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9 *Pro Bono Attorney for Petitioner-Plaintiff*

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA

12 J. P.,

13 Petitioner-Plaintiff,

14 v.

15 Ernesto SANTACRUZ JR., Acting Field  
16 Office Director of Los Angeles Office of  
17 Detention and Removal, U.S. Immigration  
18 and Customs Enforcement; U.S. Department  
19 of Homeland Security;

20 Todd M. LYONS, Acting Director,  
21 Immigration and Customs Enforcement, U.S.  
22 Department of Homeland Security;

23 Kristi NOEM, in her Official Capacity,  
24 Secretary, U.S. Department of Homeland  
25 Security; and

26 Pam BONDI, in her Official Capacity,  
27 Attorney General of the United States;

28 Respondents-Defendants.

Case No. 8:25-cv-01640

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

Challenge to Unlawful  
Incarceration Under Color of  
Immigration Detention  
Statutes; Request for  
Declaratory and Injunctive  
Relief

IMMIGRATION HABEAS  
CASE

## **INTRODUCTION**

1. Petitioner-Plaintiff J. P.<sup>1</sup> (“J. P.” or “Petitioner”), by and through his undersigned counsel (“Counsel”), hereby files this petition for writ of habeas corpus and complaint for declaratory and injunctive relief, and accompanying ex parte motion for a temporary restraining order, to prevent Respondents-Defendants, the Department of Homeland Security (“DHS” or “the Department”) and Immigration and Customs Enforcement (“ICE”), from unlawfully re-detaining him at a last-minute scheduled check-in with immigration authorities on July 28, 2025, in violation of the Fifth Amendment to the U.S. Constitution.

2. The Department previously incarcerated J. P. for 21 months—between October 29, 2021, and August 23, 2023—pending resolution of his immigration case. He was incarcerated for most of that period in Bakersfield, California, at the Mesa Verde ICE Processing Center (“Mesa Verde”), an immigration jail operated by private prison contractor GEO Group, Inc. (“GEO”). On February 10, 2023, J. P. filed a habeas petition based on his unconstitutionally prolonged detention. His habeas petition was granted on August 7, 2023, and the judge ordered the government to provide J. P. with a bond hearing in Immigration Court, where DHS would bear the burden to show by clear and convincing evidence that J. P. was a

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<sup>1</sup> Given the sensitive nature of much of the content of this petition and accompanying exhibits, and because of the physical risk to Petitioner if his location and facts related to his claims for protection under the Convention Against Torture were known to his persecutors, we request that this Court allow Petitioner to proceed under the initials “J. P.” in this action. *See* Privacy Concern Regarding Social Security and Immigration Opinions Memorandum, Comm. On Court Admin. And Case Mgmt. of the Judicial Conf. of the U.S. (May 1, 2018), [https://www.uscourts.gov/sites/default/files/18-cv-1-suggestion\\_cacm\\_0.pdf](https://www.uscourts.gov/sites/default/files/18-cv-1-suggestion_cacm_0.pdf). “J. P.” were the initials under which he proceeded in his first habeas petition. *See J.P. v. Garland*, 685 F.Supp.3d 943 (N.D. Cal. Aug. 7, 2023). An administrative motion to proceed under initials is forthcoming. J. P.’s counsel has informed counsel for Respondents of his name and agency number. Authenticating Declaration of E. Katharine Tinto, ¶ 4.

1 danger to society or flight risk in order to continue his detention. At his bond  
2 hearing, an Immigration Judge (“IJ”) determined that the Department could not  
3 meet its burden and found that J. P. was neither a flight risk nor a danger. The IJ  
4 ordered J. P.’s release from custody on the minimum bond possible, \$1,500,  
5 specifying in the bond order that his release should “not [] include ankle/electronic  
6 monitoring.”

7 3. On September 5, 2023, at J. P.’s first Order of Supervision appointment with  
8 ICE after his release, ICE told him he would not be required to check in with them  
9 after that date. Instead, he was enrolled in the Intensive Supervision Appearance  
10 Program (“ISAP”). He made one in-person visit to ISAP approximately two weeks  
11 later, and was then told he would only be required to complete virtual check-ins  
12 going forward. He has been in compliance with his virtual check-ins since then,  
13 which consist of him logging into an application on his cellular phone on a specific  
14 date each month, answering a few questions, and taking a “selfie” photo of himself.

15 4. On August 17, 2023, an IJ granted J. P.’s application for deferral of removal  
16 under the Convention Against Torture (“dCAT”). The Department appealed the  
17 grant, and that appeal is currently pending before the Board of Immigration Appeals  
18 (“BIA”).

19 5. On June 5, 2025, J. P. submitted his application for a U Visa to U.S.  
20 Citizenship and Immigration Services (“USCIS”) based on labor-related crimes he  
21 suffered while working inside of the Mesa Verde detention center, employed by  
22 GEO in their “Voluntary Work Program,” earning just \$1 per day to clean the  
23 dormitories and bathrooms.

24 6. Over the last two years in which he has lived at liberty, J. P. has reunited with  
25 his four U.S. citizen children, his two U.S. citizen sisters and their families, and his  
26 U.S. citizen mother, with whom he has been living. J. P. has been working and  
27 spending time with his family, including regularly accompanying his mother to  
28 mass and to visit his father’s grave, and providing her physical and emotional

1 support as she lives with a thyroid condition and erratic blood pressure. J. P. has  
2 also been pursuing education and better employment opportunities, including  
3 enrolling in a Department of Rehabilitation program to earn a Class A driver license  
4 and being accepted to Santa Ana College, where he hopes to enroll in a program for  
5 formerly incarcerated students.

6 7. On Friday, July 18, 2025, J. P. was stopped by police in Tustin, Orange  
7 County, CA, allegedly for having “tinted windows.” He was dragged from his  
8 vehicle, assaulted, and ended up in the emergency room at Orange County Global  
9 Medical Center for approximately five hours. Unbeknownst to J. P.’s family or  
10 attorney, who had attempted to visit him at the hospital, J. P. was snuck out of the  
11 hospital by police and booked into jail in the early hours of July 19, 2025. On  
12 Saturday, July 19, at approximately 10:10 a.m., J. P. was released. No charges have  
13 since been filed against J. P.

14 8. On Thursday, July 24, 2025, around 4:00 pm, J. P. received a call from a  
15 representative of ISAP, telling him he needed to visit the ISAP office in-person to  
16 “meet his new counselor.” When J. P. inquired about why he was required to come  
17 in, the ISAP representative told him that his supervision was switching to once-  
18 every-four-months in person, while maintaining his virtual check-ins via mobile  
19 phone application. J. P. further inquired about why the change in his check-ins was  
20 occurring, and the ISAP representative told him he did not know but suggested it  
21 might be to “make room for other cases.” He asked J. P. to come in as soon as the  
22 following day or Monday, and as early in the day as possible.

23 9. On Friday, July 25, 2025, at 8:33 am, J. P.’s immigration attorney, Ms.  
24 Kathleen Kavanagh, emailed ICE Deportation Officer Samuel Chairez, inquiring  
25 about whether ICE intended to detain J. P. when he reports to ISAP. At 2:07 p.m.  
26 on the same date, Deportation Officer Chairez called Ms. Kavanagh and informed  
27 her that J. P. was required to go info for a “case review” due to his July 18<sup>th</sup> arrest.  
28 Deportation Officer Chairez indicated that there was a possibility J. P. would be



1 taken into custody, and that he needed to report in order to discuss his case.

2 10.J. P. now faces the prospect of ICE unilaterally stripping him of his liberty,  
3 tearing him away from his family and community, and keeping him detained under  
4 mandatory detention with no opportunity for a neutral adjudicator to review his  
5 case. He also faces the very real possibility of being transferred outside of California  
6 with little or no notice, far away from his family, community, and attorneys, or even  
7 being unlawfully deported to Mexico, a country where he fears torture and death.

8 11.As a result of trauma suffered in childhood and adolescence, as well as  
9 significant trauma suffered while previously detained by ICE at Mesa Verde, J. P.  
10 lives with mental health conditions including Post-Traumatic Stress Disorder  
11 (“PTSD”) and Persistent Depressive Disorder with intermittent major depressive  
12 episodes. A return to immigration detention would have a profoundly destabilizing  
13 effect on his mental health and would likely lead to significant deterioration and  
14 exacerbation of symptoms he is currently living with. The stakes of this case could  
15 not be higher for J. P.

16 12. It is well established that J. P. has a vested liberty interest in his freedom,  
17 and the Fifth Amendment’s Due Process Clause requires certain procedural  
18 protections be afforded to him prior to any re-detention. At a minimum, due process  
19 requires that he receive notice and a hearing before a neutral adjudicator *prior* to  
20 the deprivation of his liberty.

### 21 CUSTODY

22 13.J. P. was released from immigration custody on a \$1,500 bond set by an IJ.  
23 Per ICE’s mandate, he is also participating in ISAP, an “alternatives to detention”  
24 monitoring program imposed on some immigrants. The program is operated by a  
25 private contractor, BI Incorporated. Pursuant to his contract and subsequent  
26 communications with ISAP, among other restrictions, J. P. is required to check in  
27 virtually on a monthly schedule and must be at home when he does so. Such  
28 stringent requirements “impose[] conditions which significantly confine and

1 restrain his freedom; this is enough to keep him in the ‘custody’ of [the DHS] within  
2 the meaning of the habeas corpus statute.” *Jones v. Cunningham*, 371 U.S. 236, 243  
3 (1963); *see also Rodriguez v. Hayes*, 591 F.3d 1105, 1118 (9th Cir. 2010) (holding  
4 that comparable supervision requirements constitute “custody” sufficient to support  
5 habeas jurisdiction).

#### 6 **JURISDICTION**

7 14.This action arises under the Constitution of the United States, the  
8 Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*, and the  
9 Administrative Procedure Act (“APA”), 5 U.S.C. § 500 *et seq.*

10 15.Jurisdiction is proper under Art. 1 § 9, cl. 2 of the United States Constitution  
11 (the Suspension Clause); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2241  
12 (habeas corpus); and APA, 5 U.S.C. §§ 701–706. This court may grant declaratory  
13 and injunctive relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the  
14 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28  
15 U.S.C. § 1651. The United States has waived its sovereign immunity pursuant to 5  
16 U.S.C. § 702.

17 16.This Court also has broad equitable powers to grant relief to remedy a  
18 constitutional violation. *See Roman v. Wolf*, 977 F.3d 935, 941 (9th Cir. 2020).

#### 19 **VENUE**

20 17.Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because  
21 the Respondents are employees or officers of the United States, acting in their  
22 official capacity; because a substantial part of the events or omissions giving rise to  
23 the claim occurred in the Central District of California; because J. P. is under the  
24 jurisdiction of the Santa Ana Sub-Office of the Los Angeles ICE Field Office,  
25 which is in the jurisdiction of the Central District of California; and because there  
26 is no real property involved in this action.

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

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

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

12           20. Habeas corpus must remain a swift remedy. Importantly, “the statute itself  
13 directs courts to give petitions for habeas corpus ‘special, preferential consideration  
14 to insure expeditious hearing and determination.’” *Yong v. INS*, 208 F.3d 1116,  
15 1120 (9th Cir. 2000) (internal citations omitted). The Ninth Circuit warned against  
16 any action creating the perception “that courts are more concerned with efficient  
17 trial management than with the vindication of constitutional rights.” *Id.*

18                                   **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

19           21. For habeas claims, exhaustion of administrative remedies is prudential, not  
20 jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court  
21 may waive the prudential exhaustion requirement if “administrative remedies are  
22 inadequate or not efficacious, pursuit of administrative remedies would be a futile  
23 gesture, irreparable injury will result, or the administrative proceedings would be  
24 void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation  
25 and quotation marks omitted)).

26           22. Here, administrative remedies would be futile, inadequate, and not  
27 efficacious for J. P. No statutory exhaustion requirements apply to J. P.’s claim of  
28 unlawful custody in violation of his due process rights, and there are no

1 administrative remedies that he needs to exhaust. Further, exhausting constitutional  
2 claims would be futile because the immigration courts and the BIA lack jurisdiction  
3 to rule on constitutional claims *See Am.-Arab Anti-Discrimination Comm. v. Reno*,  
4 70 F.3d 1045, 1058 (9th Cir. 1995) (finding exhaustion to be a “futile exercise  
5 because the agency does not have jurisdiction to review” constitutional claims); *see*  
6 *also Wang v. Reno*, 81 F.3d 808, 815–16 (9th Cir. 1996) (per curiam) (“[T]he  
7 inability of the INS to adjudicate the constitutional claim completely undermines  
8 most, if not all, of the purposes underlying exhaustion.”); *In re Indefinite Det.*  
9 *Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).

#### 10 **PARTIES**

11 23. Petitioner J. P. has lived in the United States for over 36 years, since he was  
12 just a few months old. His entire family resides in the U.S., including his four U.S.  
13 citizen children, his U.S. citizen mother, and his U.S. citizen siblings and their  
14 families.

15 24. Respondent Ernesto SANTACRUZ Jr. is the Acting Field Office Director of  
16 ICE in Los Angeles, California, and is named in his official capacity. ICE is the  
17 component of the DHS that is responsible for detaining and removing noncitizens  
18 according to immigration law and oversees custody determinations. In his official  
19 capacity, he is the legal custodian of J. P.

20 25. Respondent Todd M. LYONS is the Acting Director of ICE and is named in  
21 his official capacity. Among other things, ICE is responsible for the administration  
22 and enforcement of the immigration laws, including the detention and removal of  
23 noncitizens. In his official capacity as head of ICE, he is the legal custodian of J. P.

24 26. Respondent Kristi NOEM is the Secretary of DHS and is named in her  
25 official capacity. DHS is the federal agency encompassing ICE and is responsible  
26 for the administration and enforcement of the INA and all other laws relating to the  
27 immigration of noncitizens. In her capacity as Secretary, Respondent Noem has  
28 responsibility for the administration and enforcement of the immigration and

1 naturalization laws pursuant to section 402 of the Homeland Security Act of 2002,  
2 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a).  
3 Respondent Noem is the ultimate legal custodian of J. P.

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

## 10 **I. STATEMENT OF FACTS**

### 11 **J. P.’s Childhood and Background**

12 28. J. P. is 36 years old and has lived in the United States since he was less than  
13 one year old. *See* Authenticating Declaration of E. Katharine Tinto (“Tinto Decl.”),  
14 Exh. H (Prior Habeas Declaration of J. P.) ¶ 1. He is the father of four United States  
15 citizen children (ages 21, 17, 16, and 15). *Id.* ¶ 2. He grew up in Santa Ana,  
16 California, with his mother, father, and two siblings. *Id.* ¶ 3.

17 29. While J. P. was growing up, inside the home, his father battled with alcohol  
18 abuse for much of J. P.’s childhood and was largely absent from the home, working  
19 to keep the family afloat. *Id.* Outside the home, J. P.’s childhood was plagued with  
20 poverty and violence. The neighborhood in Santa Ana where J. P. grew up was  
21 infested with gangs. *Id.* ¶ 4. J. P. witnessed violence, drug activity, and prostitution  
22 on a regular basis. *Id.*

23 30. Unfortunately, J. P. could not escape the influence of his surroundings, made  
24 even more difficult by the fact that many of his cousins and extended family  
25 members were also in gangs. *Id.* ¶¶ 6-9. When J. P. was just 15 years old, he became  
26 a father. *Id.* ¶ 11. He struggled with the new emotions and responsibilities of teenage  
27 parenthood and feared he had disappointed his parents. *Id.* With his father working  
28 long hours and without any brothers, young J. P. sought male companionship and



1 role models outside the home, where gang culture dominated, and he began  
2 associating with his neighborhood gang. *Id.* ¶¶ 10-13.

3 31. Beginning as a juvenile, J. P. was arrested several times for gang-related  
4 activities like vandalism, petty theft, burglary, joy riding, buying/selling a stolen  
5 vehicle, and driving without a license. *Id.* ¶ 20.

6 32. On March 5, 2010, J. P. was charged with a homicide that had occurred three  
7 years prior. *Id.* ¶ 21. He was accused of shooting a person at a party that he never  
8 attended. *Id.* While J. P. acknowledges and regrets his many wrongdoings and poor  
9 choices as a youth and young adult, he has always maintained his innocence in this  
10 matter. *Id.* ¶¶ 20-22; *see also Id.* ¶¶ 23-27.

11 33. J. P. spent five-and-a-half years in pre-trial detention at county jail, fighting  
12 the case. *Id.* ¶ 22. On the verge of trial, where he faced the possibility of a life  
13 sentence, J. P. was offered a plea to voluntary manslaughter with a 16-year sentence.  
14 *Id.* ¶ 30. Though J. P. still wanted to go to trial, at the urging of both his attorney  
15 and his dying father, he agreed to take the deal. *Id.* ¶¶ 30-32.

16 34. During J. P.'s pre-trial custody, confronted with precarious gang politics and  
17 23 hours in a cell by himself to reflect on his life choices to that point, J. P.  
18 ultimately decided to leave the gang and disassociated in December 2010. *See id.*  
19 ¶¶ 34-52.

20 35. After J. P. dropped out of the gang, he committed himself to change. *Id.* ¶  
21 53. Though he had already graduated high school, he pursued a GED while in  
22 county jail, the *only* programming available there. *Id.* The Educator for the Inmates  
23 Recovering Education Program in county jail wrote of J. P.:

24 "Mr. [J. P.] has distinguished himself as a very positive influence in the  
25 classroom and as a student who has a very serious desire to learn. Both of  
26 these qualities are very admirable considering the environment in which he  
27 has decided to contribute to his personal growth."

28 Tinto Decl., Exh. TT (William Nash Letters).



1 36. While in prison, J. P. participated in various rehabilitation groups and  
2 programming geared toward self-reflection, accepting responsibility for prior  
3 behaviors, and trauma recovery. Tinto Decl., Exh. H ¶¶ 54-59.

4 37. J. P. also earned acceptance to the Susanville Training Center for  
5 firefighting. *Id.* ¶ 59. Once there, he completed four weeks of grueling training and  
6 passed his tests on the first attempt. *Id.* ¶ 60. J. P. served as an inmate firefighter  
7 from April 2020 until October 2021, fighting some of the worst wildfires in  
8 California's history. *Id.* His fire captain wrote of him:

9 "Mr. [J. P.] was very helpful and motivated while working under my  
10 supervision . . . . He was always positive and came to work ready to do  
11 whatever need to be done that day. It was a pleasure to have Mr. [J. P.] on  
12 my fire crew."

13 Tinto Decl., Exh. OO (Fire Captain Letter). J. P. considers his firefighting service,  
14 along with his four children, his "proudest accomplishment." Tinto Decl., Exh. H  
15 ¶¶ 61-63.

16 38. On October 29, 2021, J. P. was arrested by ICE upon his release from prison  
17 on parole. *Id.* ¶ 66. ICE incarcerated him first in McFarland, California, at the  
18 Golden State Annex, an immigration jail operated by private prison contractor GEO  
19 Group. Declaration of Kathleen Kavanagh ("Kavanagh Decl.") ¶ 6. Approximately  
20 one month later, he was transferred to Mesa Verde, also operated by GEO, and  
21 where J. P. was detained until August 23, 2023—with the exception of a brief period  
22 in March 2023, *see infra. Id.*

23 **Punitive Detention Conditions, J. P.'s Advocacy,**  
24 **and Retaliation Suffered**

25 39. During the more than 21 months that J. P. was incarcerated by ICE in civil  
26 immigration custody, he was subjected to even more punitive conditions of  
27 confinement than he experienced while serving his criminal sentence. Tinto Decl.,  
28 Exh. H ¶¶ 72-77. Immigrants detained at the Mesa Verde and ICE's neighboring

1 detention center, Golden State Annex, have raised the alarm about the deplorable  
2 conditions within the facilities and the appalling treatment of individuals detained  
3 there, including consistent exposure to toxic dust, wholly inadequate medical care,  
4 and retaliation for speaking out against such conditions.<sup>2</sup> In an October 2021 survey,  
5 people detained at Golden State Annex and Mesa Verde reported that GEO Group,  
6 the private contractor operating both facilities, regularly serves inedible, expired,  
7 and inadequate food.<sup>3</sup>

8 40. In June 2022, detained workers, including J. P., waged a labor strike to protest  
9 hazardous working conditions and negligible wages.<sup>4</sup> *Id.* ¶ 75. On July 13, 2022, a  
10 group of immigrants detained at Golden State Annex and Mesa Verde Detention  
11 Facility filed a complaint for declaratory and injunctive relief and damages against  
12 GEO Group based on claims related to wage theft and forced labor. *See Hernandez*  
13 *Gomez v. GEO Group, Inc.*, No. 1:22-cv-00868-ADA-CDB, ECF 24 (E.D. Cal. July  
14 13, 2022). The lawsuit, in which J. P. is a plaintiff, further alleges, among other  
15 things, that GEO fails to “maintain minimum standards of cleanliness and  
16 sanitation,” leaving detained individuals to live in “intolerably filthy conditions,  
17 with mold growing in the showers, a stench emanating from the restrooms, and pest  
18

19 <sup>2</sup> DHS Office for Civil Rights and Civil Liberties (“CRCL”) Complaint: “First  
20 Amendment Retaliation Against Individuals in Immigration Detention in  
21 California” (Aug. 26, 2021),  
22 [https://www.aclunc.org/sites/default/files/OCRCL%20complaint.08.26.21%20\\_0.p](https://www.aclunc.org/sites/default/files/OCRCL%20complaint.08.26.21%20_0.pdf)  
23 [df](https://www.aclunc.org/sites/default/files/OCRCL%20complaint.08.26.21%20_0.pdf).

24 <sup>3</sup> California Collaborative for Immigrant Justice, *Starving for Justice: The Denial*  
25 *of Proper Nutrition in Immigration Detention* (Apr. 2022),  
26 [https://www.ccijustice.org/\\_files/ugd/733055\\_c43b1cbbdda341b894045940622a6d](https://www.ccijustice.org/_files/ugd/733055_c43b1cbbdda341b894045940622a6dc3.pdf)  
27 [c3.pdf](https://www.ccijustice.org/_files/ugd/733055_c43b1cbbdda341b894045940622a6dc3.pdf) (noting that individuals at Mesa Verde reported receiving insects, hair,  
28 and/or other foreign objects in their meals).

<sup>4</sup> Jhavala Romero, Farida, *Immigrant Detainees Strike Over Working Conditions*,  
*California Regulators Investigate* (June 22, 2022),  
[https://www.kqed.org/news/11917597/immigrant-detainees-strike-over-working-](https://www.kqed.org/news/11917597/immigrant-detainees-strike-over-working-conditions-california-regulators-investigate)  
[conditions-california-regulators-investigate](https://www.kqed.org/news/11917597/immigrant-detainees-strike-over-working-conditions-california-regulators-investigate).

1 [sic] running.” *Id.* at ¶ 9. The litigation remains pending.<sup>5</sup>

2 41. Detained workers at Mesa Verde also filed a complaint with the DHS Office  
3 of Civil Rights and Civil Liberties (“CRCL”) on September 12, 2022, alleging  
4 retaliation against detained people participating in collective action seeking to  
5 redress poor conditions.<sup>6</sup> Subsequent to the filing of the complaint and other official  
6 complaints that followed, U.S. Congressmembers wrote *three* letters to then-  
7 Secretary of DHS and then-Acting Director of ICE, requesting an investigation into  
8 the “disturbing conditions and abusive and retaliatory behavior”<sup>7</sup> toward detained  
9 individuals, and calling for termination of ICE’s contracts with GEO Group upon  
10 confirmation of the allegations in the official complaints.<sup>8,9</sup> DHS and ICE officials  
11 never responded with an investigation or review of GEO’s practices or detention  
12

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13 <sup>5</sup> Similar cases have been filed, including in the Central District of California,  
14 *Novoa v. GEO Group*, No. EDCV 17-2514-JBG (SHKx), 2022 WL 2189626 (C.D.  
15 Cal. Jan. 25, 2022). This litigation is pending, but the court preliminarily  
16 recognized plaintiffs (detained workers in ICE facilities) as employees of the  
17 private contractor GEO Group under California State law *Id.* at \*17 (“[T]he Court  
18 finds that the evidence supports an employer-employee relationship between GEO  
19 and detainees.”).

20 <sup>6</sup> CRCL Complaint: “Retaliation Against Individuals in Immigration Detention at  
21 Mesa Verde Detention Facility and Golden State Annex” (Sept. 12, 2022),  
22 <https://www.ccijustice.org/laf-09-12-2022-mv-gsa>.

23 <sup>7</sup> Press Release: “Lofgren, Padilla, Correa, CA Dems Call for DHS Investigation of  
24 CA Detention Centers Following Allegations of Abusive & Retaliatory Behavior  
25 Toward Detainees” (Sept. 14, 2022), [https://lofgren.house.gov/media/press-](https://lofgren.house.gov/media/press-releases/lofgren-padilla-correa-ca-dems-call-dhs-investigation-ca-detention-centers)  
26 [releases/lofgren-padilla-correa-ca-dems-call-dhs-investigation-ca-detention-](https://lofgren.house.gov/media/press-releases/lofgren-padilla-correa-ca-dems-call-dhs-investigation-ca-detention-centers)  
27 [centers](https://lofgren.house.gov/media/press-releases/lofgren-padilla-correa-ca-dems-call-dhs-investigation-ca-detention-centers).

28 <sup>8</sup> Congressional Letter to DHS and ICE (May 4, 2023),  
[https://lofgren.house.gov/sites/evo-subsites/lofgren.house.gov/files/evo-media-](https://lofgren.house.gov/sites/evo-subsites/lofgren.house.gov/files/evo-media-document/5.4.23%20Final%20Detention%20Centers%20Conditions%20Letter_0.pdf)  
document/5.4.23%20Final%20Detention%20Centers%20Conditions%20Letter\_0.  
pdf.

<sup>9</sup> Congressional Letter to DHS and ICE (Oct. 8, 2024),  
[https://lofgren.house.gov/sites/evo-subsites/lofgren.house.gov/files/evo-media-](https://lofgren.house.gov/sites/evo-subsites/lofgren.house.gov/files/evo-media-document/10.8.24%20-%20Letter%20-%20Dangerous%20Conditions%20at%20GEO%20Detention%20Centers.pdf)  
document/10.8.24%20-%20Letter%20-  
%20Dangerous%20Conditions%20at%20GEO%20Detention%20Centers.pdf.

1 conditions.

2 42. On August 28, 2022, J. P. was returning to his dorm from the recreation yard  
3 when he underwent a compulsory pat-down search by a GEO officer. Tinto Decl.,  
4 Exh. H ¶ 76. Unlike the regular searches J. P. was accustomed to, this pat down  
5 made J. P. feel extremely uncomfortable. *Id.* The officer caressed the front of his  
6 chest in an unusual manner, and then used both of his hands to rub the outside of J.  
7 P.'s thighs and both knees. *Id.* J. P. reported it to his attorney soon thereafter. *Id.* He  
8 promptly filed a Prison Rape Elimination Act ("PREA") complaint with Mesa  
9 Verde about the incident. *Id.* On September 15, 2022, J. P. made a report to the  
10 Bakersfield Police Department. *Id.* As it became clear that GEO officers had begun  
11 conducting abusive pat-downs on a widespread basis, J. P. joined several other  
12 individuals detained at Mesa Verde who were subject to sexually abusive pat-downs  
13 in filing a complaint with CRCL on January 17, 2023.<sup>10</sup> *Id.* ¶ 77.

14 43. J. P. suffered retaliation for his advocacy. On June 28, 2022, J. P. and 16  
15 others signed a declaration informing GEO Group that they were joining a work  
16 stoppage by detained workers at Mesa Verde over their \$1 per day pay rate. *Id.* ¶  
17 75. On June 30, 2022, two days after signing the June 28 declaration, J. P. was  
18 placed in solitary confinement. *Id.* J. P. did not receive a disciplinary hearing until  
19 July 7, 2022, in violation of ICE's Performance-Based National Detention  
20 Standards (PBNDS)'s requirement that disciplinary hearings take place within 72  
21 hours absent extraordinary circumstances. *Id.*; see ICE PBNDS 3.1(V)(E),  
22 <https://www.ice.gov/detain/detention-management/2011>. Ultimately, J. P. was  
23 found guilty of engaging in a group demonstration and conduct that  
24 disrupts/interferes with the security or operation of the facility, and he was  
25 penalized with loss of commissary for 15 days. *Id.* He spent over a week in solitary

26 <sup>10</sup> CRCL Complaint: "Sexually Abusive Pat-Downs Against Individuals in  
27 Immigration Detention at Mesa Verde Detention Facility" (Jan. 17, 2023)  
28 [https://www.aclunc.org/sites/default/files/2023.01.17\\_Sexually\\_Abusive\\_Pat-Downs\\_Complaint\\_REDACTED.pdf](https://www.aclunc.org/sites/default/files/2023.01.17_Sexually_Abusive_Pat-Downs_Complaint_REDACTED.pdf).

1 confinement before the determination at his disciplinary hearing, at which point he  
2 was transferred back to general population. *Id.*

3 44. On December 30, 2022, Sameer Ashar, an attorney at the UC Irvine School  
4 of Law's Workers and Tenants Law and Organizing Clinic filed a charge with the  
5 National Labor Relations Board ("NLRB") on behalf of J. P. *Id.* ¶ 79; *see also* Tinto  
6 Decl., Exh. N. The complaint charged GEO Group with interfering with,  
7 restraining, and coercing J. P. in the exercise of his rights guaranteed under the  
8 National Labor Relations Act. Tinto Decl., Exh. H ¶ 79. On January 6, 2025, the  
9 NLRB issued a formal complaint against GEO for retaliating against J. P. for his  
10 labor organizing activities.<sup>11</sup> On February 18, 2025, following a change in  
11 presidential administration, the NLRB withdrew the complaint. Kavanagh Decl. ¶  
12 18.

13 45. On February 17, 2023, J. P. and approximately 80 other individuals escalated  
14 their labor strike to a hunger strike, after GEO refused to make any changes or  
15 address any of their demands. *See* Declaration of Petitioner ("J. P. Decl.") ¶ 10.  
16 Throughout the hunger strike, the threat of solitary confinement was held over the  
17 strikers' heads, and as punishment, GEO took away arts and crafts, observation of  
18 religious time and rituals, movies, and yard time. *Id.* ¶ 11. As a result of this  
19 retaliation, on February 23, 2023, J. P. and others filed a civil rights class action  
20 lawsuit against ICE and GEO Group, arguing that retaliation against the strikers  
21 violated their right to peacefully speak out against mistreatment and violated their  
22

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23 <sup>11</sup> Hussain, Shuhauna, Los Angeles Times, *Prison company retaliated against*  
24 *detained immigrants, labor board says* (Jan. 22, 2025),  
25 [https://www.latimes.com/business/story/2025-01-22/inmates-protested-work-](https://www.latimes.com/business/story/2025-01-22/inmates-protested-work-conditions-geo-prison-company-retaliated-labor-board-says)  
26 [conditions-geo-prison-company-retaliated-labor-board-says](https://www.latimes.com/business/story/2025-01-22/inmates-protested-work-conditions-geo-prison-company-retaliated-labor-board-says) ("GEO Group  
27 punished detainees housed at its detention center in Bakersfield who signed a  
28 petition and participated in a work stoppage to protest wages and other working  
conditions, federal labor regulators alleged in a Jan. 6 complaint by a regional  
NLRB office in Los Angeles.").



1 right to petition the government for redress of their grievances. *See* First Amended  
2 Complaint, *Mendez v. ICE*, No. 3:23-cv-00829-TLT (N.D. Cal. Mar. 10, 2023).

3 46. On March 7, 2023, nineteen days into J. P.'s hunger strike and only a few  
4 days after the filing of *Mendez*, J. P. and three other hunger strikers were violently  
5 extracted from their dormitory by GEO staff and ICE officers dressed in military  
6 gear. J. P. Decl. ¶¶ 13-17. J. P. was initially thrown to the floor, and several officers  
7 jumped on top of him. *Id.* ¶¶ 15-16. He was forced into a hog tie position, and  
8 ultimately handcuffed. *Id.* ¶ 16. After being placed in a holding cell as his hands  
9 turned blue from the tightness of the handcuffs, J. P. was ultimately taken out of the  
10 facility and put into a van with three other hunger strikers. *Id.* ¶ 18. He was never  
11 told where he was being taken. *Id.* ¶ 19.

12 47. Eventually, the van arrived at an airport in Victorville, California. *Id.* ¶ 20.  
13 At the airport, J. P. and the others were told by ICE agents that if they did not  
14 "comply," ICE would use a full body restraint on them. *Id.* J. P. and the other hunger  
15 strikers were then forcibly put onto a plane, handcuffed and with ankle shackles. *Id.*  
16 J. P. still had no idea where he was being taken. *Id.*

17 48. Several hours later, the plane landed in El Paso, Texas, and J. P. was taken to  
18 the El Paso ICE Processing Center. *Id.* ¶ 21. There, he received a medical exam  
19 from a doctor that told him she was going to submit an order to force feed him—a  
20 form of torture<sup>12</sup>—if he continued his hunger strike. *Id.* ¶ 22. After this threat of  
21 torture, J. P. decided to end his hunger strike, and he was returned to Mesa Verde  
22 in California on March 14, 2023, where he continued his labor strike until his release  
23 in August 2023. *Id.* ¶ 23.

24 49. J. P. was severely traumatized from the treatment he endured in ICE

25  
26 <sup>12</sup> World Medical Association, "Policy Tag: Forced Feeding" (Apr. 2021),  
27 <https://www.wma.net/policy-tags/forced-feeding/> ("Force-feeding and any other  
28 forms of coercion constitute a form of torture and is contrary to medical ethics.");  
Aviva Stahl, "When Force-Feeding Is Torture" (Mar. 8, 2023),  
<https://www.thenation.com/article/society/force-feeding-torture-prison-video/>.



1 detention, and since his release, has been living with acute symptoms of his mental  
2 health conditions—both PTSD and Persistent Depressive Disorder—that were  
3 exacerbated by his time in detention. *See* Tinto Decl., Exh. J (Psychological  
4 Evaluation). In her psychological evaluation of J. P., Ms. Gullo found:

5 “The impact of [J. P.’s mistreatment in immigration detention] has caused  
6 [J. P.] to experience trauma-induced symptoms of daily intrusive memories,  
7 physiological reactivity to these memories, avoidance of thoughts, feelings,  
8 and external reminders of the experiences, ongoing fears for his safety,  
9 difficulty sleeping, difficulties with concentration, difficulties socializing,  
10 and changes in mood including depression and irritability, consistent with  
11 diagnoses of **Post Traumatic Stress Disorder (PTSD) and Persistent**  
12 **Depressive Disorder with intermittent major depressive episodes,**  
13 **current episode severe.”**

14 *Id.* (emphasis in original).

15 50. In addition to his own advocacy, J. P. supported other people in detention in  
16 any way that he could. Tinto Decl., Exh. H ¶ 80. He helped translate English-  
17 language documents for monolingual Spanish-speakers, directed individuals who  
18 were struggling to understand their immigration proceedings to *pro se* legal  
19 materials and available legal services, shared words of encouragement with people  
20 who were struggling emotionally, promoted COVID-19 vaccine information  
21 efforts, and repeatedly called attention to the poor conditions he and others in civil  
22 detention face at Mesa Verde. *Id.*

23 51. J. P. took his growth extremely seriously while incarcerated and in  
24 immigration detention, always seeking support for himself however he could. *Id.* ¶  
25 81. One such support he sought out and has maintained was through a community  
26 organization that supports individuals in detention. Their coordinator wrote in  
27 support of J. P.’s release on bond, and subsequently, his U Visa application, sharing,  
28 “[O]f the [approximately 150 detained] people I have had the opportunity to talk

1 with [J. P.] is an individual who exemplifies the possibility of change and the  
2 goodness of humanity.” Tinto Decl., Exh. Y (Susan Lange Letter). Spending over a  
3 decade incarcerated for a crime he did not commit was harrowing, but J. P. credits  
4 the time he served with allowing space for a spiritual awakening. Tinto Decl., Exh.  
5 H ¶¶ 82-86.

6 **J. P.’s Removal Proceedings Before EOIR**

7 52. After ICE detained J. P. on October 29, 2021, DHS filed a Motion to  
8 Recalendar his immigration proceedings (which had, years earlier, been taken off  
9 the Immigration Court’s active calendar via “administrative closure”), and the  
10 motion was granted on November 9, 2021. Kavanagh Decl. ¶ 6.

11 53. On or about December 30, 2021, J. P. entered into a representation agreement  
12 with his *pro bono* immigration attorney, Kathleen Kavanagh. *Id.* ¶ 2. She entered  
13 her notice of appearance before the Immigration Court on January 13, 2022. *Id.* ¶  
14 7.

15 54. J. P. filed his Application for Asylum, Withholding, and protection under the  
16 Convention Against Torture on March 28, 2022. *Id.* After six master calendar  
17 hearings since being detained, J. P. had two individual hearings at which he  
18 presented his applications for relief, including his own testimony and the testimony  
19 of two expert witnesses. *Id.*

20 55. On June 23, 2022, the IJ denied all relief in an oral decision and ordered J.  
21 P.’s removal to Mexico. *Id.*

22 56. J. P. timely filed his appeal of the IJ’s decision on July 26, 2022. *Id.* ¶ 8.

23 57. On March 7, 2023, the BIA sustained J. P.’s appeal in part and remanded his  
24 case to the IJ for a new decision on his application for protection under the  
25 Convention Against Torture. *Id.* The IJ held an additional individual hearing on  
26 June 21, 2023, and took the matter under consideration. *Id.* ¶ 9.

27 58. On August 17, 2023, the IJ granted J. P.’s application for deferral of removal  
28 under the Convention Against Torture (“dCAT”). *Id.* ¶ 9. DHS appealed the grant,

1 and that appeal is currently pending before the BIA. *Id.*; Tinto Decl., Exh. D (EOIR  
2 Case Status).

3 59. On June 5, 2025, J. P. submitted his application for a U Visa to U.S.  
4 Citizenship and Immigration Services (“USCIS”) based on labor-related crimes he  
5 suffered while working inside of the Mesa Verde detention center, employed by  
6 GEO in their “Voluntary Work Program,” earning just \$1 per day to clean the  
7 dormitories and bathrooms, and based on his cooperation with law enforcement and  
8 substantial harm suffered as a result of the crimes. *Id.* ¶ 19.

9 **J. P.’s Prior Habeas Petition, Bond Hearing,**  
10 **and Release from Custody**

11 60. After enduring approximately 15 months of ICE detention, on February 10,  
12 2023, J. P. filed a habeas petition challenging his detention as unconstitutionally  
13 prolonged. Kavanagh Decl. ¶ 10. His habeas petition was granted on August 7,  
14 2023, and the judge ordered the government to provide J. P. with a bond hearing in  
15 Immigration Court, where DHS would bear the burden to show by clear and  
16 convincing evidence that J. P. was a danger to society or flight risk in order to  
17 continue detaining him. *See J.P. v. Garland*, 685 F.Supp.3d 943 (N.D. Cal. Aug. 7,  
18 2023).

19 61. At J. P.’s bond hearing on August 18, 2023, an Immigration Judge (“IJ”)   
20 determined that the Department could not meet its burden and found that J. P. was  
21 neither a flight risk nor a danger. Kavanagh Decl. ¶ 13. The IJ ordered J. P.’s release  
22 from custody on the minimum bond possible, \$1,500, specifying in the bond order  
23 that his release should “not [] include ankle/electronic monitoring.” *Id.*; Tinto Decl.,  
24 Exh. A (IJ Bond Order).

25 62. J. P. was released by ICE on August 23, 2023, and served with an Order of  
26 Supervision instructing him to check in on September 5, 2023. Kavanagh Decl. ¶  
27 14; Tinto Decl., Exh. B (Order of Supervision). Upon reporting to ICE as instructed  
28 on that date, J. P. and his attorney were told that he would not be required to check

1 in with ICE going forward. Kavanagh Decl. ¶ 14. Instead, he was enrolled in the  
2 Intensive Supervision Appearance Program (“ISAP”) later that day. *Id.* He has been  
3 in compliance with his check-ins since then, which, after just one in-person visit to  
4 the ISAP office, have consisted of him logging into an application on his cellular  
5 phone every four weeks, from home, answering a series of questions, and taking a  
6 “selfie.” *Id.*; *see also* J. P. Decl. ¶ 43. On April 14, 2025, J. P. obtained a letter  
7 signed by Deportation Officer Samuel Chairez confirming that he was in  
8 compliance with all reporting requirements and terms of his Order of Supervision.  
9 *See* Tinto Decl., Exh. C (ICE Letter Confirming Supervision Compliance)

10 **J. P.’s life after release from custody**

11 63. In the nearly two years since J. P. was released from ICE custody, he has  
12 resided continuously at his family’s home in Santa Ana, California. J. P. Decl. ¶¶ 1,  
13 4. He lives with and provides crucial support to his mother, two sisters, and two  
14 nephews, all of whom are U.S. citizens. *Id.* ¶¶ 33-37. He has worked hard to rebuild  
15 his life after prolonged incarceration and family separation, including working to  
16 support himself and his family, pursuing employment development and educational  
17 opportunities, and seeking to contribute to his community. *Id.* ¶¶ 39-41.

18 64. J. P. supports his 61-year-old mother emotionally, physically, and  
19 financially. He accompanies her to church and to visit his father’s grave. *Id.* ¶ 34.  
20 She has thyroid and blood pressure conditions that make her highly susceptible to  
21 stress, which has been especially difficult for her to manage in the current  
22 immigration enforcement climate in Southern California, and even more so since J.  
23 P.’s brutal arrest and hospitalization on July 18, 2025. *Id.* ¶¶ 34, 51.

24 65. J. P. also supports his two sisters, including one who is a single mother of  
25 two sons for whom J. P. is the primary father figure. *Id.* ¶ 35. J. P.’s 13-year-old  
26 nephew has struggled with emotional and behavioral problems, but he looks up to  
27 his uncle, turns to him for advice, and listens to his counseling. *Id.* ¶ 36. J. P.’s four-  
28 year-old nephew, whose biological father has been incarcerated since before he was

1 born, is highly attached to J. P. and runs to hug him every day when J. P. returns  
2 home. *Id.* ¶ 37.

3 66. J. P.'s sister, Elizabeth, and the mother of J. P.'s two nephews, writes of her  
4 brother:

5 "[J. P.] is a great role model in our [family's] lives and in my kids' lives.  
6 Having him home feels a lot like having my father back [who passed away  
7 in 2019], in that [J. P.] is a positive influence and a joy to be around. It would  
8 be unimaginable for my mother to lose [J. P.] given her age and close  
9 relationship with him. When [J. P.] is not working, he is taking our mom on  
10 errands or spending time at church. He also helps me a lot with my kids."

11 Tinto Decl., Exh. L (Elizabeth Decl.) J. P.'s youngest sister, Juliana, writes of him:

12 "Having a brother like [J. P.] has been one of the best gifts God could have  
13 given me. He has helped in shaping me into the strong woman that I am today,  
14 from teaching me about respect for myself and others, to understanding from  
15 a place of love, and also setting boundaries. I'd give up my right arm before  
16 I would trade the experience of being a sister to one of the most beautiful  
17 brothers a girl could ask for."

18 Tinto Decl., Exh. M (Juliana Decl.).

19 67. Since his release, J. P. has also been reunited with his four U.S. citizen  
20 children, who live nearby and who he continues striving to support and to make up  
21 for lost physical time with during his years of incarceration. J. P. Decl. ¶ 38.

22 68. In addition to supporting his family physically and emotionally, J. P. has  
23 worked in various jobs since his release, including food delivery and, most recently,  
24 at a children's book factory, in order to support himself and to provide for his  
25 family. *Id.* ¶ 39. He has had employment authorization since his release. Kavanagh  
26 Decl. ¶ 17. He is enrolled in a California Department of Rehabilitation employment  
27 development program to earn his Class A driver license. J. P. Decl. ¶ 40.

28 69. J. P. also applied to Santa Ana College and was accepted on March 7, 2025.



1 *Id.* ¶ 41. He is interested in the school’s “Rising Scholars” program for formerly  
2 incarcerated students, and he hopes to take classes to become a counselor for at-risk  
3 youth, in order to help others avoid the mistakes he made when he was young. *Id.*;  
4 *see also* Tinto Decl., Exh. N (Ashar Letter). J. P. has also recently been  
5 corresponding with Big Brothers Big Sisters of Orange County about opportunities  
6 to volunteer as a “Big Brother,” with the same goal. J. P. Decl. ¶ 41.

7 70. J. P. has also shared his experiences and wisdom as a person directly  
8 impacted by the criminal-legal and immigration systems with students, including  
9 speaking to the entire entering clinical class at UC Irvine School of Law in January  
10 2024 and to over 130 audience members at a University of California Los Angeles  
11 School of Law event in spring 2023. *See id.*; Tinto Decl., Exh. N (Ashar Letter);  
12 Tinto Decl., Exh. W (Inlender Letter). According to Professor Ashar of UC Irvine  
13 School of Law, “In all of his interactions with law students in the clinic, Mr. [J. P.]  
14 has been a calm, humble, and thoughtful collaborator and teacher.” Tinto Decl.,  
15 Exh. N.

16 71. Despite his commitment and best efforts towards healing and rebuilding his  
17 life, J. P. has struggled emotionally and mentally since his release, due in large part  
18 to the traumas he endured while in ICE custody. J. P. Decl. ¶¶ 29-32; *see also* Tinto  
19 Decl., Exh. K (Mother Decl.) ¶¶ 11-12 (“I live with my son [J. P.] now, and I can  
20 see that these events and the abuse he suffered are . . . going to affect him for a long  
21 time, maybe his entire life.”). He was diagnosed in May 2025 with Post Traumatic  
22 Stress Disorder (PTSD) and Persistent Depressive Disorder with intermittent major  
23 depressive episodes, current episode severe. *See* Tinto Decl., Exh. J (Psychological  
24 Evaluation). His symptoms have been especially severe in recent months,  
25 exacerbated by the heavy presence of immigration agents in his community,  
26 including raids at locations like a Home Depot near his home. J. P. Decl. ¶ 47; *see*  
27 *also* Tinto Decl., Exh. M (Juliana Decl.) ¶¶ 22-24 (“[J. P.’s] body can’t relax; it is  
28 always in fight or flight mode.”).



1 72. Since J. P. was stopped, brutally arrested, and sent to the Emergency Room  
2 by police on July 18, 2025, he has felt even more overwhelmed with anxiety,  
3 flashbacks, and terror at the idea of being returned to immigration custody. *Id.* His  
4 family, even his 13-year-old nephew, are also highly stressed by the uncertainty of  
5 his safety and freedom. *Id.* ¶ 47.

6 73. Due to the ordeal that J. P. endured on July 18, 2025, he is being considered  
7 for representation in a civil rights action by the UC Irvine School of Law Defending  
8 Democracy Clinic. *See* Tinto Decl., Exh. F (Civil Rights Attorney Letter).

9 **ICE may re-arrest J. P. on July 29, 2025**

10 74. On July 24, 2025, J. P. received a phone call from an ISAP representative  
11 who said J. P. would need to report to the ISAP office in person to meet a new case  
12 manager, and because he would have in-person check-ins added to his supervision  
13 requirements. J. P. Decl. ¶ 48. When asked the reason for this change, the ISAP  
14 representative stated that he had no idea but that as far as he knew, J. P.'s case was  
15 "good." The representative suggested that J. P.'s supervision might be changing to  
16 "make room for other cases." *Id.* This explanation did not make sense to J. P., so he  
17 inquired as to how increasing his supervision would "make room," but he did not  
18 receive a straight answer. *Id.* J. P. asked numerous questions and many of the  
19 statements made by the ISAP representative were contradictory or did not make  
20 sense. *Id.* The representative pressured J. P. to report as soon as the next day or early  
21 on the following Monday morning. *Id.*

22 75. On the morning of July 25, 2025, J. P.'s immigration attorney emailed ICE  
23 Deportation Officer Samuel Chairez and asked if ICE planned to detain J. P. when  
24 he reported to ISAP. Kavanagh Decl. ¶ 25. Later that day, at 2:07 p.m., Officer  
25 Chairez called Ms. Kavanagh and stated that J. P. was being called in due to his  
26 July 18<sup>th</sup> arrest and indicated that there was a possibility that ICE would re-detain  
27 J. P. after he reported for a "case review." *Id.* ¶ 25. The statements made by Officer  
28 Chairez to Ms. Kavanagh were inconsistent with the reasons the ISAP

1 representative had given to J. P. the day prior. J. P. Decl. ¶ 49.

2 76. Later on July 25, 2025, at 3:57 p.m., J. P. received a text message through the  
3 ISAP application on his phone, asking if he could go to the ISAP office on Monday  
4 or Tuesday. *Id.* ¶ 50. He replied that he would go on Tuesday. *Id.*

5 77. Despite the fact that an IJ ordered his release, J. P. now faces the prospect of  
6 ICE unilaterally stripping him of his liberty, tearing him away from his family and  
7 community, and keeping him detained under mandatory detention with no  
8 opportunity for a neutral adjudicator to review his case. Kavanagh Decl. ¶ 26. He  
9 also faces the very real possibility of being transferred outside of California with  
10 little or no notice, far away from his family and community, or even being  
11 unlawfully deported to Mexico, a country where an IJ has found he is likely to suffer  
12 torture. *See id.* ¶¶ 27; 9.

13 78. If J. P. is re-detained by ICE, his mental health would drastically deteriorate,  
14 causing significant psychological harm. Tinto Decl., Exh. I (Letter from Deana  
15 Gullo). His re-detention would also destabilize his family and cause substantial  
16 further harm to them. J. P. Decl. ¶ 51; *see also* Tinto Decl., Exh. M (Juliana Decl.)  
17 ¶¶ 25-27. J. P. is terrified at the prospect:

18 “I am terrified of being taken back into custody by ICE. Thinking about it at  
19 all sends me into a panic. The 21 months I spent in ICE detention before was  
20 the worst experience of my life, and still impacts me daily. If I am detained  
21 again for even a short time, I fear for my physical and mental wellbeing. I  
22 also deeply fear for my family’s wellbeing because they are so reliant on me  
23 and are themselves still recovering from the trauma of our prolonged  
24 separation and everything they went through with me when I was in ICE  
25 custody before. I am especially fearful for my mother’s health if I am  
26 detained. She has been saying she feels like she will die if I am taken into  
27 custody again. Having lost my father while I was incarcerated, the fear I will  
28 be taken away and that it will destroy my mother and mean losing her really

1       haunts me.”

2       J. P. Decl. ¶ 51.

3       79. Intervention from this Court is therefore required to ensure that J. P. is not  
4       unlawfully re-arrested and re-incarcerated and subjected to irreparable harm  
5       without the process due to him.

6       **II. ARGUMENT**

7       **A. J. P. Has a Constitutional Right to a Pre-Deprivation Hearing**

8       80. In J. P.’s particular circumstances, the Due Process Clause of the Constitution  
9       makes it unlawful for Respondents to re-arrest him without first providing a pre-  
10      deprivation hearing before a neutral decisionmaker. *See, e.g., Guillermo M. R. v.*  
11      *Kaiser*, No. 25-CV-05436-RFL, 2025 WL 1983677 (N.D. Cal. July 17, 2025). At  
12      such a hearing, the neutral decisionmaker must determine, first, whether there has  
13      been a material change in circumstances since J. P.’s release on bond in August  
14      2023, and second, assuming there is a material change, whether the government can  
15      show by clear and convincing evidence that detention would now be warranted on  
16      the basis that he is a danger or a flight risk.

17      81. The statute and regulations grant ICE the ability to unilaterally revoke any  
18      noncitizen’s immigration bond and re-arrest the noncitizen at any time. 8 U.S.C. §  
19      1226(b); 8 C.F.R. § 236.1(c)(9). Notwithstanding the breadth of the statutory  
20      language granting ICE the power to revoke an immigration bond “at any time,” 8  
21      U.S.C. 1226(b), in *Matter of Sugay*, 17 I&N Dec. 647, 640 (BIA 1981), the BIA  
22      recognized an implicit limitation on ICE’s authority to re-arrest noncitizens. There,  
23      the BIA held that “where a previous bond determination has been made by an  
24      immigration judge, no change should be made by [the DHS] absent a change of  
25      circumstance.” *Id.* The Ninth Circuit has also assumed that, under *Matter of Sugay*,  
26      ICE has no authority to re-detain an individual absent changed circumstances.  
27      *Panosyan v. Mayorkas*, 854 F. App’x 787, 788 (9th Cir. 2021) (“Thus, absent  
28      changed circumstances ... ICE cannot redetain Panosyan.”).

1 82.ICE has further limited its authority as described in *Sugay*, and “generally  
2 only re-arrests [noncitizens] pursuant to § 1226(b) after a *material* change in  
3 circumstances.” *Saravia v. Barr*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff’d*  
4 *sub nom. Saravia for A.H.*, 905 F.3d 1137 (quoting Defs.’ Second Supp. Br. at 1,  
5 Dkt. No. 90) (emphasis added). Thus, under BIA case law and ICE practice, ICE  
6 may re-arrest a noncitizen who had been previously released on bond only after a  
7 material change in circumstances. *See Saravia*, 280 F. Supp. 3d at 1176; *Matter of*  
8 *Sugay*, 17 I&N Dec. at 640.

9 83. There has been no material change in circumstances in J. P.’s case. Although  
10 he was arrested, he was released the next day by law enforcement—an act expressly  
11 acknowledging that J. P. is neither a risk of flight nor danger to society—and no  
12 charges have been filed. Tinto Decl.; Exh. E (Defense Attorney Letter). His notice  
13 to appear in court requires his appearance on August 18, 2025, where his defense  
14 attorney intends to defend against any charges, should any be formally filed. *Id.* An  
15 arrest, without more, does not undermine the IJ’s August 2023 finding that J. P. is  
16 not a danger to society. After all, even the criminal authorities chose to release him.

17 84. Furthermore, ICE’s power to re-arrest a noncitizen who is at liberty following  
18 a release on bond is also constrained by the demands of due process. *See Hernandez*  
19 *v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) (“the government’s discretion to  
20 incarcerate non-citizens is always constrained by the requirements of due process”).  
21 In this case, the guidance provided by *Matter of Sugay*—that ICE should not re-  
22 arrest a noncitizen absent materially changed circumstances—is insufficient to  
23 protect J. P.’s weighty interest in his freedom from detention.

24 85. Federal district courts in California have repeatedly recognized that the  
25 demands of due process and the limitations on DHS’s authority to revoke a  
26 noncitizen’s bond or parole set out in DHS’s stated practice and *Matter of Sugay*  
27 both require a pre-deprivation hearing for a noncitizen on bond, like J. P., *before*  
28 ICE re-detains him. *See, e.g., Guillermo M. R.*, 2025 WL 1983677 at \*10 (granting

petitioner's motion for a preliminary injunction where petitioner had been released on an IJ-granted bond approximately two years prior, and finding that petitioner's recent arrest was not a materially changed circumstance that would allow ICE to unilaterally re-arrest petitioner absent a pre-deprivation hearing before an IJ); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at \*3 (N.D. Cal. Aug. 23, 2020) (granting a preliminary injunction for petitioner to be provided with a pre-deprivation hearing prior to re-arrest by Respondents, even though he was facing a new criminal charge after release); *see also Meza v. Bonnar*, 2018 WL 2554572 (N.D. Cal. June 4, 2018); *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at \*2 (N.D. Cal. Mar. 1, 2021); *Romero v. Kaiser*, No. 22-cv-02508-TSH, 2022 WL 1443250, at \*3-4 (N.D. Cal. May 6, 2022) (holding that petitioner would suffer irreparable harm if re-detained, and required notice and a hearing before any re-detention); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL 1382859, at \*3 (N.D. Cal. May 12, 2025) (temporary injunction warranted preventing re-arrest at plaintiff's ICE interview when he had been on bond for more than five years); *Garcia v. Bondi*, No. 3:25-cv-05070-JSC, 2025 WL 1676855, at \*4 (N.D. Cal. Jun. 14, 2025) (granting temporary restraining order enjoining Respondents from re-detaining petitioner without notice and a hearing); *Diaz v. Kaiser*, 3:25-cv-05071, 2025 WL 1676854, at \*4 (N.D. Cal. Jun. 14, 2025) (granting temporary restraining order and finding that a pre-detention hearing would prevent against the risk of erroneous deprivation). *See also Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, \*4 (E.D. Cal. Mar. 3, 2025) (holding the Constitution requires a hearing before any re-arrest).<sup>13</sup>

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<sup>13</sup> Where DHS has ignored serious due process concerns and successfully re-arrested individuals previously released by either an IJ or ICE itself, district courts have ordered immediate release of the individual from ICE custody. *See, e.g., Singh v. Andrews*, No. 25-cv-00801, 2025 WL 1918679 (E.D. Cal. July 11, 2025) (ordering immediate release of illegally arrested petitioner and enjoining



1        **B. J. P.’s Protected Liberty Interest in His Conditional Release**

2        86. “Freedom from imprisonment—from government custody, detention, or  
3 other forms of physical restraint—lies at the heart of the liberty that [the Due  
4 Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). For nearly  
5 two years, J. P. has exercised that freedom under the IJ’s August 18, 2023, order  
6 granting him release on the minimum bond of \$1,500. Tinto Decl., Exh. A (IJ Bond  
7 Order). Although he was released on bond (and thus under government custody, as  
8 further demonstrated by his enrollment in ISAP), he retains a weighty liberty  
9 interest under the Due Process Clause of the Fifth Amendment in avoiding re-  
10 incarceration. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v.*  
11 *Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-  
12 83 (1972); *see also Ortega*, 415 F.Supp.3d at 969-70 (holding that a noncitizen has  
13 a protected liberty interest in remaining out of custody following an IJ’s bond  
14 determination); *Wesa v. Engleman*, No. 2:25-cv-03413-WLH-DTB, 2025 WL  
15 2005224, at \*11 (C.D. Cal. June 6, 2025) (citing *Young* and *Morrissey*, ordering  
16 petitioner released from re-incarceration after his “prerelease” custody was revoked  
17 without notice or hearing—i.e. “minimum due process requirements”—and  
18 emphasizing petitioner’s “inherent[] liberty interest” in “preparole” conditions,  
19

20  
21 Respondents from re-arresting petitioner without a pre-deprivation bond hearing at  
22 which the government bears the burden of demonstrating, by clear and convincing  
23 evidence, that petitioner is a danger to the community or a flight risk); *Domingo v.*  
24 *Kaiser*, No. 25-cv-05893-RFL, 2025 WL 1940179 (N.D. Cal. July 14, 2025)  
25 (ordering immediate release of petitioner whom ICE re-arrested at his routinely  
26 scheduled check-in, where ICE cited a conviction from 2019 as the reason for re-  
27 arrest, and finding no material change in circumstances had occurred); *Garro*  
28 *Pinchi v. Noem*, No. 25-cv-05632-RFL, 2025 WL 1853763 (N.D. Cal. July 4,  
2025); *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, at \*4  
(S.D.N.Y. June 18, 2025) (ordering immediate release of illegal re-arrested  
noncitizen petitioner).



1 which were “very different from that of confinement in a prison” (quotation marks  
2 and citations omitted)).

3 87. In *Morrissey*, the Supreme Court examined the “nature of the interest” that a  
4 parolee has in “his continued liberty.” 408 U.S. at 481-82. The Court noted that,  
5 “subject to the conditions of his parole, [a parolee] can be gainfully employed and  
6 is free to be with family and friends and to form the other enduring attachments of  
7 normal life.” *Id.* at 482. The Court explained that “the liberty of a parolee, although  
8 indeterminate, includes many of the core values of unqualified liberty and its  
9 termination inflicts a grievous loss on the parolee and often others.” *Id.* In turn,  
10 “[b]y whatever name, the liberty is valuable and must be seen within the protection  
11 of the [Fifth] Amendment.” *Morrissey*, 408 U.S. at 482.

12 88. This basic principle—that individuals have a liberty interest in their  
13 conditional release—has been reinforced by both the Supreme Court and the circuit  
14 courts on numerous occasions. *See, e.g., Young v. Harper*, 520 U.S. at 152 (holding  
15 that individuals placed in a pre-parole program created to reduce prison  
16 overcrowding have a protected liberty interest requiring pre-deprivation process);  
17 *Gagnon v. Scarpelli*, 411 U.S. at 781-82 (holding that individuals released on felony  
18 probation have a protected liberty interest requiring pre-deprivation process). As  
19 the First Circuit has explained, when analyzing the issue of whether a specific  
20 conditional release rises to the level of a protected liberty interest, “[c]ourts have  
21 resolved the issue by comparing the specific conditional release in the case before  
22 them with the liberty interest in parole as characterized by *Morrissey*.” *Gonzalez-*  
23 *Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and  
24 citation omitted); *see also, e.g., Wesa*, 2025 WL 2005224, at \*11; *Hurd v. District*  
25 *of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) (“a person who is in fact free of  
26 physical confinement—even if that freedom is lawfully revocable—has a liberty  
27 interest that entitles him to constitutional due process before he is re-incarcerated”)  
28

1 (citing *Young*, 520 U.S. at 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S.  
2 at 482).

3 89. In fact, it is well-established that an individual maintains a protectable liberty  
4 interest even where the individual obtains liberty through a mistake of law or fact.  
5 *See id.*; *Gonzalez-Fuentes*, 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873  
6 (9th Cir. 1982) (noting that due process considerations support the notion that an  
7 inmate released on parole by mistake, because he was serving a sentence that did  
8 not carry a possibility of parole, could not be re-incarcerated because the mistaken  
9 release was not his fault, and he had appropriately adjusted to society, so it “would  
10 be inconsistent with fundamental principles of liberty and justice” to return him to  
11 prison) (internal quotation marks and citation omitted).

12 90. Here, when this Court “compar[es] the specific conditional release in [J. P.’s  
13 case], with the liberty interest in parole as characterized by *Morrissey*,” it is clear  
14 that they are strikingly similar. *Gonzalez-Fuentes*, 607 F.3d at 887 (quotation marks  
15 and citations omitted). Just as in *Morrissey*, J. P.’s release and liberty over the last  
16 two years has “enable[d] him to do a wide range of things open to persons” who  
17 have never been in custody or convicted of any crime, including to live at home;  
18 work; care for his children and mother; receive ongoing reentry support from the  
19 California Department of Rehabilitation regarding employment, education, and  
20 other social services; enroll in Santa Ana College through their Bright Stars  
21 program; and “be with family and friends and to form the other enduring  
22 attachments of normal life.” *Morrissey*, 408 U.S. at 482.

23 91. Furthermore, in this case, a return to detention would have a profoundly  
24 destabilizing effect on J. P.’s mental health. *See* Tinto Decl., Exh. I (Letter from  
25 Deana Gullo). Re-detention will return J. P. to the site and conditions of the trauma  
26 he experienced while previously in ICE custody, and because of which he now  
27 suffers from PTSD and Persistent Depressive Disorder. *See id.* Since his arrest and  
28 hospitalization on July 18, 2025, J. P. has already been experiencing escalating

1 symptoms of PTSD including worsening anxiety, hypervigilance, and flashbacks,  
2 especially due to the similarities between his violent transfer from Mesa Verde in  
3 March 2023 and the events of July 18, 2025. J. P. Decl. ¶ 47. Re-detention would  
4 place J. P. at high risk of psychological harm and compromise his capacity to  
5 function in daily life. *See* Tinto Decl., Exh. I (“Without a doubt, [J. P.] falls into this  
6 category of individuals most vulnerable to the adverse impact of detention.”). J. P.  
7 thus has a particularly strong interest in his continued liberty, and is entitled to  
8 constitutional due process before he is re-incarcerated.

9 **C. J. P.’s Liberty Interest Mandates a Hearing *Before* Any Re-Arrest and**  
10 **Revocation of Bond**

11 92.J. P. asserts that due process mandates that he receive notice and a hearing  
12 before a neutral adjudicator *prior* to any re-arrest or revocation of a bond.

13 93.“Adequate, or due, process depends upon the nature of the interest affected.  
14 The more important the interest and the greater the effect of its impairment, the  
15 greater the procedural safeguards the [government] must provide to satisfy due  
16 process.” *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc)  
17 (citing *Morrissey*, 408 U.S. at 481-82). This Court must “balance [J. P.’s] liberty  
18 interest against the [government’s] interest in the efficient administration of” its  
19 immigration laws in order to determine what process he is owed to ensure that ICE  
20 does not unconstitutionally deprive him of his liberty. *Id.* at 1357. Under the test set  
21 forth in *Mathews v. Eldridge*, this Court must consider three factors in conducting  
22 its balancing test: “first, the private interest that will be affected by the official  
23 action; second, the risk of an erroneous deprivation of such interest through the  
24 procedures used, and the probative value, if any, of additional or substitute  
25 procedural safeguards; and finally the government’s interest, including the function  
26 involved and the fiscal and administrative burdens that the additional or substitute  
27 procedural requirements would entail.” *Haygood*, 769 F.2d at 1357 (citing *Mathews*  
28 *v. Eldridge*, 424 U.S. 319, 335 (1976)).

1 94. The Supreme Court “usually has held that the Constitution requires some  
2 kind of a hearing *before* the State deprives a person of liberty or property.”  
3 *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Only in a  
4 “special case” where post-deprivation remedies are “the only remedies the State  
5 could be expected to provide” can post-deprivation process satisfy the requirements  
6 of due process. *Zinerman*, 494 U.S. at 985.

7 95. Because, in this case, the provision of a pre-deprivation hearing is both  
8 possible and valuable to preventing an erroneous deprivation of liberty, ICE is  
9 required to provide J. P. with notice and a hearing *prior* to any re-incarceration and  
10 revocation of his bond. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at  
11 1355-56; *Jones*, 393 F.3d at 932; *Zinerman*, 494 U.S. at 985; *see also Youngberg v.*  
12 *Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir.  
13 1984) (holding that individuals awaiting involuntary civil commitment proceedings  
14 may not constitutionally be held in jail pending the determination as to whether they  
15 can ultimately be recommitted). Under *Mathews*, “the balance weighs heavily in  
16 favor of [J. P.’s] liberty” and requires a pre-deprivation hearing before a neutral  
17 adjudicator.

18 **D. J. P.’s Private Interest in His Liberty is Profound**

19 96. Under *Morrissey* and its progeny, individuals conditionally released from  
20 serving a criminal sentence have a liberty interest that is “valuable.” *Morrissey*, 408  
21 U.S. at 482. In addition, the principles espoused in *Hurd* and *Johnson*—that a  
22 person who is in fact free of physical confinement, even if that freedom is lawfully  
23 revocable, has a liberty interest that entitles him to constitutional due process before  
24 he is re-incarcerated—apply with even greater force to individuals like J. P., who  
25 have been released pending *civil* removal proceedings, because “his liberty interest  
26 is arguably greater than the interest of the parolees in *Morrissey*.” *See Ortega*, 415  
27 F.Supp.3d at 970. Nonetheless, even in the criminal parolee context, the courts have  
28 held that the parolee cannot be re-arrested without a due process hearing in which

1 they can raise any claims they may have regarding why their re-incarceration would  
2 be unlawful. *See Gonzalez-Fuentes*, 607 F.3d at 891-92; *Hurd*, 864 F.3d at 683.  
3 Thus, J. P. retains a truly weighty liberty interest even though he is under  
4 conditional release.

5 97. At stake in this case for J. P. is one of the most profound individual interests  
6 recognized by our legal system: whether ICE may unilaterally nullify a prior bond  
7 decision, reached by an Immigration Judge, and take away his physical freedom,  
8 i.e., his “constitutionally protected interest in avoiding physical restraint.” *Singh v.*  
9 *Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (internal quotation omitted). “Freedom  
10 from bodily restraint has always been at the core of the liberty protected by the Due  
11 Process Clause.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *see also Zadvydas*,  
12 533 U.S. at 690 (“Freedom from imprisonment—from government custody,  
13 detention, or other forms of physical restraint—lies at the heart of the liberty that  
14 [the Due Process] Clause protects.”); *Cooper v. Oklahoma*, 517 U.S. 348 (1996).

15 98. It is clear that there is a profound private interest at stake in J. P.’s case, which  
16 must be weighed heavily when determining what process he is owed under the  
17 Constitution. *See Mathews*, 424 U.S. at 334-35.

18 **E. The Government’s Interest in Re-Incarcerating J. P. Without a Hearing**  
19 **is Low, and the Burden on the Government to Refrain from Re-**  
20 **Arresting Him Unless and Until He is Provided a Hearing That**  
21 **Comports with Due Process is Minimal**

22 99. The government’s interest in detaining J. P. without a due process hearing is  
23 low, and when weighed against his significant private interest in his liberty, the  
24 scale tips sharply in favor of enjoining Respondents from re-arresting J. P. unless  
25 and until the government demonstrates by clear and convincing evidence that he is  
26 a flight risk or danger to the community. It becomes abundantly clear that the  
27 *Mathews* test favors J. P. when the Court considers that the process he seeks—notice  
28 and a hearing regarding whether his bond should be revoked—is a standard course  
of action for the government. Providing J. P. with a hearing before this Court (or a



1 neutral decisionmaker) to determine whether there is clear and convincing evidence  
2 that J. P. is a flight risk or danger to the community would impose only a *de minimis*  
3 burden on the government, because the government routinely provides this sort of  
4 hearing to individuals like J. P.

5 100. In August 2023, nearly two years ago, an IJ found that J. P. was not a  
6 danger to the community or a flight risk. Tinto Decl., Exh. A (IJ Bond Order). That  
7 determination still stands. J. P.'s 2025 arrest does not undermine the IJ's finding,  
8 given that he was promptly released by law enforcement and no charges have been  
9 filed. Tinto Decl., Exh. E (Defense Attorney Letter). Furthermore, due to the  
10 pretextual and violent nature of the police stop, the Criminal Justice Clinic at UC  
11 Irvine School of Law intends to review J. P.'s situation for a possible civil rights  
12 lawsuit and notes that "the information [they] have received so far" leads them to  
13 "believe J. P. may have such claims." Tinto Decl., Exh. F (Civil Rights Attorney  
14 Letter).

15 101. As to flight risk, an IJ determined that a bond of \$1,500 was sufficient  
16 to guard against any possible flight risk, to "assure [his] presence at the moment of  
17 removal." *Zadvydas*, 533 U.S. at 699. Furthermore, J. P. was granted relief from  
18 removal to Mexico and is currently awaiting the outcome of DHS's appeal.  
19 Kavanagh Decl. ¶ 9. It is difficult to see how the government's interest in ensuring  
20 his presence at the moment of removal has materially changed since he was released  
21 in August 2023, as he has complied with all scheduled ISAP check-ins. *Id.* ¶ 14; *see*  
22 *also* Tinto Decl., Exh. C (ICE Letter Confirming ISAP Compliance). The  
23 government's interest in detaining J. P. at this time is therefore low. That ICE has a  
24 new policy to make a minimum number of arrests each day under the new  
25 administration does not constitute a material change in circumstances or increase  
26 the government's interest in detaining him.<sup>14</sup>

27  
28 <sup>14</sup> See Washington Post, "Trump officials issue quotas to ICE officers to ramp up  
arrests," (Jan. 26, 2025),

1 102. Moreover, the “fiscal and administrative burdens” that a pre-  
2 deprivation bond hearing would impose are nonexistent in this case. *See Mathews*,  
3 424 U.S. at 334-35. J. P. does not seek a unique or expensive form of process, but  
4 rather a routine hearing regarding whether his bond should be revoked and whether  
5 he should be re-incarcerated.

6 103. Providing J. P. with a hearing before this Court (or a neutral  
7 decisionmaker) regarding bond is a routine procedure that the government provides  
8 to those in immigration jails on a daily basis. At that hearing, the Court would have  
9 the opportunity to determine whether J. P.’s circumstances have materially changed  
10 to require a different amount of bond—or if bond should be revoked. But there is  
11 no justifiable reason to re-incarcerate J. P. prior to such a hearing taking place. As  
12 the Supreme Court noted in *Morrissey*, even where the State has an “overwhelming  
13 interest in being able to return [a parolee] to imprisonment without the burden of a  
14 new adversary criminal trial if in fact he has failed to abide by the conditions of his  
15 parole . . . the State has no interest in revoking parole without some informal  
16 procedural guarantees.” 408 U.S. at 483.

17 104. Enjoining J. P.’s re-arrest until ICE (1) moves for a bond re-  
18 determination before an IJ and (2) demonstrates by clear and convincing evidence  
19 a material change in circumstances such that J. P. is a flight risk or danger to the  
20 community is far *less* costly and burdensome for the government than keeping him

21 [https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-](https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/)  
22 [quota/](https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/); Forbes, “Stephen Miller’s Order Likely Sparked Immigration Arrests And  
23 Protests” (June 9, 2025),  
24 [https://www.forbes.com/sites/stuartanderson/2025/06/09/stephen-millers-order-](https://www.forbes.com/sites/stuartanderson/2025/06/09/stephen-millers-order-likely-sparked-immigration-arrests-and-protests/)  
25 [likely-sparked-immigration-arrests-and-protests/](https://www.forbes.com/sites/stuartanderson/2025/06/09/stephen-millers-order-likely-sparked-immigration-arrests-and-protests/) (“At the end of May 2025,  
26 ‘Stephen Miller, a senior White House official, told Fox News that the White  
27 House was looking for ICE to arrest 3,000 people a day, a major increase in  
28 enforcement. The agency had arrested more than 66,000 people in the first 100  
days of the Trump administration, an average of about 660 arrests a day,’ reported  
the New York Times. Arresting 3,000 people daily would surpass 1 million arrests  
in a calendar year.”).

1 detained. As the Ninth Circuit noted in 2017, which remains true today, “[t]he costs  
2 to the public of immigration detention are ‘staggering’: \$158 each day per detainee,  
3 amounting to a total daily cost of \$6.5 million.” *Hernandez*, 872 F.3d at 996.

4 **F. Without a Due Process Hearing Prior to Any Re-Arrest, the Risk of an**  
5 **Erroneous Deprivation of Liberty is High, and Process in the Form of a**  
6 **Constitutionally Compliant Hearing Where ICE Carries the Burden**  
7 **Would Decrease That Risk**

8 105. Providing J. P. a pre-deprivation hearing would decrease the risk of  
9 him being erroneously deprived of his liberty. Before J. P. can be lawfully detained,  
10 he must be provided with a hearing before a neutral adjudicator at which the  
11 government is held to show that there has been materially changed circumstances  
12 such that the IJ’s August 2023 bond determination should be altered or revoked  
13 because clear and convincing evidence exists to establish that J. P. is a danger to  
14 the community or a flight risk.

15 106. Under ICE’s process for custody determination—which affords J. P.  
16 no process whatsoever—ICE can simply re-detain him at any point if the agency  
17 desires to do so. The risk that J. P. will be erroneously deprived of his liberty is high  
18 if ICE is permitted to re-incarcerate him after making a unilateral decision to re-  
19 arrest him. Pursuant to 8 C.F.R. § 236.1(c)(9), an arrest of J. P. automatically  
20 revokes his bond. Thus, the regulations permit ICE to unilaterally nullify a bond  
21 order without oversight of any kind. After re-arrest, ICE makes its own, one-sided  
22 custody determination and can decide whether the agency wants to hold J. P.  
23 without a bond, or grant him a new bond. 8 C.F.R. § 236.1(c)(9). However, ICE  
24 repeatedly denied J. P. release on bond when he was previously incarcerated. *See*  
25 *Kavanagh Decl.* ¶ 11.

26 107. J. P.’s detention will be governed by 8 U.S.C. § 1226(c) because he  
27 has been rendered deportable based on a conviction for one of the specified criminal  
28 offenses. Noncitizens detained under 8 U.S.C. § 1226(c) are subject to mandatory

1 detention and are not eligible for an individualized bond hearing before an IJ.<sup>15</sup>  
2 Therefore, revocation of J. P.'s bond would completely evade *any* review by an IJ  
3 or any other neutral arbiter.

4 108. The procedure J. P. seeks—a hearing in front of a neutral adjudicator  
5 at which the government must prove by clear and convincing evidence that  
6 circumstances have changed to justify his detention *before* any re-arrest—is much  
7 more likely to produce accurate determinations regarding factual disputes, such as  
8 whether a certain occurrence constitutes a “changed circumstance.” *See*  
9 *Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th Cir. 1989) (when “delicate  
10 judgments depending on credibility of witnesses and assessment of conditions not  
11 subject to measurement” are at issue, the “risk of error is considerable when just  
12 determinations are made after hearing only one side”). “A neutral judge is one of  
13 the most basic due process protections.” *Castro-Cortez v. INS*, 239 F.3d 1037, 1049  
14 (9th Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548  
15 U.S. 30 (2006). The Ninth Circuit has noted that the risk of an erroneous deprivation  
16 of liberty under *Mathews* can be decreased where a neutral decisionmaker, rather  
17 than ICE alone, makes custody determinations. *Diouf v. Napolitano* (“*Diouf II*”),  
18 634 F.3d 1081, 1091-92 (9th Cir. 2011).

19  
20  
21 <sup>15</sup> J. P.'s previous prolonged mandatory detention was the basis for his first habeas  
22 petition, filed in February 2023 in the Northern District of California. After 15  
23 months of mandatory detention, J. P.'s habeas petition alleged that his prolonged  
24 incarceration ran afoul of the Due Process Clause of the Fifth Amendment of the  
25 Constitution due to the lack of custody review by a neutral decisionmaker for that  
26 protracted period of time. J. P.'s habeas petition was granted in August 2023, after  
27 he had endured 21 months of prolonged mandatory detention. *See J.P. v. Garland*,  
28 685 F.Supp.3d 943. At the court-ordered bond hearing, DHS could not meet their  
burden to show by clear and convincing evidence that J. P. was either a danger to  
the community or a flight risk, and the IJ ordered him released on the minimum  
bond possible, \$1,500, with the specification that ICE could not install a GPS ankle  
monitoring device on J. P. *See* Tinto Decl., Exh. A (IJ Bond Order).

1 109. 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 this  
5 purpose if there are alternatives to detention that could mitigate risk of flight. *See*  
6 *Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly, alternatives to detention  
7 must be considered in determining whether J. P.'s re-incarceration is warranted.

8 **FIRST CAUSE OF ACTION**

9 **Procedural Due Process**

10 **U.S. Const. amend. V**

11 110. J. P. re-alleges and incorporates herein by reference, as is set forth fully  
12 herein, the allegations in all the preceding paragraphs.

13 111. The Due Process Clause of the Fifth Amendment forbids the  
14 government from depriving any "person" of liberty "without due process of law."  
15 U.S. Const. amend. V.

16 112. J. P. has a vested liberty interest in his current conditional release. Due  
17 Process does not permit the government to strip him of that liberty without a hearing  
18 before this Court. *See Morrissey*, 408 U.S. at 487-488.

19 113. The Court must therefore order that, prior to any re-arrest, the  
20 government must provide J. P. with a hearing before a neutral adjudicator, who will  
21 decide first whether the government has shown by clear and convincing evidence  
22 that there has been a material change in circumstances since J. P.'s release, and  
23 second, assuming there is a material change, whether the government can show by  
24 clear and convincing evidence that J. P. is a danger or a flight risk to warrant an  
25 alteration of his current custody status. *See Sugay*, 17 I&N Dec. at 640; *Ortega*, 415  
26 F.Supp.3d at 969-70. During any custody redetermination hearing that occurs, this  
27 Court or, in the alternative, a neutral adjudicator, must consider alternatives to  
28 detention when determining whether J. P.'s re-incarceration is warranted.



**SECOND CAUSE OF ACTION**

**Substantive Due Process**

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

114. J. P. re-alleges and incorporates herein by reference, as is set forth fully herein, the allegations in all the preceding paragraphs.

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

116. J. P. has a vested liberty interest in his conditional release. Due Process does not permit the government to strip him of that liberty without it being tethered to one of the two constitutional bases for civil detention: to mitigate against the risk of flight or to protect the community from danger.

117. Since August 2023, J. P. has fully complied with his release conditions ordered by the IJ and the additional conditions of release imposed on him by ICE, thus demonstrating that he is neither a flight risk nor a danger. Re-arresting him now would be punitive and violate his constitutional right to be free from the unjustified deprivation of his liberty.

118. For these reasons, J. P.'s re-arrest without first being provided a hearing would violate the Constitution.

**PRAYER FOR RELIEF**

WHEREFORE, J. P. prays that this Court grant the following relief:

- (1) Exercise jurisdiction over this matter;
- (2) Enjoin Respondents from re-arresting J. P., unless and until a hearing can be held before a neutral adjudicator to determine whether his re-detention would be lawful because the government has shown, by clear and convincing evidence, that there has been a material change in circumstances and that he is a danger or a flight risk;

- 1 (3) Declare that J. P. cannot be re-arrested unless and until he is afforded a  
2 hearing before a neutral adjudicator on the question of whether his re-  
3 detention would be lawful—i.e., whether the government has shown, by clear  
4 and convincing evidence, that there has been a material change in  
5 circumstances and that he is a danger or a flight risk;  
6 (4) Enjoin Respondents from re-detaining J. P. because any re-detention would  
7 violate his substantive due process rights under the Fifth Amendment;  
8 (5) Declare that Respondents may not re-detain J. P. because any re-detention  
9 would violate his substantive due process rights under the Fifth Amendment;  
10 (6) Award reasonable costs and attorney fees; and  
11 (7) Grant such further relief as the Court deems just and proper.  
12

13 Dated: July 27, 2025

Respectfully submitted,  
14 /s/ E. Katharine Tinto  
E. Katharine Tinto  
15 UC IRVINE SCHOOL OF LAW  
16 *Pro Bono* Attorney for J. P.

17 **VERIFICATION PURSUANT TO 28 U.S.C. 2242**

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

23 Executed on this July 27, 2025, in South Pasadena, California.  
24

25 /s/ E. Katharine Tinto  
26 E. Katharine Tinto  
27 *Pro Bono* Attorney for Petitioner  
28