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9 UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA
11 WESTERN DIVISION
12

13 JOAQUIN E. VILLALTA SALAZAR,
14 Petitioner-Plaintiff,

15 v.

16 Timothy ROBBINS, et al.
17 Respondents-Defendants.
18
19
20

Case No. 2:25-cv-05473-
VBF-MAR

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

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Art. 3 3

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Amend XIV 1, 49, 54–55

1 **INTRODUCTION**

2 1. On June 18, 2025, this Court had granted a temporary restraining order,
3
4 filed by Petitioner, Joaquin E. Villalta Salazar (“Mr. Villalta” or “Petitioner”),
5 Agency number [REDACTED], in which the Court ordered Mr. Villalta’s released
6 from ICE custody, ordered Respondents to not send him to any place outside of
7 the United States, and directed the parties to file supplemental briefing on whether
8 Respondents are lawfully permitted to re-arrest and re-detain Mr. Villalta without
9 a hearing. The parties filed supplemental briefing on this question.
10

11
12 2. Mr. Villalta is filing his first amended habeas petition in which he raises
13 additional legal and constitutional reasons as to why Respondents may not re-
14 arrest and re-detain Mr. Villalta without a hearing and may not place him in the
15 current detention conditions that violate the Fifth Amendment and Fourteenth
16 Amendment.
17

18 **CUSTODY**

19
20 3. On September 18, 2020, the Department of Homeland Security (“DHS”)
21 initiated regular removal proceedings and took Mr. Villalta into custody while his
22 immigration case was proceeding. *See Document 9-1*, Declaration of Officer
23 Johana L. Jimenez.
24

25 4. On February 3, 2022, the ERO released Mr. Villalta from immigration
26 custody, and he was placed under an Order of Supervision and was fitted with an
27

1 ankle bracelet. Document 9-1. For the next 40 months, between February 2022
2 and June 2025, Mr. Villalta reported each month to ICE as directed. **Exhibit U**

3
4 5. On June 13, 2025, Mr. Villalta received a message from ISAP on his
5 telephone stating in the Spanish language that translates as: “Please report to the
6 ICE Office at 321 Cortez Circle, Camarillo, CA, between the hours of 8:00 a.m.
7 and 4:00 p.m. on Saturday, June 14, 2025 or Sunday, June 15, 2025. Failure to
8 report as instructed will be considered a violation.” **Exhibit E**.

9
10 6. On June 14, 2025, at around noon, Mr. Villalta went to the ICE
11 appointment as instructed. **Exhibit U**. At that time, he presented the February 3,
12 2025 order staying his removal and EOIR docket information showing that his
13 case was still pending. The ICE officer asked him, “do you know what president
14 we have.” Mr. Villalta said “yes I do.” The ICE officer then said, “because of
15 Trump, I will arrest you.” **Exhibit U**. The ICE officer then arrested Mr. Villalta,
16 took him into custody, and transferred him to the El Paso detention center. *Id.*

17
18
19 7. On June 20, 2025 the Court granted Mr. Villalta’s TRO and ordered his
20 immediate release. On June 23, 2025, ICE released Mr. Villalta from custody and
21 resumed his earlier supervision conditions, including placing an ankle monitor on
22 him and requiring monthly check-ins. Since that time, Mr. Villalta has resumed
23 reporting to ICE as instructed. **Exhibit U**.

1 8. On July 28, 2025, the Court granted Mr. Villalta's Motion for Preliminary
2 Injunction.

3
4 9. Due to the conditions of release set by ICE, Mr. Villalta is participating in
5 ISAP, a monitoring program for immigrants in removal proceedings who have
6 been released from custody. The program is operated by a private contractor, BI
7 Incorporated. Pursuant to his contract with ISAP, among other restrictions, Mr.
8 Villalta is subject to check-ins like the appointment scheduled via a message to his
9 phone on June 13, 2025. Such stringent requirements "impose[] conditions which
10 significantly confine and restrain his freedom; this is enough to keep him in the
11 'custody' of [the DHS] within the meaning of the habeas corpus statute." *Jones v.*
12 *Cunningham*, 371 U.S. 236, 243 (1963); *see also Rodriguez v. Hayes*, 591 F.3d
13 1105, 1118 (9th Cir. 2010) (holding that comparable supervision requirements
14 constitute "custody" sufficient to support habeas jurisdiction).

15 16 17 18 **JURISDICTION**

19
20 10. This Court has jurisdiction over the present action pursuant to 28 U.S.C.
21 § 1331, general federal question jurisdiction; 5 U.S.C. § 701, *et seq.*, All Writs
22 Act; 28 U.S.C. § 2241, *et seq.*, habeas corpus; 28 U.S.C. § 2201, the Declaratory
23 Judgment Act; Art. 1, § 9, Cl. 2 of the United States Constitution (Suspension
24 Clause); Art. 3 of the United States Constitution, and the common law.

25
26 //
27

1 **REQUIREMENTS OF 28 U.S.C. § 2243**

2 11. The Court must grant the petition for writ of habeas corpus or issue an order
3
4 to show cause (OSC) to Respondents “forthwith,” unless the petitioner is not
5 entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require
6 Respondents to file a return “within three days unless for good cause additional
7
8 time, not exceeding twenty days, is allowed.” *Id.*

9 12. Courts have long recognized the significance of the habeas statute in
10 protecting individuals from unlawful detention. The Great Writ has been referred
11
12 to as “perhaps the most important writ known to the constitutional law of England,
13 affording as it does a *swift* and imperative remedy in all cases of illegal restraint
14 or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).
15

16 13. Habeas corpus must remain a swift remedy. Importantly, “the statute itself
17 directs courts to give petitions for habeas corpus ‘special, preferential
18 consideration to insure expeditious hearing and determination.’” *Yong v. INS*, 208
19 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted). The Ninth Circuit
20 warned against any action creating the perception “that courts are more concerned
21 with efficient trial management than with the vindication of constitutional rights.”
22
23 *Id.*

24
25 **VENUE**

26 14. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e)
27

1 because the Respondents are employees or officers of the United States, acting in
2 their official capacity; because a substantial part of the events or omissions giving
3 rise to the claim occurred in the Western District of the Central District of
4 California. Mr. Villalta is under the jurisdiction of the Los Angeles ICE Field
5 Office, resides in the Los Angeles area, and has been reporting to the Los Angeles
6 ICE office on forty-one occasions between February 2022 and July 2025. ICE
7 unlawfully re-arrested Mr. Villalta at 321 Cortez Circle, Camarillo, CA in
8 violation of 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9); *Matter of Sugay*, 17 I & N
9 Dec. 647, 640 (BIA 1981). All of the these locations are in the jurisdiction of the
10 Central District of California, Western Division. There is no real property
11 involved in this action.
12

13
14
15
16 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

17 15. For habeas claims, exhaustion of administrative remedies is prudential, not
18 jurisdictional. *See Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A
19 court may waive the prudential exhaustion requirement if “administrative
20 remedies are inadequate or not efficacious, pursuit of administrative remedies
21 would be a futile gesture, irreparable injury will result, or the administrative
22 proceedings would be void.” *Id.* (citation and quotation marks omitted)). Mr.
23 Villalta asserts that exhaustion should be waived because administrative remedies
24 are (1) futile and (2) if he is re-arrested and re-detained without legal authority,
25
26
27

1 any continued detention would result in irreparable harm.

2 16.No statutory exhaustion requirements apply to Mr. Villalta’s claim of
3 unlawful custody in violation of his due process rights, and there are no
4 administrative remedies that he needs to exhaust. *See Am.-Arab Anti-*
5 *Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) (holding
6 exhaustion to be a “futile exercise because the agency does not have jurisdiction
7 to review” constitutional claims).
8
9

10 PARTIES

11
12 17.Mr. Villalta was born in El Salvador and moved to the United States in
13 2005 at the age of twenty-seven. On February 3, 2022, ICE released Mr. Villalta
14 from immigration custody to comply with the Population Reduction Order
15 pursuant to the settlement agreement arising from *Hernandez Ramon v. Mayorkas*,
16 20-cv-00768-TJH-PVC.
17

18 18.Upon his release, ICE installed an electronic ankle monitor and enrolled
19 Mr. Villalta in the ISAP program. Mr. Villalta complied with all conditions of
20 release, and reported each month for 40 months—from February 2022 until June
21 2025. After his release from custody on June 23, 2025, Mr. Villalta continues to
22 report to ICE on a monthly basis and complies with all other conditions of release.
23
24

25 19.Mr. Villalta has been employed full-time since his first release from
26 detention in February 2022 and is the sole caretaker for wife who has an
27

1 aggressive form of breast cancer. He has shared custody with his five-year old
2 U.S. citizen daughter. Mr. Villalta has a meritorious application for a motion to
3 reopen proceedings to receive protection under asylum, withholding, and CAT,
4 which is pending before the BIA.
5

6 20. Respondent Timothy ROBBINS is the Acting Field Office Director of ICE,
7 in Los Angeles, California and is named in his official capacity. ICE is the
8 component of the DHS that is responsible for detaining and removing noncitizens
9 according to immigration law and oversees custody determinations. In his official
10 capacity, he is the legal custodian of Mr. Villalta.
11
12

13 21. Respondent Todd M. LYONS is the Acting Director of ICE and is named in
14 his official capacity. Among other things, ICE is responsible for the
15 administration and enforcement of the immigration laws, including the removal of
16 noncitizens. In his official capacity as head of ICE, he is the legal custodian of Mr.
17 Villalta.
18
19

20 22. Respondent Kristi NOEM is the Secretary of DHS and is named in her
21 official capacity. DHS is the federal agency encompassing ICE, which is
22 responsible for the administration and enforcement of the INA and all other laws
23 relating to the immigration of noncitizens. In her capacity as Secretary,
24 Respondent Noem has responsibility for the administration and enforcement of the
25 immigration and naturalization laws pursuant to section 402 of the Homeland
26
27

1 Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see*
2 *also* 8 U.S.C. § 1103(a). Respondent Noem is the ultimate legal custodian of Mr.
3 Villalta.
4

5 23. Respondent Pam BONDY is the Attorney General of the United States and
6 the most senior official in the U.S. Department of Justice (DOJ) and is named in
7 her official capacity. She has the authority to interpret the immigration laws and
8 adjudicate removal cases. The Attorney General delegates this responsibility to
9 the Executive Office for Immigration Review (EOIR), which administers the
10 immigration courts and the BIA.
11
12

13 **STATEMENT OF FACTS**

14 24. Mr. Villalta is citizen and national of El Salvador who entered the U.S. in
15 2005 at the age of twenty-seven years old.
16

17 25. On September 18, 2020, DHS issued a Notice to Appear, took him into
18 custody and commenced immigration proceedings.
19

20 26. On February 16, 2021, an IJ denied his claims for asylum, withholding, and
21 protection under the Convention Against Torture (CAT) and ordered him
22 removed. On October 12, 2021, the BIA dismissed the appeal.
23

24 27. On October 21, 2021, Mr. Villalta pro se filed a timely petition for review
25 with the Ninth Circuit Court of Appeals. *See* Docket Sheet No. 21-953, # 1. On
26 May 20, 2022, the Court appointed undersigned counsel pro bono counsel. *See*
27

1 Docket Sheet No. 21-953, # 16. On August 25, 2023, Mr. Villalta filed his
2 opening brief with the Court. *See* Docket Sheet No. 21-953, # 41. On May 15,
3 2024, the Court denied the petition for review. *See* Docket Sheet No. 21-953, #
4 74.

6 28. On July 25, 2024, Mr. Villalta filed a motion to reopen with the Board of
7 Immigration Appeals (BIA) seeking a new hearing to apply for asylum,
8 withholding, and CAT. ***Exhibit A.*** This motion is still pending before the BIA.
10 *See Exhibit A.*

12 29. On February 3, 2025, the BIA issued an order staying the removal while the
13 BIA adjudicates the pending motion to reopen. ***Exhibit B.*** This stay means that
14 the DHS cannot remove Mr. Villalta from the country until the BIA adjudicates
15 his motion to reopen.

17 30. On February 3, 2022, which was sixteen months after his initial arrest, ICE
18 released Mr. Villalta from immigration custody pursuant to the settlement
19 agreement arising from *Hernandez Ramon v. Mayorkas*, 20-cv-00768-TJH-PVC.

21 ***Exhibit C.*** At that time, Mr. Villalta posed no flight risk or threat to public
22 safety. Under the terms of this settlement agreement, all “Class Members” are
23 those who were detained at the Adelanto Immigration and Customs Enforcement
24 Processing Center “at any time between March 23, 2020 and May 11, 2023.”

26 ***Exhibit D.*** Pursuant to the Settlement Agreement, Class Members will not be re-
27

1 arrested or re-detained unless (1) the Class member engages in post-release
2 conduct that presents evidence of a national security threat or public safety threat;
3 or (2) or to execute a final order of removal.
4

5 31. Upon Mr. Villalta's release, ICE installed an electronic ankle monitor and
6 enrolled Mr. Villalta in the ISAP program. Mr. Villalta complied with all
7 conditions of release, and reported each month for 40 months—from February
8 2022 until June 2025. After his release on June 23, 2025, Mr. Villalta continues
9 to report to ICE on a monthly basis and complies with all other conditions of
10 release.
11
12

13 32. During the three years and six months in which he had lived at liberty, Mr.
14 Villalta had been the sole caretaker for wife who has an aggressive form of breast
15 cancer. **Exhibit Y.** Mr. Villalta has been employed on a fulltime basis and
16 provides all financial support to his wife and has provided all care for her as she
17 has had chemotherapy treatments, including a time period in which she needed
18 weekly chemotherapy treatments. *Id.* Mr. Villalta's wife is currently in remission
19 but Mr. Villalta has been instrumental in supporting her while she was sick and
20 will be present if the cancer returns. **Exhibit U, Exhibit Y.**
21
22
23

24 33. In addition, Mr. Villalta provides financial and emotional support to his
25 wife, his children in El Salvador, his five-year-old citizen daughter with whom he
26 shares custody in the United States, and his five adult step-children, including his
27

1 family members who live next door. Mr. Villalta is supporting his son in El
2 Salvador who is attending university. He also has eight grandchildren in the
3 United States who he sees regularly. Mr. Villalta lives next door to three
4 grandchildren, age 3 years, 1.5 years, and 8 months. Mr. Villalta spends time with
5 those grandchildren every day and regularly babysits so the parents can enjoy time
6 away from their children. Mr. Villalta also has an elderly mother who is disabled.
7 Mr. Villalta checks in with her every day and provides financial support to her as
8 well. ***Exhibit U.***

11
12 34. While litigating his request for protection before the Ninth Circuit and BIA,
13 Mr. Villalta reported to the ICE office in downtown Los Angeles and did so each
14 month for 40 months without issue.

15
16 35. On June 13, 2025, Mr. Villalta received a message from ISAP on his
17 telephone stating in the Spanish language that translates as: "Please report to the
18 ICE Office at 321 Cortez Circle, Camarillo, CA, between the hours of 8:00 a.m.
19 and 4:00 p.m. on Saturday, June 14, 2025 or Sunday, June 15, 2025. Failure to
20 report as instructed will be considered a violation." ***Exhibit E.***

21
22 36. On June 14, 2025, at around noon, Mr. Villalta went to the ICE
23 appointment as instructed. At that time, he presented the February 3, 2025 order
24 staying his removal and EOIR docket information showing that his case was still
25 pending. The ICE officer told him that he was going to be detained because that
26
27

1 is what President Trump wants. **Exhibit U.** The specific exchange involved the
2 ICE officer asking Mr. Villalta, “do you know what president we have.” Mr.
3 Villalta said, “yes I do.” The ICE officer then said “because of Trump, I will
4 arrest you.” *Id.*

6 37. ICE officer never articulated a reason as to why Mr. Villalta was a flight
7 risk, was a danger to his community, or had violated any condition of his release.
8 To the contrary, the ICE officers told Mr. Villalta, that only reason for his re-
9 arrest and re-detention is “because of Trump, I will arrest you.” **Exhibit U.**

11 38. In this litigation, the Deportation Officer claimed that Mr. Villalta had been
12 re-arrested and re-detained on June 14, 2025 “based on his recent arrest for Cal.
13 Penal Code § 273.5,” against his wife, which had occurred in the prior year on
14 September 13, 2024 and never ripened into a conviction. Document 9-1.

16 39. While in detention, ICE did not provide sufficient bedding to Mr. Villalta
17 and other detainees. **Exhibit U.** Mr. Villalta slept on a floor because the detention
18 center did not have enough mattresses for all of the people they were holding in
19 custody. **Exhibit U.**

21 40. On Friday, June 20, 2025, this Court ordered the immediate release of Mr.
22 Villalta from the custody of ICE.

24 41. On Saturday, June 21, 2025, ICE had not yet released Mr. Villalta from
25 custody. His wife and step-son drove from Los Angeles to El Paso, Texas to pick
26
27

1 him up. On Sunday, June 22, 2025, the ICE officer at the gate of the detention
2 center, upon seeing the court order, informed undersigned counsel that he had no
3 authority to comply with it and he did not know who to contact about this order.
4 The ICE officer turned away Mr. Villalta's family members and told them to
5 return in the morning. *Exhibit V.*
6

7
8 42. On Monday, June 23, 2025, Mr. Villalta's family members returned to the
9 ICE detention center and were initially told that they would not release Mr.
10 Villalta without first returning him to Los Angeles. Due to the intervention of
11 opposing counsel, ICE released Mr. Villalta to his family later that day.¹ *Exhibit*
12 *V.*
13

14 43. Since Mr. Villalta's release from ICE custody on June 23, 2025, Mr.
15 Villalta has been fearful of re-arrest. His employer immediately offered his job to
16 him, but Mr. Villalta remained at home for the first two weeks after his release,
17 afraid of being arrested when he is in public. However, due the need to earn
18 income, and the assurances that the TRO was protecting him, he has returned to
19 work. His step-son David, who is a United States citizen, has been driving him to
20
21
22

23 ¹ Undersigned Counsel wishes to acknowledge the incredible responsiveness,
24 efforts, and assistance that Opposing Counsel offered her during this release
25 process. Opposing Counsel was available by email over the weekend and provided
26 her cell phone to undersigned counsel to use in communicating with the detention
27 center. Opposing Counsel also undertook extra efforts to communicate with her
client about complying with the Court order, which the client did after Opposing
Counsel spoke with them.

1 and from work each day. After his arrest in June 2025, Mr. Villalta is always
2 accompanied by a family member in public, and remains in a state of fear.

3 ***Exhibit U.***

4
5 44. Mr. Villalta continues to report to ICE each month as directed by the
6 conditions of his release.

7
8 **LEGAL BACKGROUND**

9 **I. Due Process Compels Providing Petitioner A Right to a Hearing Prior to Re-Arrest And Re-Detention**

10 45. In Mr. Villalta's particular circumstances, the Due Process Clause of
11 the Constitution makes it unlawful for Respondents to re-arrest him without first
12 providing a pre-deprivation hearing before a neutral decision maker to determine
13 whether circumstances have materially changed since his release from custody in
14 February 2022, such that detention would now be warranted on the basis that he is
15 a danger or a flight risk by clear and convincing evidence.

16
17 46. The statute and regulations grant ICE the ability to unilaterally revoke any
18 noncitizen's release from custody and re-arrest the noncitizen at any time. 8

19
20 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9). The regulatory language grants ICE the
21 authority to revoke a post-custody release "at any time." 8 C.F.R. § 236.1(c)(9).

22
23 When interpreting this regulation in the context of a non-citizen whose prior
24 release on bond was revoked, the Board noted an implicit limitation on ICE's
25 authority to re-arrest noncitizens. In *Matter of Sugay*, 17 I & N Dec. at 640,

1 “where a previous bond determination has been made by an immigration judge, no
2 change should be made by [the DHS] absent a change of circumstance.” *Id.*

3
4 47. The Board made that finding in context of a non-citizen for whom an IJ had
5 revoked his prior release on bond. *See Matter of Sugay*, 17 I & N Dec. at 640.

6 However, the actual regulation permitting the re-arrest of a non-citizen is not
7
8 conditioned on how an individual was released and is by no means limited solely
9 to the context of a release on bond. Rather, the regulation provides: “When an
10 alien who, having been arrested and taken into custody, has been released, such
11 release may be revoked at any time in the discretion of the district director . . . in
12 which event the alien may be taken into physical custody and detained. If
13 detained, unless a breach has occurred, any outstanding bond shall be revoked and
14 cancelled.” 8 C.F.R. § 236.1(c)(9).

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17 48. In practice, DHS “requires a showing of changed circumstances both
18 where the prior bond determination was made by an immigration judge **and where**
19 **the previous release decision was made by a DHS officer.**” *Saravia v. Sessions*,
20 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017). In *Saravia*, the district court
21
22 extended the protection of an immigration hearing in which the government must
23 prove changed circumstances before re-arresting and re-detaining non-citizen
24 minors whom ICE were alleging to be gang members. *Id.* at 1178. The Court
25 explained that the initial release from custody and placement in home settings,
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1 “reflects a determination by the government that the noncitizen is not a danger to
2 the community or a flight risk. Once a noncitizen has been released, the law
3 prohibits federal agents from rearresting him merely because he is subject to
4 removal proceedings. Rather, the federal agents must be able to present evidence
5 of materially changed circumstances—namely, evidence that the noncitizen is in
6 fact dangerous or has become a flight risk, or is now subject to a final order of
7 removal.” *Id.* at 1176. “[I]f the noncitizen disputes the notion that changed
8 circumstances justify his rearrest, he is entitled to a prompt hearing before an
9 immigration judge. These protections against the erroneous deprivation of liberty
10 arose out of a 1981 decision by the Board of Immigration Appeals and are
11 embodied in the current practices of the Department of Homeland Security.” *Id.*
12 at 1176–77 (citing *Matter of Sugay*).

13 49. In *Saravia*, ICE released from its custody non-citizens, who like Mr.
14 Villalta, were released without prior bond hearings. 280 F. Supp. 3d at 1197.

15 50. Likewise, in the *Hernandez Roman* settlement, the Court offered Class
16 Members these same due process protections, regardless if they had been released
17 on bond or after an ICE officer made an individualized determination. ***Exhibit D***
18 at 11–14. The legal and constitutional protections afforded to minors and those
19 released during COVID are not limited only to those released on bond.
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1 51. As a result, the basic due process protections, existing agency practice and
2 policy compels that Mr. Villalta cannot be re-arrested by ICE absent a showing in
3 a hearing that he is a flight risk, a threat to public safety, or the agency is about to
4 execute a final order of removal. Indeed, undersigned counsel has not opposing
5 found a case limiting due process to just those who were released on bond. The
6 reality is that our Courts, and our Constitution, have routinely recognized that due
7 process exists—not just as an individual right—but as the only means by which
8 government excess and abuses of power can be checked. For instance, in a
9 compelling dissent, Justice Ginsburg disabuses the notion that the Fourth
10 Amendment’s exclusionary right is a mere right of a defendant because it is a
11 remedy applicable only when suppression would result in appreciable deterrence
12 that outweighs the cost to the justice system.” *Herring v. United States*, 555 U.S.
13 135, 150 (2009) (Ginsburg, J., dissenting). This is why the exclusionary rule
14 “also serves other important purposes: It ‘enabl[es] the judiciary to avoid the taint
15 of partnership in official lawlessness,’ and it ‘assur[es] the people—all potential
16 victims of unlawful government conduct—that the government would not profit
17 from its lawless behavior, thus minimizing the risk of seriously undermining
18 popular trust in government.”” *Herring*, 555 U.S. at 150 (quoting *United States v.*
19 *Calandra*, 414 U.S. 338, 357 (1974) (Brennan, J., dissenting)).
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1 52. The need for the Court to provide protections against the federal
2 government invoking a person's liberty for political purposes is a critical
3 protection—not just for targeted individuals but for the Rule of Law. Stated
4 simply, what it means to have a system of government that is bounded by law is
5 that everyone is constrained by the law, no exceptions. And for that to actually
6 happen, courts must have the power to order everyone (including the Executive)
7 to follow the law—full stop. To conclude otherwise is to endorse the creation of a
8 zone of lawlessness within which the Executive has the prerogative to take or
9 leave the law as it wishes, and where individuals who would otherwise be entitled
10 to the law's protection become subject to the Executive's whims instead.” *Trump*
11 *v. CASA, Inc.*, No. 24A884, ___ U.S. ___ [2025 WL 1773631](#), at *44 (U.S. June
12 27, 2025) (Jackson, J., dissenting).

13 53. On this record, ICE took Mr. Villalta into custody absent any evidence or
14 concern that he was a flight risk or danger to the public. The fact that he
15 voluntarily reported to ICE over 40 times before his June 14 arrest, and even
16 showed up in response to an unusual text asking him to report on the weekend, is
17 proof that he will always comply with the conditions of his release. Indeed, since
18 his June 23, 2025 release, he has continued to report voluntarily and on time with
19 ICE.

20 54. Mr. Villalta is also not a danger to the community. On June 14, 2025, the
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1 ICE officer never cited any concern about his conduct as a reason for his arrest.
2 In this litigation, the deportation officer cited Mr. Villalta's arrest for domestic
3 violence against his wife Sandra Luz Seguro Maldonado in 2024 as a reason for
4 his arrest. Document 9-1. But that arrest never ripened into a conviction, Ms.
5 Maldonado wife submitted an affidavit confirming that the matter was resolved
6 privately and she has no fear of Mr. Villalta. **Exhibit Y**. To the contrary, when
7 she was getting chemotherapy for Stage 3 breast cancer, Mr. Villalta "helped [her]
8 daily, helping [her] eat, take showers, and ensure through the chemotherapy. He is
9 [her] sole caretaker. I feel safer around him. He protects me." **Exhibit Y**

10 55. The only reasonable inference from this record is that ICE re-arrested Mr.
11 Villalta for an impermissible reason, which is to serve a political purpose. On
12 June 14, 2025, the reason that the ICE officer took Mr. Villalta into custody is
13 because it is what President Trump wants. **Exhibit U**. The specific exchange
14 involved the ICE officer asking Mr. Villalta, "do you know what president we
15 have." Mr. Villalta said, "yes I do." The ICE officer then said "because of
16 Trump, I will arrest you." **Exhibit U**.

17 56. The officer's initial comment that Mr. Villalta's re-arrest is motivated by a
18 political agenda—and not arising any individualized risk or threat from Mr.
19 Villalta—is supported by a showing that on the same weekend, which, ICE sent
20 numerous non-citizens from around the country the same text message that
21

1 summoned them into an ICE office on a weekend, which is not during normal
2 business hours. *Exhibit W* (reporting on non-citizens in Chicago receiving those
3 text messages), *Exhibit X* (reporting on non-citizens in New Orleans receiving
4 same text message); *Exhibit DD* (reporting on non-citizens in Seattle receiving
5 same text message). The purpose of the message that Mr. Villalta received
6 seemed to be a dramatic statement intended to communicate fear to the larger
7 community rather than an individualized assessment that Mr. Villalta is a danger
8 to the community or a flight risk.

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12 57. ICE's power to re-arrest a noncitizen who is at liberty following a release
13 from custody is also constrained by the demands of due process. *See Hernandez*,
14 872 F.3d at 981 (9th Cir. 2017) ("the government's discretion to incarcerate non-
15 citizens is always constrained by the requirements of due process"). In this case,
16 the guidance provided by *Matter of Sugay*—that ICE may not re-arrest a
17 noncitizen absent changed circumstances—failed to protect Mr. Villalta's weighty
18 interest in his freedom from any lawful detention.

21 **A. Mr. Villalta Has A Protected Liberty Interest in His Conditional**
22 **Release**

23 58. Mr. Villalta's liberty from immigration custody is protected by the Due
24 Process Clause: "Freedom from imprisonment—from government custody,
25 detention, or other forms of physical restraint—lies at the heart of the liberty that
26 [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

1 59. Since February 3, 2022, Mr. Villalta exercised that freedom under ICE's
2 decision releasing him from custody. *See Exhibit C*. Although he was released
3 from custody (and thus under government custody, as further demonstrated by his
4 enrollment in ISAP), he retains a weighty liberty interest under the Due Process
5 Clause of the Fifth Amendment in avoiding unlawful re-incarceration. *See Young*
6 *v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–
7 82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972).

10 60. In *Morrissey*, the Supreme Court examined the “nature of the interest” that
11 a parolee has in “his continued liberty.” 408 U.S. at 481–82. “[S]ubject to the
12 conditions of his parole, [a parolee] can be gainfully employed and is free to be
13 with family and friends and to form the other enduring attachments of normal
14 life.” *Id.* at 482. Because “the parolee has relied on at least an implicit promise
15 that parole will be revoked only if he fails to live up to the parole conditions, . . .
16 “the liberty of a parolee, although indeterminate, includes many of the core values
17 of unqualified liberty and its termination inflicts a grievous loss on the parolee and
18 often others.” *Id.* In turn, “[b]y whatever name, the liberty is valuable and must
19 be seen within the protection of the [Fifth] Amendment.” *Morrissey*, 408 U.S. at
20 23
21 482.

25 61. This basic principle—that individuals have a liberty interest in their
26 conditional release—has been reinforced by both the Supreme Court and the
27

1 circuit courts on numerous occasions. *See, e.g., Young v. Harper*, 520 U.S. at 152
2 (holding that individuals placed in a pre-parole program created to reduce prison
3 overcrowding have a protected liberty interest requiring pre-deprivation process);
4 *See also, e.g., Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017)
5 (“a person who is in fact free of physical confinement—even if that freedom is
6 lawfully revocable—has a liberty interest that entitles him to constitutional due
7 process before he is re-incarcerated”) (citing inter alia *Young*, 520 U.S. at 152 and
8 *Morrissey*, 408 U.S. at 482).

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12 62. Just as in *Morrissey*, Mr. Villalta’s release “enables him to do a wide range
13 of things open to persons” who have never been in custody or convicted of any
14 crime, including to live at home, work, care for his children, including his U.S.
15 citizen son for whom he is the sole caretaker, and “be with family and friends and
16 to form the other enduring attachments of normal life.” *Morrissey*, 408 U.S. at
17 482.

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20 63. Mr. Villalta is the financial, emotional, and medical caretaker for his wife
21 who has an aggressive form of breast cancer. He takes care of his elderly mother.
22 He also is the father to a five-year-old U.S. citizen, a strong father figure to adult
23 step-children, and a continuing influence and presence in the lives of his children
24 in El Salvador. He has complied with all conditions of release for over three
25 years, as he litigates his removal proceedings. He has a meritorious application
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1 for relief from removal, including a substantial motion to reopen pending before
2 the BIA.

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4 **B. Mr. Villalta's Liberty Interest Mandates a Hearing Before any Re-Arrest and Revocation of Release from Custody**

5 64.Mr. Villalta asserts that, here, (1) where his detention would be civil; (2)
6 where he has been at liberty for 40 months, during which time he has complied
7 with all conditions of release and served as the sole caretaker for his cancer-
8 stricken wife; (3) where he has a substantial application for a motion to reopen
9 pending before the BIA; (4) where no change in circumstances exist that would
10 justify his lawful detention; and (5) where the only circumstance that has changed
11 is ICE's campaign to arrest as many people as possible because of the new
12 administration, due process mandates that he be released from his unlawful
13 custody and receive notice and a hearing before a neutral adjudicator *prior* to any
14 re-arrest or revocation of his custody release.
15

16 65.“Adequate, or due, process depends upon the nature of the interest affected.
17 The more important the interest and the greater the effect of its impairment, the
18 greater the procedural safeguards the [government] must provide to satisfy due
19 process.” *Haygood v. Younger*, 769 F.2d 1350, 1355–56 (9th Cir. 1985) (en banc)
20 (citing *Morrissey*, 408 U.S. at 481–82). This Court must “balance [Mr. Villalta's]
21 liberty interest against the [government's] interest in the efficient administration
22 of” its immigration laws in order to determine what process he is owed to ensure
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1 that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357.

2 Under the test set forth in *Mathews v. Eldridge*, this Court must consider three
3 factors in conducting its balancing test: “first, the private interest that will be
4 affected by the official action; second, the risk of an erroneous deprivation of such
5 interest through the procedures used, and the probative value, if any, of additional
6 or substitute procedural safeguards; and finally the government’s interest,
7 including the function involved and the fiscal and administrative burdens that the
8 additional or substitute procedural requirements would entail.” *Haygood*, 769
9 F.2d at 1357 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).
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13 66. The Supreme Court “usually has held that the Constitution requires some
14 kind of a hearing *before* the State deprives a person of liberty or property.”
15 *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Only in a
16 “special case” where post-deprivation remedies are “the only remedies the State
17 could be expected to provide” can post-deprivation process satisfy the
18 requirements of due process. *Zinerman*, 494 U.S. at 985. Moreover, only where
19 “one of the variables in the *Mathews* equation—the value of predeprivation
20 safeguards—is negligible in preventing the kind of deprivation at issue” such that
21 “the State cannot be required constitutionally to do the impossible by providing
22 predeprivation process,” can the government avoid providing pre-deprivation
23 process. *Id.*
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1 67. To comport with due process, ICE is required to provide Mr. Villalta with
2 notice and a hearing *prior* to any re-incarceration and revocation of his custody.
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4 *See Morrissey*, 408 U.S. at 481–82; *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir.
5 1984) (holding that individuals awaiting involuntary civil commitment
6 proceedings may not constitutionally be held in jail pending the determination as
7 to whether they can ultimately be recommitted). Under *Mathews*, “the balance
8 weighs heavily in favor of [Mr. Villalta’s] liberty” and requires a pre-deprivation
9 hearing before a neutral adjudicator.
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12 **C. Mr. Villalta’s Private Interest in His Liberty Is Profound**

13 68. Under *Morrissey* and its progeny, individuals conditionally released from
14 serving a criminal sentence have a liberty interest that is “valuable.” *Morrissey*,
15 408 U.S. at 482. Even in the criminal parolee context, the courts have held that
16 the parolee cannot be re-arrested without a due process hearing in which they can
17 raise any claims they may have regarding why their re-incarceration would be
18 unlawful. *See Hurd*, 864 F.3d at 683. Thus, Mr. Villalta retains a truly weighty
19 liberty interest even though he is under conditional release.
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22 69. What is at stake in this case for Mr. Villalta is one of the most profound
23 individual interests recognized by our legal system: whether ICE may unilaterally
24 nullify a prior decision releasing him from custody and to take away—without a
25 lawful basis—his physical freedom, i.e., his “constitutionally protected interest in
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1 avoiding physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir.
2 2011) (internal quotation omitted). “Freedom from bodily restraint has always
3 been at the core of the liberty protected by the Due Process Clause.” *Foucha v.*
4 *Louisiana*, 504 U.S. 71, 80 (1992); *see also Zadvydas*, 533 U.S. at 690 (“Freedom
5 from imprisonment—from government custody, detention, or other forms of
6 physical restraint—lies at the heart of the liberty that [the Due Process] Clause
7 protects.”).

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10 70. Thus, there is a profound private interest at stake in this case, which must
11 be weighed heavily when determining what process Mr. Villalta is owed under the
12 Constitution. *See Mathews*, 424 U.S. at 334–35.

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15 **D. The Government’s Interest in Re-Incarcerating Mr. Villalta**
16 **Without a Hearing is Low**

17 71. The government’s interest in detaining Mr. Villalta without a due process
18 hearing is low, and when weighed against Mr. Villalta’s significant private
19 interest in his liberty, the scale tips sharply in favor of enjoining Respondents to
20 release Mr. Villalta from his unlawful custody and refrain from re-arresting Mr.
21 Villalta unless and until the government demonstrates by clear and convincing
22 evidence that he is a flight risk or danger to the community.

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24 72. As immigration detention is civil, it can have no punitive purpose. The
25 government’s only interests in holding an individual in immigration detention can
26 be to prevent danger to the community or to ensure a noncitizen’s appearance at
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1 immigration proceedings. *See Zadvydas*, 533 U.S. at 690. In this case, the
2 government cannot plausibly assert that it has any lawful basis for detaining Mr.
3 Villalta. Indeed, when taking him into an unlawful custody, the ICE officers told
4 him that the reason was because it was what President Trump wanted. Such a
5 reason is as brazen as it is unlawful. Mr. Villalta has lived at liberty complying
6 with the conditions of his release since February 2022 while acting as the sole
7 caretaker for his cancer-stricken wife and a loving father to his minor child and
8 stepchildren..
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11 73.Mr. Villalta was determined by an ICE officer not to be a danger to the
12 community in February 2022 and has done nothing to undermine that
13 determination. *See Morrissey*, 408 U.S. at 482 (“It is not sophistic to attach
14 greater importance to a person’s justifiable reliance in maintaining his conditional
15 freedom so long as he abides by the conditions on his release, than to his mere
16 anticipation or hope of freedom.”) (internal quotation marks and citations
17 omitted).
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21 74.As to flight risk, since his release from custody in February 2022, ICE has
22 maintained an ankle monitor on Mr. Villalta and required monthly check-ins..
23 Those conditions have proven sufficient to guard against any possible flight risk,
24 to “assure [his] presence at the moment of removal.” *Zadvydas*, 533 U.S. at 699.
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1 75. Moreover, Mr. Villalta has meritorious motion to reopen before the BIA
2 and the BIA has issued a stay of removal while adjudicating that motion. It is
3 difficult to see how the government's interest in ensuring his presence at the
4 moment of removal has materially changed since he was released in February
5 2022, when he has complied with all conditions of release. The government's
6 interest in detaining Mr. Villalta at this time is therefore low. There are
7 allegations that ICE has a new policy to make a minimum number of arrests each
8 day under the new administration. *Exhibit Z*. A mandatory arrest quota is not a
9 material change in circumstances nor a legitimate increase the government's
10 interest in detaining him.
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14 76. The "fiscal and administrative burdens" that Mr. Villalta's lawful pre-
15 detention hearing would impose is nonexistent in this case. *See Mathews*, 424
16 U.S. at 334–35. Mr. Villalta does not seek a unique or expensive form of process,
17 but rather a routine hearing regarding whether there is a legitimate reason for him
18 to be re-arrested and re-detained.
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21 **II. Civil Detention Conditions May Not Be Punitive**

22 77. Under the current use of detention, since January 2025, the only reasonable
23 inference from the record is that the federal government is also creating detention
24 conditions that are not safe or humane. The government is engaged in intentional
25 overcrowding, not providing bedding so that people are sleeping on floors, not
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1 providing adequate nutrition or food or regular meal times, not providing adequate
2 bathrooms so that people must use toilets in public or not have regular access to
3 them. The U.S. Senate produced a report showing that physical and sexual
4 violence is used against detainees. ICE is treating non-citizens in ways that are
5 designed to dehumanize them, such as requiring them to eat their food like dogs,
6 with their hands shackled behind them. In addition, ICE asking non-citizens who
7 are detained to give up their right to pursue their claims rather than endure
8 conditions that are designed to be inhumane, deplorable, and dehumanizing.
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12 **A. Since January 2025, Conditions in Immigration Detention Centers**
13 **Have Substantially Deteriorated And Inflict Harm And Humiliation**
14 **on Non-Citizens**

15 78. Since January 2025, conditions in immigration detention centers across the
16 country, according to numerous human rights monitoring organizations and news
17 sources, have substantially deteriorated by design and for non-legitimate purposes.

18 79. On May 14, 2025, Amnesty International released a report called
19 “Dehumanized by Design: Human Rights Violations in El Paso,” which arises
20 from its findings from an April 2025 visit to the El Paso Service Processing
21 Center, where Mr. Villalta was housed from June 15, 2025 until his release on
22 June 23, 2025. *Exhibit F*. Among its findings, “Amnesty International found that
23 conditions at the El Paso Service Processing Center (ESSPC) violate both US and
24 international detention standards. Individuals detained at EPSPC reported
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1 physical abuse by guards, use of solitary confinement, unsanitary and
2 overcrowded living spaces including dysfunctional toilets, inadequate medical
3 care, and poor-quality, expired food.” *Exhibit F at 4*.

5 80. In July 2025, Human Rights Watch released a report called “‘You Feel Like
6 Your Life Is Over’ Abusive Practices at Three Florida Immigration Detention
7 Centers Since January 2025.” *Exhibit G*. By June 2025, “over 56,000 people
8 were in detention across the country, 40 percent more than in June 24, and the
9 highest detention population in the history of US immigration detention.” *Id.* at 1.

11 In addition to the rise in population, Human Rights Watch noted the change in
12 treatment such that detainees are treated “in a degrading and dehumanizing
13 manner.” *Id.* at 2. Focusing on non-citizens detained in three Florida detention
14 centers, “[s]ome were detained shackled for prolonged periods on buses without
15 food, water, or functioning toilets; there was extreme overcrowding in freezing
16 holding cells where detainees were forced to sleep on cold concrete floors under
17 constant fluorescent lighting; and many were denied access to basic hygiene and
18 medical care.” *Id.* at 1–2. Human Rights Watch “finds that staff at the three
19 [Florida] detention facilities researchers examined subjected detained individuals
20 to dangerously substandard medical care, overcrowding, abusive treatment, and
21 restrictions on access to legal and psychosocial support.” *Id.* at 2. Among the
22 examples, “*officers made men eat while shackled with their hands behind their*
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1 *backs after forcing the group to wait hours for lunch: ‘We had to bend over and*
2 *eat off the chairs with our mouths, like dogs,’ one man said.”* *Id.* at 5. (emphasis
3 added) “The Trump administration’s one-track immigration policy, singularly
4 focused on mass deportations[,] will continue to send more people into
5 immigration detention facilities that do not have the capacity to hold them and
6 will only worsen the conditions described in this report.” *Id.* at 5.
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9 81. The current administration’s management of detention centers appears to be
10 intentionally implementing policies of degradation and dehumanization. On July
11 17, 2025, a report by the Disability Rights California, entitled “‘They Treat Us
12 Like Dogs in Cages’ Inside the Adelanto ICE Processing Center,” reported that
13 detainees housed in the Adelanto ICE Processing Center (where Mr. Villalta had
14 been detained until his release in February 2022) “shouted in Spanish about be
15 treated like dogs in cages” during the organization’s monitoring visit on June 25,
16 2025. *Exhibit H* at 2. The organization reported observing “alarming”
17 conditions. *Id.* at 3. The immigration detention center was housing “nearly 1,400
18 people at Adelanto—a dramatic increase from the approximately 300 individuals
19 in held there just weeks before. Due to the surging numbers of people at
20 Adelanto, conditions appear to have quickly deteriorated.” *Id.* at 4. Among its
21 findings, there was “inadequate access to food and water, including extreme
22 delays in meal distribution, provision of food that results in significant health
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1 issues, and a shortage of drinking water.” *Id.* at 4. There was also “inadequate
2 access to clean clothes, with many remaining in soiled clothing for long periods of
3 time.” *Id.* at 4. “Individuals also reported contagious respiratory viruses quickly
4 spreading due to the increased crowding at Adelanto.” *Id.*

6 82.The State of California released a report in April 2025 “t[aking] issue with
7 restrictive housing being used as punishment.” ***Exhibit L*** at 5. “Staff appeared
8 to overutilize discipline and use of force.” *Id.* The Otay Mesa, California facility
9 “didn’t have a psychologist on site. Detainees placed on suicide watch are put in
10 cells with no plumbing and must relieve themselves through grates on the floor,
11 the CA Justice report found.” *Id.*

14 83.In Eloy Arizona, in May 2025, “[a] microwave fire at the Eloy Detention
15 Center led to the evacuation of detainees, raising concerns about safety procedures
16 and overcrowding.” ***Exhibit I*** at 1. “[I]mmigrant advocates, attorneys and current
17 and former detainees describe . . . a pattern of mismanagement that endangers the
18 lives of detainees in their care at the privately run Eloy Detention Center.” *Id.* at
19 3.
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22 84.The deplorable conditions in immigration detention is not the result of the
23 lack funding but appear to be a deliberate policy decision. From a July 1, 2025
24 New York Times article, the degrading detention conditions are nationwide.
25 ***Exhibit M*** at 2. “Some immigrants have good a week or more without showers.
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1 Others sleep pressed tightly together on bare floors. Medications for diabetes,
2 high blood pressure and other chronic health problems are often going
3 unprovided.” *Id.* at 2. Paul Chavez, litigation and advocacy director at Americans
4 for Immigration Justice in Florida stated “***These are the worst conditions I have***
5 ***seen in my 20-year career*** . . . Conditions were never great, but this is
6 horrendous.” *Id.* at 2 (emphasis added). An 18-year-old Brazilian teenager who
7 was “pulled over on his way to volleyball practice in late May” spent six days in
8 detention in Massachusetts before his release. *Id.* at 4. “There was one toilet for
9 35 to 40 men, who had no privacy when using it. . . .They slept on the concrete
10 floor in head-by-toe formation with aluminum blankets to cover them. He lost
11 seven pounds in six days, he said, because the food was poor and the portions
12 tiny.” *Id.* at 4.

13 85.In Tacoma Washington, food is delivered “close to midnight.” ***Exhibit M***
14 at 4. The detention center transferred immigrants to Alaska to be “locked up in a
15 state corrections facility in Anchorage.” *Id.* at 4. A New Mexico detention center
16 “limited [each detainee] to two bottles of drinking water per day and [they] were
17 unable to flush their toilets for days at a time.” *Id.* at 5. Representative Judy Chu
18 toured the Adelanto detention center and reported that detainees “were not able to
19 change their underwear for 10 days.” *Id.* at 5.

1 86.From July 22, 2025, NBC News reported that immigration advocates allege
2 that detainees housed in “Alligator Alcatraz, a new facility in the Everglades,
3 described what they called torturous conditions in cage-like units full of
4 mosquitos, where fluorescent lights shine bright on them at all times. Detainees
5 here also called attention to unsanitary conditions, as well as lack of food and
6 reliable medical treatment for their chronic conditions.” *Exhibit K* at 1.
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8 Detainees report being “stripped naked every time they are moved to a different
9 cell,” “are only allowed one meal a day (and given only minutes to eat),”
10 “instances of physical assaults and excessive use of force by guards,” “being
11 allowed to shower only every three to four days and being kept in a cage-style unit
12 with 32 other people.” *Id.* at 2, 3. .
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15 87.On July 30, 2025, Senator Jon Ossoff released a report called “The Abuse
16 of Pregnant Women & Children in U.S. Immigration Detention.” *Exhibit W*. His
17 study surveyed conditions in immigration detention facilities, “county jails, and
18 federal buildings across 25 U.S. states, Puerto Rico, at U.S. military bases
19 (including Guantanamo Bay in Cuba and Camp Lemonnier in Djibouti) and on
20 chartered deportation flights.” *Id.* at 2. This investigation “received or identified
21 510 credible reports of human rights abuse” against individuals in those facilities,
22 including “41 credible reports of physical and sexual abuse of individuals in U.S.
23 immigration detention.” *Id.* The confirmed events include “deaths in custody,
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1 physical and sexual abuse, mistreatment of pregnant women, mistreatment of
2 children, inadequate medical care, overcrowding and unsanitary living conditions,
3 inadequate food or water, exposure to extreme temperatures, denial of access to
4 attorneys, and family separations.” *Id.*

6 88. “These immigration detentions, and the continued overcrowding, are
7 resulting in deaths. *Exhibit J* at 2. In fiscal year 2022, only three people died in
8 ICE custody. *Id.* at 4. As of July 4, 2025, 12 people have died in ICE custody
9 since October 2024, which matches “the previous year’s total.” *Id.* Eunice Cho,
10 from the American Civil Liberties Union, stated that “These deaths are clearly
11 attributable to the Trump administration’s increased and aggressive detention
12 policies, and I have no doubt that when more complete investigations take place, it
13 will likely provide information that these deaths were likely preventable.” *Id.*
14 When asked about the rising death rate in immigration detention, border czar Tom
15 Homan stated “People die in ICE custody.” *Id.* at 3.

19 89. “As of July 17, [2025] ICE was detaining just shy of 57,000 people
20 nationwide . . . among the highest population levels in recent years.” *Exhibit I* at
21 3. Under prior years, Congress had spent \$3.5 billion each year to house up to
22 41,500 detention beds. *Id.* at 4. The new “One Big Beautiful Bill” . . . increases
23 spending for immigration detention to \$45 billion,” which will “increase bed
24 capacity to more than 100,000.” *Id.*

1 90. The more than ten-fold increase in funding will not improve any of the
2 detention conditions. There is no longer any oversight on these conditions. “The
3 poor conditions described at Eloy are occurring as the federal government
4 simultaneously expands detention operations and dismantles internal oversight
5 mechanisms designed to monitor abuse.” *Exhibit I* at 11. On March 21, 2025,
6 “hundreds of employees at the Department of Homeland Security’s three key
7 watchdog officers . . . were suspended via mass email, effectively shutting down
8 the offices. . . .” *Id.* at 11.

9 91. “The Trump administration has repeatedly obstructed elected officials from
10 conducting basic oversight [over the detention facilities]. There is a pattern of
11 impunity and contempt in the way the Department of Homeland Security has
12 stonewalled the Newark mayor, Ras Baraka, the New Jersey members of
13 Congress LaMonica McIver and Bonnie Watson Coleman, the New York
14 members Adriano Espaillat and Nydia Velazquez and the California members
15 Maxin Waters, Jimmy Gomez and Norma Torres when they have attempted to
16 access federal facilities, as is their right and duty.” *Exhibit P* at 6.

17 92. Moreover, the \$45 billion in more Congressional funding will not be used
18 to improve conditions in existing spaces. Rather, the new funding appears to be
19 destined to build more facilities that will replicate the abuses found in the facility
20 nicknamed “Alligator Alcatraz.” Respondent Secretary of DHS Kristi Noem
21

1 stated that “*“Alligator Alcatraz can be a blueprint for detention facilities across*
2 *the country.* It will provide DHS with the beds and space needed to safely detain
3 the worst of the worst.” *Exhibit J* at 7. On August 1, 2025 Fort Bliss in Texas
4 started receiving immigrants and is slated “to become the site of the largest
5 immigrant detention facility in the United States. . . .” in which it will “hold 5,000
6 people at the detention facility.” *Exhibit FF* at 1. Despite becoming the largest
7 detention facility, ICE has “blocked” the El Paso Congressional Representative
8 Veronica Escobar “from visiting the [new] facility” *Id.* at 4. Representative
9 Escobar has stated that “congressional oversight [is need] to uphold humane
10 conditions at the immigration detention site” and has filed a lawsuit against the
11 Trump administration from denying members of Congress oversight and access to
12 monitor the conditions there. *Id.* at 4–5.

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17 **B. Immigration Detention Is Costly And Not Needed to Guarantee**
18 **That Non-Citizens Will Attend Their Hearings**

19 93. “[I]mmigration imprisonment is a historical anomaly. After relying on
20 confinement in the ugly years of the Chinese exclusion era the United States did
21 not lock up migrants for migration-related activities for much of the twentieth
22 century.” *Exhibit EE* at 2. In the 1980s, with the War on Drugs and in the 1990s,
23 with the War on Crime, immigration detention increased in numbers. *Id.*

24
25 94. In June 2025, the Vera Institute issued a report noting that “immigration
26 detention as a whole—is entirely unnecessary. The federal government’s own
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1 data shows that detention does not deter migration, and detention is not necessary
2 to ensure that people appear in court for immigration hearings.” *Exhibit N* at 3.

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4 95. From a 2019 study using government data, from 2008 to 2019, 97% of
5 immigrants appeared at immigration court if they had an attorney. *Exhibit Q* at 2.

6 96. “The costs to the public of immigration detention are ‘staggering’”
7
8 *Hernandez*, 872 F.3d at 996. According to ICE’s own report, Alternatives to
9 Detention, the daily cost of enrolling someone in ISAP costs “less than \$4.20 per
10 day—a stark contrast from the cost of detention, which is around \$152 per day.”
11
12 *Exhibit O* at 3.

13 **C. ICE Officials Are Encouraging Detained Non-Citizens to “Accept**
14 **Quick[] Deportation” Instead of Fighting Their Cases**

15 97. The deplorable conditions appear to be used by ICE to pressure non-citizens
16 to give up their rights to pursue their claims through immigration courts. “ICE
17 officials appeared to be trying to free up [detention] space by encouraging
18 detainees to accept quicky deportation.” *Exhibit M* at 8. “A lawyer in Arizona,
19 Ner Shefer, said that some of her clients had recently been offered \$1,000 by
20 authorities if they agreed to immediate voluntary departure. She said all of them
21 declined.” *Id.* at 8.

24 98. From a July 29, 2025, New York Times Opinion piece, an author noted that
25 the immigration detention policy is part of a larger project consistent with white
26 supremacy that “is accelerating toward a new, modern nadir of Juan Crow, just
27

1 downstream of Jim and Jane. . . . The targeting of the undocumented has a name,
2 after all, based in ugly history and shameful tradition: Juan Crow.” *Exhibit P* at 2.
3
4 The phrase was popularized by journalist Roberto Lovato to describe ‘the matrix
5 of laws, social customs, economic institutions and symbolic systems’ that isolate
6 and control undocumented immigrants. The domestic policies of the Trump
7 administration have taken this legacy to a more dangerous place.” *Id.* at 2. The
8 claims in a Human Rights report on three Florida detention facilities read like a
9 nightmare mash-up of Guantánamo bay and American mass incarceration:
10 freezing, overcrowded facilities; routine denial of medical treatment; shackling the
11 hands and wrists of detainees; feeding detainees meager amounts of rotting food
12 or forcing them to eat it ‘like dogs,’ with their hands behind their backs; forcing
13 detainees to sleep on concrete floors.” *Id.* at 2–3.

17 **D. The Current Administration Is Firing Immigration Judges for**
18 **Political Reasons**

19 99. In addition to the deteriorating immigration detention conditions, the
20 current administration has been firing immigration judges and Board members
21 sympathetic to non-citizens, which reduces the ability for non-citizens to prevail
22 in immigration courts and before the Board of Immigration Appeals.

24 100. In the opinion of undersigned counsel, Mr. Villalta has a strong case
25 seeking protection under the Convention Against Torture based on El Salvador’s
26 policy of torturing former and suspected gang members in CECOT. *Exhibit V.*
27

1 Indeed, when his case was before the Board of Immigration Appeals, the Board
2 issued a stay of removal that indicates a strong likelihood of success. **Exhibit B.**

3
4 101. However, undersigned counsel is not predicting success at the Board,
5 due to the Trump administration's firing half of the Board members in February
6 2025 who had been appointed by President Biden. **Exhibit S** at 1. Immigration
7 courts and the Board of Immigration Appeals are not Article I courts. **Exhibit T** at
8 3. Rather, they are "mere employees of the Attorney General. The entire Board
9 exists by regulation only, and the Attorney General is ultimately in charge of
10 hiring, firing, training, and reviewing the immigration judge corps." *Id.* at 3.
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13 102. The Attorney General has previously exerted its firing power to reach
14 political outcomes. In 2002, Attorney General John Ashcroft "reduced the size of
15 the board from 23 to 11 members." **Exhibit S** at 1. "According to Paul Schmidt,
16 who served as the BIA chairman from 1995 to 2001, Ashcroft's rationale of
17 efficiency was **a pretext to push out the most liberal board members** appointed
18 during the Clinton administration who cared about due process rights of the
19 noncitizens whose appeals they considered." *Id.* Chairman Schmidt stated that
20 "I think **some of my colleagues modified their voting patterns to try and protect**
21 **their jobs.**" *Id.* (emphasis added).
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25 103. Law Professor Jill Family confirmed that "[t]here is evidence that, in
26 2003, Attorney General Ashcroft fired those Board members whose decisions
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1 were more favorable to foreign nationals.” *Exhibit T* at 4. “The President of the
2 National Association of Immigration Judges, Dana Leigh Marks, has explained
3 that *immigration judges saw the Board firings as politically motivated and*
4 *serving as a warning to immigration judges*. Immigration Judge Marks called
5 the Attorney General’s actions ‘selective downsizing’ and noted the ‘chilling
6 effect’ of the firings. As employees of the Attorney General, immigration judges
7 felt political pressure on their rulings.” *Id.* at 5 (emphasis added). In 2005, the
8 Los Angeles Times confirmed that a number of changes implemented by Attorney
9 General Ashcroft resulted in “speeding up the disposition of cases, but the faster
10 pace has been accompanied by more decisions siding with the government.”
11 *Exhibit AA* at 4. In 2000, “the BIA ruled in favor of immigrant appeals 9% of the
12 time. By 2003, immigrants won their appeals 6% of the time.” *Id.* The increased
13 denial rate was not a reflection of the case merits. “Circuit court and immigration
14 judges interviewed estimated that the appeals courts are now reversing a greater
15 proportion of cases than before the BIA restricting, although statistics on the issue
16 have not been compiled.” *Id.* at 7.

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22 104. In 2025, the Trump administration has revived the politically-based
23 firings of BIA members and immigration judges. In February 2025, “[t]he Trump
24 administration is whittling down the immigration court system’s appellate body in
25 a move reminiscent of former Attorney General John Ashcroft’s 2002 purge of
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1 board members who were viewed as more sympathetic to immigrants.” *Exhibit S*
2 at 1. The Trump administration “reduce[d] the size of the Board of Immigration
3 Appeals from 28 to 15 members, with nine members who were appointed by the
4 Biden administration immediately impacted. . . .” *Id.* An anonymous “employee
5 said the move appeared political.” *Id.* In their words, “the administration has
6 decided to remove all Biden appointees from the board, regardless of their
7 performance or their productivity, because they won’t follow the administration’s
8 anti-immigration agenda.” *Id.*

11
12 105. The Trump administration has also fired immigration judges. In
13 February 2025, “at least two dozen . . . immigration judges and supervising
14 judges” were fired. *Exhibit BB* at 2. In April 2025, “at least eight [more]
15 immigration judges were fired.” *Id.* In July 2025, a second “round of
16 immigration judges began receiving emails on Friday informing them they are
17 being let go, NPR has learned, adding to the growing list of immigration court
18 personnel cut by President Trump amid his efforts to speed up deportations of
19 immigrants without legal status.” *Exhibit R* at 2. “Like the 50 other judges fired
20 within the last six months, the union said, the judges who received the most recent
21 notices were not given a reason for their terminations.” *Id.* at 3. By July 2025,
22 the Los Angeles Times reported that 106 immigration judges, out of 600 judges
23 who serve across the country, had retired, resigned, transferred, or were fired.
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1 **Exhibit CC** at 3. One of the fired judges’ “theories about why she was fired
2 include appearing on a ‘bureaucrat watchdog list’ of people accused by a right-
3 wing organization of working against the Trump agenda.” *Id.* at 3.
4

5 106. The firings of the immigration judges and Board members was not an
6 effort to save costs. “The terminations landed after Congress approved a mega-
7 spending bill that allocated over \$3 billion to the Justice Department for
8 immigration-related activities, including hiring more immigration judges.”
9

10 **Exhibit R** at 3. “‘It’s outrageous and against the public interest that at a time when
11 the Congress has authorized 800 immigration judges, we are firing large numbers
12 of immigration judges without cause,’ said Matt Biggs, president of the IFPTE
13 union.” *Id.*
14

15 107. What we are seeing now in 2025 is the same politicization of the
16 immigration courts that we saw in 2002. The Board of Immigration Appeals and
17 immigration judges are under unequivocal pressure to adjudicate cases quickly
18 and in a manner that is contrary to the interests of non-citizens, regardless of the
19 merits of the cases. The Trump administration is making it clear that the
20 immigration judges must do the bidding of the enforcement-only agenda or risk
21 losing their own continued employment and livelihood.
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25 108. In light of the political pressures now infecting the Board of
26 Immigration Appeals, it is possible that Mr. Villalta will not prevail before that
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1 agency. If that occurs, he will take his case in the Ninth Circuit Court of Appeals,
2 which will take at least another 18 months after the Board decides the pending
3 motion. *Exhibit V*. If Mr. Villalta is detained during that time, he will face
4 conditions that designed, in part, to subject him to degrading and dehumanizing
5 treatment in the hopes that he gives up his case and right to remain in the country.
6

7 *Exhibit V*.
8

9 109. Intervention from this Court is therefore required to ensure that Mr.
10 Villalta is only subject to re-arrest and re-detention after DHS provides him with a
11 process by which the DHS provides evidence that Mr. Villalta is a flight risk, is a
12 danger to the public, or the agency is ready to execute a final order of removal
13 after his motion to reopen is adjudicated and all post-motions appeals or hearings
14 are completed. Only those three facts could justify placing Mr. Villalta in
15 detention conditions that are being designed to be dehumanizing, deplorable, and
16 punitive in violation of law and due process.
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20 **III. Without a Due Process Hearing Prior to Any Re-Arrest And Re-**
21 **Detention, the Risk of an Erroneous Deprivation of Liberty is High**

22 110. Enjoining Respondents from re-arresting and re-detaining Mr.
23 Villalta without a pre-deprivation hearing would decrease the risk of him being
24 erroneously deprived of his liberty. Before Mr. Villalta can be lawfully detained,
25 he must be provided with a hearing before a neutral adjudicator at which the
26 government is held to show that there has been sufficiently changed circumstances
27

1 such that ICE’s February 2022 release from custody determination should be
2 altered or revoked because clear and convincing evidence exists to establish that
3 Mr. Villalta is a danger to the community or a flight risk.
4

5 111. On June 14, 2025, Mr. Villalta did not receive this protection.
6 Instead, he was ordered to report, and when Mr. Villalta complied with the
7 conditions of his release, ICE officers took him into custody “because of Trump, I
8 will arrest you.” *Exhibit U*.
9

10 112. By contrast, the procedure Mr. Villalta seeks—a hearing in front of a
11 neutral adjudicator at which the government must prove by clear and convincing
12 evidence that circumstances have changed to justify his detention *before* any re-
13 arrest—is much more likely to produce accurate determinations regarding factual
14 disputes, such as whether a certain occurrence constitutes a “changed
15 circumstance.” See *Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th Cir.
16 1989) (when “delicate judgments depending on credibility of witnesses and
17 assessment of conditions not subject to measurement” are at issue, the “risk of
18 error is considerable when just determinations are made after hearing only one
19 side”). The Ninth Circuit has noted that the risk of an erroneous deprivation of
20 liberty under *Mathews* can be decreased where a neutral decisionmaker, rather
21 than ICE alone, makes custody determinations. See *Diouf v. Napolitano*, 634 F.3d
22 1081, 1091–92 (9th Cir. 2011).
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1 113. Due process also requires consideration of alternatives to detention at
2 any custody redetermination hearing that may occur. The primary purpose of
3 immigration detention is to ensure a noncitizen's appearance during removal
4 proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to
5 this purpose if there are alternatives to detention that could mitigate risk of flight.
6 *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly, alternatives to
7 detention must be considered in determining whether Mr. Villalta's re-
8 incarceration is warranted.
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12 **FIRST CAUSE OF ACTION**

13 **Procedural Due Process**

14 **Substantive Due Process**

15 **U.S. Const. amend. V**

16 **Compels Enjoining Respondents From Re-Arresting And Re-Detaining
17 Petitioner Without A Hearing While Petitioner's Immigration Case is Being
18 Litigated**

19 114. Mr. Villalta re-alleges and incorporates herein by reference, as is set
20 forth fully herein, the allegations in all the preceding paragraphs.

21 115. The Due Process Clause of the Fifth Amendment forbids the
22 government from depriving any "person" of liberty "without due process of law."
23 U.S. Const. amend. V.

24 116. Since February 2022, Mr. Villalta has fully complied with the
25 conditions of release imposed on him by ICE, thus demonstrating that he is neither
26 a flight risk nor a danger. In June 2025, ICE re-arrested and re-detained Mr.
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1 Villalta for the stated reason that his apprehension is the will of the current
2 administration. That reason is punitive and violates his constitutional right to be
3 free from the unjustified deprivation of his liberty.
4

5 117. Mr. Villalta has a vested liberty interest in his lawful conditional
6 release. Due Process does not permit the government to strip him of that liberty
7 without a hearing before this Court. *See Morrissey*, 408 U.S. at 487-488.
8

9 118. Prior to any re-arrest and re-detention, the government must provide
10 Mr. Villalta with a hearing before a neutral adjudicator. At the hearing, the neutral
11 adjudicator would evaluate, *inter alia*, whether clear and convincing evidence
12 demonstrates, taking into consideration alternatives to detention, that Mr. Villalta
13 is a danger to the community or a flight risk, such that his re-incarceration is
14 warranted. During any custody redetermination hearing that occurs, this Court or,
15 in the alternative, a neutral adjudicator must consider alternatives to detention
16 when determining whether Mr. Mr. Villalta's re-incarceration is warranted.
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19 119. The Court's prior orders releasing Mr. Villalta from his unlawful
20 custody and enjoining re-arrest without a showing that Mr. Villalta is a flight risk
21 or danger to the public was and remains the lawful course of action. Mr. Villalta
22 asks for the Court to enjoin Respondents from re-arresting and re-detaining him—
23 absent evidence that Petitioner is a flight risk, is danger to the public, or there is
24 no longer any agency or federal court review over any final order of removal—
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1 while he is pursuing his requested remedies before the Board of Immigration
2 Appeals, Ninth Circuit Court of Appeals, or any subsequent immigration court
3 hearing.
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5 **SECOND CAUSE OF ACTION**

6 **Substantive Due Process**

7 **U.S. Const. amend. V**

8 **Compels Enjoining ICE from Causing Mr. Villalta to Be Removed to Any
Country While His Case is Being Litigated**

9 120. Mr. Villalta re-alleges and incorporates herein by reference, as is set
10 forth fully herein, the allegations in all the preceding paragraphs.
11

12 121. The Due Process Clause of the Fifth Amendment forbids the
13 government from depriving individuals of their right to be free from unjustified
14 deprivations of liberty. U.S. Const. amend. V.
15

16 122. The Board of Immigration Appeals has issued a stay of removal
17 while it is adjudicating the pending motion to reopen.
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19 123. If Respondent violated the agency's stay order by removing Mr.
20 Villalta to El Salvador, sending him a third country to which he has no legal
21 status, or transferring him to Guantánamo Bay, such action would be arbitrary
22 action that would violate the Constitution.
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24 124. The Court's prior orders enjoining Respondents from causing
25 Petitioner's removal to El Salvador, refoulment to a third country, or transfer to
26 any facility outside of the United States was and is the lawful action. Mr. Villalta
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1 asks for the Court to enjoin Respondents from such action while he is pursuing his
2 requested remedies before the Board of Immigration Appeals, Ninth Circuit Court
3 of Appeals, or any subsequent immigration court hearing.
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5 **THIRD CAUSE OF ACTION**

6 **Substantive Due Process**

7 **U.S. Const. amend. V**

8 **U.S. Const. amend XIV**

9 **Compels Enjoining ICE from Causing Mr. Villalta to Detained in Conditions**
10 **That Are Designed to Punish Him for Pursuing His Lawful Remedies While**
11 **His Case is Being Litigated**

12 125. Mr. Villalta re-alleges and incorporates herein by reference, as is set
13 forth fully herein, the allegations in all the preceding paragraphs.

14 126. Because immigration detention is nominally “civil” in nature,
15 conditions in immigration facilities cannot “amount to punishment.” *King v.*
16 *County of Los Angeles*, 885 F.3d 548, 557 (9th Cir. 2018) (“Under the Due
17 Process Clause of the Fourteenth Amendment, an individual detained under civil
18 process cannot be subjected to conditions that amount to punishment.”). “Because
19 the purpose of confinement is not punitive, the state must also provide the civilly-
20 committed with ‘more considerate treatment and conditions of confinement than
21 criminals whose conditions of confinement are designed to punish.’” *Sharp v.*
22 *Weston*, 233 F.3d 1166, 1172 (9th Cir. 2000) (quoting *Youngberg v. Romeo*, 457
23 U.S. 307, 322 (1982)). Civil confinement amounts to punishment when “the
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1 harm or disability caused by the government's action must either significantly
2 exceed, or be independent of, the inherent discomforts of confinement.” *Demery*
3
4 *v. Arpaio*, 378 F.3d 1020, 1030 (9th Cir. 2004).

5 127. On this record, Respondents are operating and designing detention
6 facilities that cause harm and disability that “significantly exceed, or be
7 independent of, the inherent discomforts of confinement.” *Demery*, 378 F.3d at
8 1030. Since January 2025, Human Rights Watch noted a change in treatment
9 under the new administration such that immigrant detainees are treated “in a
10 degrading and dehumanizing manner.” *Exhibit G* at 2. Paul Chavez, litigation
11 and advocacy director at Americans for Immigration Justice in Florida stated
12 “‘*These are the worst conditions I have seen in my 20-year career . . .*
13 *Conditions were never great, but this is horrendous.*’” *Exhibit M* at 2.

14 128. Immigrant detainees in Florida “were shackled for prolonged periods
15 on buses without food, water, or functioning toilets; there was extreme
16 overcrowding in freezing holding cells where detainees were forced to sleep on
17 cold concrete floors under constant fluorescent lighting; and many were denied
18 access to basic hygiene and medical care.” *Exhibit G* at 2. Immigration “*officers*
19 *made men eat while shackled with their hands behind their backs after forcing*
20 *the group to wait hours for lunch: ‘We had to bend over and eat off the chairs*
21 *with our mouths, like dogs,’ one man said.*” *Id.* at 5. (emphasis added).
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1 129. At the El Paso Service Processing Center, where Respondents
2 initially detained Mr. Villalta in June 2025, Amnesty International “reported
3 physical abuse by guards, use of solitary confinement, unsanitary and
4 *overcrowded living spaces including dysfunctional toilets*, inadequate medical
5 care, and *poor-quality, expired food*.” *Exhibit F* at 4 (emphasis added).
6

7 130. In June 2025, detainees housed in the Adelanto ICE Processing
8 Center (where Mr. Villalta had been detained until his release in February 2022)
9 “shouted in Spanish about *being treated like dogs in cages*” during the monitoring
10 visit by Disability Rights California on June 25, 2025. *Exhibit H* at 2. Among
11 its findings, there was “*inadequate access to food and water*, including extreme
12 delays in meal distribution, provision of food that results in significant health
13 issues, and a shortage of drinking water.” *Id.* at 4. There was also “*inadequate*
14 *access to clean clothes*, with many remaining in soiled clothing for long periods
15 of time.” *Id.* at 4. “Individuals also reported contagious respiratory viruses
16 quickly spreading due to the increased crowding at Adelanto.” *Id.*
17

18 131. The degrading and unsanitary conditions are in detention centers
19 across the country. In Massachusetts, “[t]here was one toilet for 35 to 40 men,
20 who had no privacy when using it. . . . They slept on the concrete floor in head-
21 by-toe formation with aluminum blankets to cover them. [A teenager who was
22 detained] lost seven pounds in six days, he said, because the food was poor and
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1 the portions tiny.” *Exhibit M* at 4. “In Tacoma Washington, food is delivered
2 “close to midnight.” *Exhibit M* at 4. “Some immigrants have good a week or
3 more without showers. Others sleep pressed tightly together on bare floors.”
4 *Exhibit M* at 2. A New Mexico detention center “limited [each detainee] to *two*
5 *bottles of drinking water per day* and [they] were *unable to flush their toilets* for
6 days at a time.” *Id.* at 5. Representative Judy Chu toured the Adelanto California
7 detention center and reported that detainees “*were not able to change their*
8 *underwear* for 10 days.” *Id.* at 5 (emphasis added).

11 132. “Alligator Alcatraz, a new facility in the Everglades, described what
12 they called torturous conditions in *cage-like units full of mosquitos, where*
13 *fluorescent lights shine bright on them at all times*. Detainees here also called
14 attention to unsanitary conditions, as well as lack of food and reliable medical
15 treatment for their chronic conditions.” *Exhibit K* at 1 (emphasis added).
16 Detainees report being “*stripped naked* every time they are moved to a different
17 cell,” “are only allowed *one meal a day* (and given only minutes to eat),”
18 “instances of physical assaults and excessive use of force by guards,” “being
19 allowed to shower only every three to four days and being kept in a cage-style unit
20 with 32 other people.” *Id.* at 2, 3 (emphasis added). Instead of trying to change
21 these conditions, Respondent Secretary of DHS Kristi Noem stated that
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1 “*“Alligator Alcatraz can be a blueprint* for detention facilities across the
2 country.” *Exhibit J* at 7 (emphasis added).

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4 133. In *Demery v. Arpaio*, the Ninth Circuit upheld a district court’s
5 injunction against a county sheriff who used webcams to livestream images of
6 pretrial detainees on the Internet. The Court reasoned that “[h]aving every
7 moment of one’s daily activities expose to general and world-wide scrutiny would
8 make anyone uncomfortable. Exposure to millions of complete strangers
9 constitutes a level of humiliation that almost anyone would regard as profoundly
10 undesirable and strive to avoid.” 378 F.3d at 1030. Likewise here, Respondents
11
12 are designing and operating immigrant detention facilities that involve numerous
13 instances of humiliation in the forms of forcing non-citizens to eat their food
14 while their hands are shackled behind their backs, not having clean clothes,
15 sleeping on cold floors and next to people in overcrowded conditions, eating
16 rotten food, being housed in extreme temperatures, being unsafe from mosquitos,
17 and having a lack of privacy or lack of access to working toilets.

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21 134. In addition, Respondents are operating facilities where non-citizens
22 are not protected from physical abuse, sexual abuse, and death. Senator Ossoff’s
23 July 2025 investigation “received or identified 510 credible reports of human
24 rights abuse” against individuals in those facilities, including “41 credible reports
25 of physical and sexual abuse of individuals in U.S. immigration detention.”
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1 **Exhibit W.** The confirmed events include “deaths in custody, physical and sexual
2 abuse, mistreatment of pregnant women, mistreatment of children, inadequate
3 medical care, overcrowding and unsanitary living conditions, inadequate food or
4 water, exposure to extreme temperatures, denial of access to attorneys, and family
5 separations.” *Id.* In fiscal year 2022, only three people died in ICE custody.
6

7 **Exhibit J** at 4. As of July 4, 2025, 12 people have died in ICE custody since
8 October 2024, which matches “the previous year’s total.” *Id.* Eunice Cho, from
9 the American Civil Liberties Union, stated that ““These deaths are clearly
10 attributable to the Trump administration’s increased and aggressive detention
11 policies, and I have no doubt that when more complete investigations take place, it
12 will likely provide information that these deaths were likely preventable.”” *Id.*
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15 135. “[W]hen the government takes a person into custody, it must provide
16 for the person’s ‘basic human needs—e.g. food, clothing, shelter, medical care,
17 and reasonable safety.’” *Doe v. Kelly*, 878 F.3d 710, 714 (9th Cir. 2017) (quoting
18 *DeShaney v. Winnebago Cnty. Dep’t of Soc. Servs.*, 489 U.S. 189, 199–200
19 (1989)). “[A] condition of confinement violates the Fifth and Fourteenth
20 Amendments if it imposes some harm to the detainee that significantly exceeds or
21 is independent of the inherent discomforts of confinement and is not reasonably
22 related to a legitimate governmental objective or is excessive in relation to the
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1 legitimate governmental objective.” *Doe*, 878 F.3d at 714 (citing *Kingsley v.*
2 *Hendrickson*, 576 U.S. 389 (2015)).

3
4 136. Mr. Villalta contends that because Respondents are designing and
5 operating detention centers to not provide for the basic needs of adequate food,
6 clean clothing, safe shelter, sanitary conditions, and reasonable safety, the Fifth
7 Amendment and Fourteenth Amendments compel enjoining Respondents from
8 placing him in the current detention centers that are designed to inflict humiliation
9 and harm to cause him to give up a legitimate claim to remain in the United
10 States. Mr. Villalta asks for the Court to enjoin Respondents from detaining him
11 under punitive detention conditions while he is pursuing his requested remedies
12 before the Board of Immigration Appeals, Ninth Circuit Court of Appeals, or any
13 subsequent immigration court hearing.
14
15
16

17 **PRAYER FOR RELIEF**

18 WHEREFORE, the Mr. Villalta prays that this Court grant the following
19 relief:
20

21 (1) Assume jurisdiction over this matter;

22 (2) Declare that ICE’s June 14, 2025 apprehension and detention of
23

24 Mr. Villalta was an unlawful exercise of authority because in the

25 ICE officer provided no reason that he presents a danger or flight
26

27 risk

1 (3) Declare that Respondents and all other agencies of the U.S.
2 government cannot violate the February 2, 2025 BIA order
3 preventing him from being sent out of the country while his motion
4 to reopen is pending
5

6 (4) Enjoin Respondents from re-arresting and re-detaining Mr. Villalta
7 unless and until a neutral adjudicator determines in a hearing that,
8 by clear and convincing evidence, the government has shown that
9 Mr. Villalta is a danger to the public, a flight risk, or there is a final
10 order of removal over which all agency action and all federal
11 review has completed;
12

13 (5) Enjoin Respondents from re-detaining Mr. Villalta in any detention
14 conditions that are punitive in nature by causing humiliation or
15 harm that is incident to the conditions of custody;
16

17 (6) Award reasonable costs and attorney fees; and
18

19 (7) Grant such further relief as the Court deems just and proper.
20

21
22 Dated: August 11, 2025

Respectfully submitted,

23 /s/ Kari Hong
24 Kari Hong
25 Attorney for Petitioner
26
27

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

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

Executed on this August 11, 2025, in Missoula, MT.

/s/ Kari Hong
Kari Hong
Attorney for Petitioner