immigration attorney and owner of Encanto Law, LLC in Phoenix, Arizona. I have personal knowledge of the matters stated herein based on information and belief. My firm's address is 20 E. Thomas Rd. Ste 2000, Phoenix, Arizona 85012.
2. I have been practicing immigration law since 2015. I have been licensed in the State of Arizona since 2014. My Arizona bar number is 030898.
3. Aside from my professional background, I have personal knowledge of the matters stated herein because I am the immigration attorney of Ms. Mirta Amarylis Co Tupul ("Ms. Co"), representing her in custody matters.
4. I make this declaration in connection with Ms. Co's petition for writ of habeas corpus and complaint for declaratory and injunctive relief and her motion for a temporary restraining order and preliminary injunction. Because this petition and complaint are filed on an emergency basis, below are the most relevant facts.
5. Ms. Co is 38 years old. On information and belief, she entered the U.S. sometime in 1996 when she was just 9 years old. She has continuously lived in Arizona for almost 30 years.
6. Ms. Co has three U.S. citizen sons, all of whom were born in the state of Arizona. Her sons are currently 18, 16, and 8 years old. Ms. Co is a single mother.
7. On information and belief, on or around July 22, 2025, Ms. Co was pulled over while driving to work by a law enforcement officer wearing a green uniform. The officer asked her about her immigration status. When she stated that she was not required to answer that question, she was detained and placed in the custody of ICE. She was taken to the Florence Processing Center for temporary processing, and then taken to the Eloy Detention Center.
8. On July 25, 2025, Ms. Co's brother contacted my office and hired me for bond representation before EOIR on behalf of his sister.
9. On July 25, 2025, I submitted my G-28, Notice of Entry of Appearance as Attorney, to the ICE Enforcement and Removal Operations ("ERO") electronically.

10. Also on July 25, 2025, at 11:40AM, I spoke with Ms. Co's Deportation Officer in Eloy. During that conversation, the Deportation Officer informed me that Ms. Co was placed in Expedited Removal proceedings and would be removed in the next one to three weeks. I was surprised to hear this because I knew that Ms. Co had lived in Arizona for almost 30 years, and that Expedited Removal was improper.
11. I asked the Deportation Officer to share with me why she would be placed in Expedited Removal. He told me that this was a "new policy" that ICE would be implementing with immigrants who have just had "their first contact with ICE."
12. I asked him if he could send me any paperwork confirming this new policy, or why she was in Expedited Removal, or evidence that she was in fact in that process. He told me he could not send me anything.
13. For the next three days, Ms. Co's brother frantically assembled a large collection of documents confirming the fact that Ms. Co has lived here for 30 years, has no criminal history, has three U.S. citizen boys, and is an upstanding member of the community.
14. Ms. Co's brother was able to procure 16 signed affidavits of close friends and family, along with the IDs of each person. Those affidavits and related evidence confirm that Ms. Co had lived here continuously for decades, is a single mother of three U.S. citizen children (one in grade school), and is a law-abiding person. Particularly compelling evidence included her vaccination record that reflects vaccines issued by Maricopa County dating back to July of 1996 when she was 9 years old. The evidence also included School and Health Center IDs from when Mirta was a child here in Arizona.
15. On July 28, 2025 at 3:00PM I sent all of this evidence and an explanatory email to every Supervisory Deportation Officer (SDDO) I could find in Eloy, as well as every Assistant Field Office Director (AFOD) in Eloy, and John Cantu, the ERO Field Office Director for Eloy, Arizona. In this email, I indicated that this was an "Urgent" matter and clearly explained why my client should be placed in regular "240" proceedings, not Expedited Removal. I asked that ERO issue a Notice to Appear in order to start regular removal proceedings.
16. I did not hear back from anyone who was emailed. Knowing that "expedited removal" can mean that a person can be immediately deported, I emailed the same group the next morning on July 29, 2025 at 7:42AM, indicating that it was my second attempt, and that it was urgent. I reiterated that my client had lived in Arizona for almost 30 years. I also requested that they refer her for a credible fear interview ("CFI").

17. Two hours later, on July 29, 2025 at 9:06AM, I received a response saying that the email was forwarded to her Deportation Officer. I was also informed that my attachments could not be opened and that “emails to this mailbox are not monitored 24/7.”
18. At 9:37AM, the same Deportation Officer with whom I had previously interacted emailed me, stating that “the case was reviewed and she will remain in Expedited Removal proceedings.”
19. This felt strange because allegedly ERO “could not open my file” that included attached evidence; yet her Deportation Officer stated that the “case was reviewed,” and he reified the determination to keep her in Expedited Removal.
20. That same day, at 3:26PM, I sent the Deportation Officer an email with smaller, easier-to-open electronic files of the evidence I had previously submitted to ERO. I requested that he “cite the statute or policy that ICE is using that would justify placing her in Expedited Removal.” I also asked for the name of her SDDO and AFOD assigned to her case.
21. I did not hear back from him.
22. Shortly after this email, I called and left voice messages for, and sent emails to, each SDDO and the AFOD I could find for Eloy. I explained the facts and asserted once again that the decision to keep her in Expedited Removal was “in error,” and asked them to “reconsider her placement in Expedited Removal, issue an NTA, and place her in regular 240 proceedings.” I attached the most essential evidence to the email.
23. About two hours later, on July 29, 2025, Officer M.S., SDDO, responded to my email. He told me he would review the documents in the morning.
24. The next day, on July 30, 2025 at 11:25 I emailed Officer M.S. and the other officers, thanking him for being willing to read the evidence, and sending along the 16 signed affidavits.
25. Later that day, on July 30, 2025 at around 3:00PM, I called SDDO M.S. I asked if he had read the evidence. I explained why my client should be in 240 proceedings and should be issued an NTA. He asked me why I was so insistent that she get an NTA, and then asked “what is the difference? Why do you need an NTA so bad?”
26. I explained the difference between being in Expedited Removal and being in regular 240 proceedings.

27. He told me that during the arrest, she refused to disclose to the officers how long she had lived here. He referenced the I-213, which reportedly documented her unwillingness to share information.
28. I responded that according to the law, she doesn't have to share that information, and that I, as her lawyer, had supplied plenty of evidence to ERO regarding how long she had resided in Arizona.
29. I offered to send him the law that explains why Expedited Removal is improper if a person has lived here longer than two years.
30. He got upset, told me he felt insulted, and that I was insinuating that he didn't know the law. I assured him I did not mean to insult him.
31. He took a several minute pause on the phone, then returned and reiterated that she would not be taken out of Expedited Removal. He informed me that she would be referred for a Credible Fear Interview, and that she could later discuss the results of the CFI with a judge, and that that was the "process" she was going to get.
32. I confirmed who her AFOD was, and then I emailed the AFOD at 3:34 on July 30, 2025.
33. In the email to the AFOD, I made my case for 240 proceedings, and noted that both the DO and SDDO had mentioned that during her arrest, she had refused to produce evidence regarding how long she had lived here. I stated, "if that is true, I submit to you that she has now cured that lack of evidence by amassing a large amount of evidence that I am now sharing with you."
34. Minutes later, at 3:53PM, the AFOD emailed me, stating thus: "Upon the administrative arrest of your client, she invoked her right to not make a statement. Based on this, officers processed her as an Expedited Removal. At your request, her case was referred to USCIS for a credible fear interview. Depending on the USCIS decision, your client has the ability to see the immigration judge."
35. I then emailed the AFOD and asked for "all records relating to her arrest, her I-213, and any paperwork confirmation that she is in the expedited removal process."
36. He did not respond to this request.
37. The next day, on July 31, 2025, I emailed him again, stating that I had submitted my G-28 to the asylum office, requesting to participate in the CFI. However, I plainly stated that "while my client will express her fear, the CFI is not the proper

process for a person who has lived in the United States for almost 30 years; rather, the proper process is issuing an NTA and permitting her to bring her case via 240 proceedings. She has been improperly placed in Expedited Removal as per 8 U.S. Code 1225 (b)(1)(A)(II).”

38. As of August 1, 2025, he has not responded, and she appears to not be in 240 proceedings yet, but remains in Expedited Removal and detained in Eloy, Arizona.

Dated: August 2, 2025

Signed: s/Mindy Butler-Christensen