

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 26-cv-02084-RMR

**RUDY ALEXANDER VILLEDA MEJIA,**

**Petitioner,**

**v.**

**JUAN BALTAZAR,** in his official capacity as Warden of the ICE Denver Contract  
Detention Facility,

**GEORGE VALDEZ,** in his official capacity as Director of the Denver Field Office of  
United States Immigration and Customs Enforcement, Enforcement and Removal  
Operations,

**MARKWAYNE MULLIN,** in his official capacity as Secretary of Homeland Security, and

**TODD BLANCHE,** in his official capacity as Acting Attorney General of the United  
States,

**Respondents.**

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**PETITIONER'S EMERGENCY MOTION FOR STAY PENDING APPEAL**

Pursuant to Fed. R. App. P. 8(a)(1)(A), Petitioner Rudy Alexander Villeda Mejía

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respectfully moves that the Court stay its July 1, 2026, Order denying his petition for a  
writ of habeas corpus and granting Respondents' Motion to Vacate (ECF No. 12)

pending an appeal to the United States Court of Appeals for the Tenth Circuit, in support whereof he states as follows:

1. Counsel for Mr. Villeda Mejía contacted Counsel for Respondents. They exchanged emails in which Counsel for Mr. Villeda Mejía explained the bases for this motion, and Counsel for Respondents indicated that they will oppose it.

### **Relevant Factual Background**

1. This recitation of facts derives mainly from Mr. Villeda Mejía's petition for a writ of habeas corpus (ECF No. 2).
2. Mr. Villeda Mejía is a 47-year-old native and citizen of Honduras. He has entered the United States on two occasions; once in 2007 and once in 2010.
3. He fled Honduras to escape the pervasive violence that afflicts the country to this day. He arrived at the southern border on July 4, 2007, after a long, hard journey that had left him ill. Border patrol officers apprehended him shortly thereafter and issued an order of expedited removal against him.
4. Though he expressed a fear of returning to Honduras and was placed in the credible fear process, he was forced to withdraw from the process because immigration officers repeatedly assured him that he would not receive the medical treatment he needed in a timely manner.
5. He was detained until August 8, 2007, when he was returned to Honduras under the expedited order of removal.
6. Though he tried continuing his life in Honduras, he was compelled to flee about two years later. He inadvertently came across photographs of gang members

committing crimes while dressed as officials of the Honduran authorities, was threatened at gunpoint, and was tracked down and beaten when he and his cousin tried to relocate to another part of Honduras.

7. He traveled through Guatemala until he reached Mexico. Movant's Appx, P. 49 – Personal Narrative. While at a bus station in Tamaulipas, he was approached by two men who induced him to follow them by promising him lawful employment in the United States. *Id.*
8. He was in fact held for ransom and repeatedly beaten and humiliated for a while in Mexico before being taken across the southern border and then continued in the hands of what he learned were members of the Los Zetas group. *Id.* at 49–53. His father reported the ransom demands to the police, who passed the information on to a local ICE Field Office. *Id.* at 55. But his sister, afraid that he would be killed, finished paying the ransom before the kidnappers could be apprehended. *Id.*
9. He continues to suffer the after-effects of his ordeal, including vivid nightmares and Bells Palsy. *Id.*
10. In May 2014, ICE officers encountered Mr. Villeda Mejía, detained him, and reinstated the 2007 order of removal against him.
11. He expressed a fear of returning to Honduras, and an asylum officer found that he had established a reasonable fear of returning to that country. He was therefore placed into withholding-only proceedings.

12. In December 2014, he was released on a \$5,000 bond, which he could request under the applicable law at the time because he had petitioned the United States Court of Appeals for the Ninth Circuit for review of the reinstatement.
13. His applications for restriction on removal and protection under the Convention Against Torture were denied in 2016, and his direct appeal to the Board of Immigration Appeals was dismissed in 2017.
14. From August 2018 to April 2025, he regularly attended check-ins at the ICE Field Office in Seattle, Washington. He was scheduled to attend another check-in on April 16, 2026.
15. On March 30, 2026, however, ICE officials detained him at Denver International Airport. They did not indicate, at that time or afterward, why his release was being revoked. At no point was he provided a written notice explaining why he was being detained. Nor was he afforded an opportunity to address the reasons for his detention.
16. ICE officials did not even see to know that he had been detained in Denver for a few weeks.
17. He remains detained at the ICE Denver Contract Detention Facility in Aurora, Colorado.
18. On March 31, 2026, he petitioned the United States Court of Appeals for the Ninth Circuit for review of a decision by the BIA dated March 10, 2026, denying his second motion to reopen his immigration court proceedings. The Ninth Circuit stayed his removal.

19. On May 16, 2026, he filed a petition for a writ of habeas corpus alleging that his detention violated 8 U.S.C. § 1231(a) and his due process rights under the fifth Amendment, including through ICE's signal failure to abide by its regulations when it re-detained him. See 8 C.F.R. § 241.4(l).
20. On May 18, 2026, the court entered an order prohibiting Mr. Villeda Mejía's transfer outside the District of Colorado or removal from the United States. ECF No. 5.
21. When Respondents responded to the petition, they did not address ICE's complete noncompliance with its own regulations. See ECF No. 8. The only evidence they submitted was a declaration by Officer John Mansur that provided no information whatever to show that Ice had been at even minimal pains to follow the procedures its regulations prescribe. See Decl. John Mansur ¶¶ 28, ECF No. 8–1.
22. On June 2, 2026, the Ninth Circuit dismissed Mr. Villeda Mejía's latest petition for review and thus lifted the stay of his removal.
23. Respondents filed a motion to vacate the order prohibiting Mr. Villeda's transfer or removal on June 11, 2026, ECF No. 11.
24. On July 1, 2026, the court entered an order denying Mr. Villeda Mejía's petition for a writ of habeas corpus and granting Respondents' motion. ECF No. 12. In the order, the Court found that it was proper to aggregate all Mr. Villeda Mejía's periods of detention. *Id.* at 5–6. But though it determined that he had thus been detained for more than the presumptively reasonable six-month period, the Court denied him relief because his removal is likely to occur in the reasonably

foreseeable future. *Id.* at 7–8. It acknowledged that Mr. Villeda Mejía had argued that the application for T nonimmigrant status might result in an automatic stay but held that this prolongation of Mr. Villeda Mejía’s detention would be of his own making and thus could not be used to show that his removal is unlikely to occur in the reasonably foreseeable future. *Id.* at 8.

25. The Court did not address ICE’s failure to follow its own regulations or analyze whether that failure constituted a separate, cognizable due-process violation warranting immediate release.

26. On July 2, 2026, Mr. Villeda Mejía applied to ICE for an administrative stay of removal under 8 C.F.R. § 241.6(a), citing his trafficking as one factor worthy of consideration. Movant’s Appx., P. 1 – First Application for Administrative Stay of Removal.

27. The next day, Mr. Villeda Mejía received a letter purporting to deny this application. It was signed by Acting Assistant Field Office Director Sean A. Christner. Movant’s Appx., P. 2 – Decision Denying First Stay Application.

28. 8 C.F.R. § 241.6(a) specifies the officials who may decide such applications. An Assistant Field Office Director, Acting or otherwise, is not on that list.

29. Mr. Villeda Mejía filed a second application for an administrative stay of removal, including proof that he has mailed an application for T nonimmigrant status to USCIS. See Movant’s Appx., PP. 3–124 — Complete Packet for Second Application for Administrative Stay of Removal.

30. He specifically asked ICE to account for the order in *Immigr. Ctr. Women & Child. V. Noem*, No. 2:25-cv-09848-AB-AS, 2026 WL 1455004 (C.D. Ca., May 20,

2026), restoring ICE's guidance that it should not detain or remove identified victims of trafficking in the absence of exceptional circumstances, such as criminal history or national security concerns.

31. ICE has not ruled on this application. And since it is now free to remove Mr. Villeda Mejía at any time, he urgently seeks a stay from the Court while he appeals its decision.

### **Law and Argument**

32. The balance of equities in this case favors a stay.

33. When requesting a stay, a party must address (1) the likelihood of success on appeal; (2) the threat of irreparable harm to the party if the Court does not grant the stay; and (3) the absence of harm to the government and where the public interest lies. See *Nken v. Holder*, 556 U.S. 418, 435 (2009) (the last two factors "merge when the Government is the opposing party."). Mr. Villeda Mejía can meet his burden to prove that the Court should exercise its discretion in his favor. See *Nken*, 556 U.S. at 433–34.

34. Mr. Villeda Mejía is likely to succeed in showing that the Court erred as a matter of law by not addressing ICE's failure to follow its own regulations, which constitutes a due process violation.

35. A noncitizen requesting that a court stay the execution of an order must show more than a possibility of relief. *Nken*, 556 U.S. at 434.

36. Mr. Villeda Mejía's principal argument on appeal is that the Court reversibly erred when it ignored his due-process argument that ICE's signal noncompliance with

its own regulations violated his Fifth Amendment due process rights and warrants his immediate release.

37. Multiple judges in this district have held that ICE's failure to follow its own regulations when revoking a noncitizens' release on an order of supervision through a failure to timely state the specific reason for the revocation in writing and provide the required informal interview constitutes a violation of due process and that the appropriate remedy in such cases is to order immediate release and the noncitizen's restoration to the status before the detention. *See Kumar v. Mullin*, No. 26-cv-1264-WJM, 2026 WL 1139601, at \*3–\*4 (D. Colo. Apr. 24, 2026); *Virachak v. Baltazar*, No. 26-cv-391-STV, 2026 WL 746285, at \*2–\*5 (D. Colo. Mar. 17, 2026); *Izquierdo Navarro v. Bondi*, No. 25-cv-4210-NYW, 2026 WL 468582 (D. Colo. Feb. 18, 2026). As one court in this circuit has held, such a claim is distinct from a claim under *Zadvyddas v. Davis*, 533 U.S. 678 (2001). *See Owdetallah v. Bondi*, No. CIV-25-1546-SLP, 2026 WL 483648 (D. Okla. Feb. 20, 2026).
38. In this case, the government did not even attempt to show that it had in any way followed the applicable regulations, as Mr. Villeda Mejía pointed out in his reply (ECF No. 10 at 2–5. Yet the Court's order had nothing to say about this separate and flagrant failure by the government to follow its own regulations before depriving Mr. Villeda Mejía of his liberty.
39. Mr. Villeda Mejía, then, can show a strong probability that he will succeed on appeal in part by arguing that the Court should have considered whether ICE's

egregious failure to abide by its own procedures represents a due process violation warranting immediate release.

40. If the Court does not stay its order, Mr. Villeda Mejía will suffer irreparable harm.

41. As with success on appeal, an applicant for a stay must demonstrate more than a mere possibility of irreparable injury. *Nken*, 556 U.S. at 434–35. In the immigration context, the irreparable injury must go beyond the normal hardships of deportation. *Id.*

42. If the Court does not stay its order, and ICE removes Mr. Villeda Mejía, he and his family will suffer several forms of irreparable harm.

43. First, he will forever lose the opportunity to pursue the sole pathway he possesses to obtaining lawful status in the United States: T nonimmigrant status. He was an identified victim of trafficking. ICE's own records reflect that he was the victim of a smuggling turned kidnapping. Movant's Appx., P. 57 — FOIA Excerpt from ICE Office of Investigations in Seattle, WA. Why his previous attorney did not help him apply for T status during the nearly twelve years he represented Mr. Villeda Mejía is not at all clear.

44. What is clear, however, is that T status requires that an applicant be physically present in the United States. If Mr. Villeda Mejía is removed, he will not meet that requirement, and he will never be able to vindicate his rights as a survivor of trafficking.

45. Second, he will be permanently wrenched away from his wife, who suffers from dysplasia in both hips, and her three children, with whom he has established strong relationships. Once removed, he will not be permitted to even apply to

return to the United States and join his family until he has been outside the country for ten years.

46. Third, his business, RVM All Metal Roofing, which employed four people at the time he was unlawfully detained, will collapse, and the family's livelihood will vanish.

47. In short, Mr. Villeda Mejía can make a strong showing that irreparable harm will result if the Court's order is not stayed.

48. Finally, staying the order will harm neither the government nor the public interest.

49. The public does have an interest in the prompt execution of lawful orders of removal. *Nken*, 556 U.S. at 436. But a strong public interest also exists in preventing wrongful deportations. *Id.* This interest extends to the government's following its own regulations, especially where they are meant to protect rights as fundamental as liberty.

50. Mr. Villeda Mejía is subject to an order of removal. But since he first entered in the United States in 2007, the government has shown a singular disregard for his rights under the law.

51. In 2007, he was coerced into accepting an order of expedited removal by the threat of deliberate deprivation of medical care.

52. In 2026, he was detained without any kind of justification beyond the government's desire to effectuate a removal order that it had not enforced for seven years, during all of which he scrupulously complied with the requirements to remain at liberty. True, the government enjoys considerable discretion in how

and when it enforces the immigration laws. But if it wants to detain a noncitizen, it has to follow its own rules. It indisputably did not do so in this case.

53. There is no evidence that a duly authorized officer made the decision to revoke Mr. Villeda Mejía's release. There is no evidence that he violated any of the conditions of his release. There is no evidence that circumstances changed since either his release on bond or his last check-in to justify his apprehension at Denver International Airport, especially because he had a check-in with the Seattle Field Office on April 16 and had attended all previous appointments. There is no evidence that the government notified him, either when he was detained or later, of the specific reasons for his detention. And there is no evidence that the government afforded him an opportunity to address those reasons. In short, there is no evidence that the government followed a single required procedure before detaining Mr. Villeda Mejía.
54. Then, on July 3, scarcely 24 hours after he applied for a stay of removal, he received a decision denying this application and signed by an official who lacked the authority to make that decision.
55. Mr. Villeda Mejía has no criminal history. He has done all he can to follow the procedures the government set out for him. He has established a rich, full life in the United States over the past fifteen years. And the government threatens to rip it away from him without even troubling to follow the procedures required before it can do so. Such disregard for a person's rights and the regulations meant to protect them does not merit a reward.

For these reasons, Mr. Villeda Mejia prays the Court to stay its order pending appeal.

Respectfully submitted this 9th day of July 2026,

s/ Henry D. Hollithron

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