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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

Jose Neftali ALEGRIA PALMA,

Petitioner-Plaintiff,

v.

Polly KAISER, Acting Field Office Director of San
Francisco Office of Detention and Removal, U.S.
Immigrations and Customs Enforcement; U.S.
Department of Homeland Security;

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

Kristi NOEM, in her Official Capacity, Secretary,
U.S. Department of Homeland Security,

Respondents-Defendants.

Case No:

**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

INTRODUCTION

1. Petitioner, Mr. Jose Neftali Alegria Palma ("Mr. Alegria" or "Petitioner"), by and through his undersigned counsel, hereby files this petition for writ of habeas corpus and complaint for declaratory and injunctive relief challenging his current unlawful detention by the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) and seeking his immediate release from immigration custody. Mr. Alegria was arbitrarily re-detained without due process twelve years of no supervision requirements, demonstrating ICE's assessment that he posed no risk, and before any re-incarceration, the government must demonstrate to a neutral adjudicator that he is a danger to the community or a flight risk by clear and convincing evidence. Mr. Alegria seeks his immediate emergency release from immigration custody.

2. The DHS previously incarcerated Mr. Alegria upon his entry to the United States on or around December 29, 2021. Mr. Alegria was placed in removal proceedings under 8 U.S.C. § 1229a after a Notice to Appear was filed with the San Francisco Immigration Court on December 30, 2021. Upon his release from ICE custody, Mr. Alegria was placed in ICE's alternative to detention Intensive Supervision Appearance Program ("ISAP") where he was only required to send a photo of himself each month to the ICE office in Stockton, California, from his residence.

3. In April 2025, Mr. Alegria failed to complete his scheduled photo check in. This was his first and only lapse from his supervision compliance. Afterwards, he was fitted with a GPS ankle monitor on April 21, 2025. Mr. Alegria was told that he would wear this monitor for a short time and that it would be removed in July 2025.

4. On June 26, 2025, ICE officers came to Mr. Alegria's home in Stockton and informed him that they needed to make repairs on his ankle monitor. The ICE officers instructed him to exit the home so they could make said repairs, but detained him without a warrant or warning as soon as he stepped outside.

1 5. Upon information and belief, Mr. Alegria is currently held at the Stockton, CA Border
2 Patrol Station.

3 6. Mr. Alegria's counsel attempted to have the check-in rescheduled, citing the administrative
4 efficiency of postponing it until after the next day's individual merits hearing. ICE representatives
5 informed Alegria's attorney that it was "just an interview" and refused to reschedule.
6

7 7. On information and belief, this pattern of detention appears to be driven by the current
8 administration's directive for ICE to significantly increase arrest quotas rather than individualized
9 enforcement priorities based on flight risk or danger to the community.¹

10 8. No material circumstances have changed that would justify Mr. Alegria's re-detention at
11 this time.

12 9. The government cannot point to any changed circumstances that would justify Mr.
13 Alegria's current incarceration. Mr. Alegria is entitled to immediate release unless the government
14 can establish, by clear and convincing evidence and before a neutral decision maker, that he is a
15 danger to the community or a flight risk, such that his continued incarceration is necessary.
16

17 10. Mr. Alegria faces immediate and irreparable constitutional harm. Every day of continued
18 detention irrevocably prejudices his ability to prepare for his removal proceedings with counsel,
19 and enjoy the conditional liberty that he was given years ago.
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23 ¹ See "Trump officials issue quotas to ICE officers to ramp up arrests," *Washington Post*
24 (January 26, 2025), available at: <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/>; "Stephen Miller's Order Likely Sparked Immigration Arrests And
25 Protests," *Forbes* (June 9, 2025),
26 <https://www.forbes.com/sites/stuartanderson/2025/06/09/stephen-millers-order-likely-sparked-immigration-arrests-and-protests/> ("At the end of May 2025, 'Stephen Miller, a senior White
27 House official, told Fox News that the White House was looking for ICE to arrest 3,000 people a
28 day, a major increase in 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.").

CUSTODY

11. Mr. Alegria is currently detained in ICE custody at the Stockton, CA Border Patrol Station, satisfying the custody requirement for habeas corpus jurisdiction under 28 U.S.C. § 2241. Mr. Alegria remains at the ICE processing facility, and transfer is imminent absent this Court's intervention.

12. Prior to his re-detention on July 26, 2025, Mr. Alegria was released from custody and placed on an alternative to detention program, and later fitted with a GPS ankle monitor.

JURISDICTION

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

REQUIREMENTS OF 28 U.S.C. § 2243

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

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

1 16. Habeas corpus must remain a swift remedy. Importantly, "the statute itself directs courts
2 to give petitions for habeas corpus 'special, preferential consideration to insure expeditious hearing
3 and determination.'" *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted).

4 VENUE

5 17. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because the
6 Respondents are employees or officers of the United States, acting in their official capacity;
7 because Mr. Alegria resides in Stockton, CA, which rests in the Eastern District of California,
8 because a substantial part of the events or omissions giving rise to the claim occurred in the Eastern
9 District of California; because Mr. Alegria is under the jurisdiction of the Stockton Border Patrol
10 Station, which is in the jurisdiction of the Eastern District of California; and because there is no
11 real property involved in this action.
12

13 18. Venue is properly before this Court also pursuant to 28 U.S.C. § 2241, as at the time of
14 filing Mr. Alegria is being held in Stockton, California.
15

16 INTRADISTRICT ASSIGNMENT

17 19. The decision to arrest and re-incarcerate Mr. Alegria was made by ICE officers in San
18 Joaquin county, and he is currently being held in San Joaquin county. Therefore, the assignment
19 to the Sacramento Division of this Court is proper under Local Rule 120(d).
20

21 EXHAUSTION OF ADMINISTRATIVE REMEDIES

22 20. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional.
23 *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive the prudential
24 exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of
25 administrative remedies would be a futile gesture, irreparable injury will result, or the
26 administrative proceedings would be void." *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000
27
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1 (9th Cir. 2004) (citation and quotation marks omitted)). Mr. Alegria asserts that exhaustion should
2 be waived because administrative remedies are (1) futile and (2) his continued detention results
3 in irreparable harm.

4 21. No statutory exhaustion requirements apply to Mr. Alegria's claim of unlawful custody in
5 violation of his due process rights, and there are no administrative remedies that he needs to
6 exhaust. *See Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995)
7 (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to
8 review" constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal.
9 2000) (same).

11 PARTIES

12 22. Mr. Alegria was born in Nicaragua and moved to the United States in 2021 after enduring
13 persecution at the hands of the Sandinistas for protesting peacefully and speaking out against the
14 Ortega regime. Upon entry into the United States Mr. Alegria was apprehended by immigration
15 officials and then released into an alternative to detention program.

16 23. Respondent Polly KAISER is the Acting Field Office Director of ICE, in San Francisco,
17 California and is named in her official capacity. ICE is the component of the DHS that is
18 responsible for detaining and removing noncitizens according to immigration law and oversees
19 custody determinations. In her official capacity, she is the legal custodian of Mr. Alegria.

20 24. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official
21 capacity. Among other things, ICE is responsible for the administration and enforcement of the
22 immigration laws, including the removal of noncitizens. In his official capacity as head of ICE,
23 he is the legal custodian of Mr. Alegria.
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1 25. Respondent Kristi NOEM is the Secretary of DHS and is named in her official capacity.
2 DHS is the federal agency encompassing ICE, which is responsible for the administration and
3 enforcement of the INA and all other laws relating to the immigration of noncitizens. In her
4 capacity as Secretary, Respondent Noem has responsibility for the administration and
5 enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland
6 Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. §
7 1103(a). Respondent Noem is the ultimate legal custodian of Mr. Alegria.
8

9 STATEMENT OF FACTS

10 26. Mr. Alegria is 28 years old and is from Managua, Nicaragua
11

12 27. Mr. Alegria arrived in the United States in 2021 and has been residing in Stockton,
13 California. He fled his country because he was tortured and threatened by the Sandinista
14 government due to his participation in protests and speaking out against the Ortega regime.
15

16 28. Mr. Alegria has been in immigration proceedings and has pending a I-589 application.
17

18 29. Mr. Alegria was initially placed in removal proceedings after being detained by ICE and
19 charged with removability based on his entry without admission or parole after inspection by an
20 immigration officer in December 2021. His entry in 2021 was his first and only entry into the
21 United States.
22

23 30. As a condition of his release from immigration detention, Mr. Alegria was enrolled into
24 the alternative to detention program ISAP, where he was only required to complete a photo “check-
25 in” from his Stockton, CA residence once a month.
26

27 31. In April 2025, Mr. Alegria failed to complete this photo check-in for the first and only
28 time. As a result, on April 21, 2025, Mr. Alegria was fitted with a GPS ankle monitor, which he
was told would be removed in July 2025.

1 32. Mr. Alegria currently has immigration proceedings pending before the Concord
2 Immigration Court.

3 33. Mr. Alegria is scheduled to appear for an individual merits hearing on July 7, 2027, before
4 Immigration Judge Roberta Wilson at the Concord Immigration Court.

5 34. Mr. Alegria is represented by counsel and has been preparing extensively for this hearing.
6

7 35. Mr. Alegria is an applicant for Asylum, which would allow him to remain in the United
8 States lawfully, and provides a pathway to lawful permanent residence, and, eventually,
9 citizenship.

10 36. Mr. Alegria's application for relief has substantial merit and he has a reasonable possibility
11 of success.
12

13 37. On June 26, 2025, Mr. Alegria was contacted by ICE from an unknown number. He was
14 told that his ankle monitor was malfunctioning and that it needed to be fixed. Mr. Alegria was told
15 that ICE officers were outside his residence and he was asked to come outside so the officers could
16 fix his ankle monitor.
17

18 38. Mr. Alegria requested that he be allowed to go to the Stockton ICE office instead to have
19 someone fix his ankle monitor at an official building and away from his family.

20 39. ICE originally said yes to this request, however, less than an hour later Mr. Alegria received
21 another phone call from ICE officials from an unknown number. Mr. Alegria was told again to
22 step outside to allow the officers outside to fix his ankle monitor.
23

24 40. Mr. Alegria dutifully followed instruction and stepped outside. At that time he was tackled
25 by four men and thrown violently to the ground.

26 41. Mr. Alegria's wife recorded the arrest on her cell phone. In the video ICE can be seen using
27 excessive force to throw Mr. Alegria to the ground.
28

1 42. In the video, Mr. Alegria's family can be heard crying and his wife can be heard telling
2 ICE that her husband is not resisting. Mr. Alegria's wife asked the ICE officers why they were
3 using such force to arrest Mr. Alegria. At least one of the ICE officers claimed that Mr. Alegria
4 was resisting and continued to use force.

5 43. Prior to this appointment, Mr. Alegria's counsel made efforts to have the interview
6 rescheduled, citing the administrative efficiency of postponing it until after the next day's
7 individual merits hearing.
8

9 44. In the video, ICE officials can be heard threatening to break Mr. Alegria's arm.

10 45. ICE officials never informed Mr. Alegria or his family why he was being arrested.
11

12 46. On information and belief, this pattern of detention appears to be driven by the current
13 administration's directive for ICE to significantly increase arrest quotas rather than individualized
14 enforcement priorities based on flight risk or danger to the community.

15 47. These detentions are occurring regardless of individuals' compliance history, community
16 ties, or lack of flight risk or danger.
17

18 48. ICE's own conduct contradicts any claim that material circumstances justify Mr. Alegria's
19 detention. After almost four years of compliance, Mr. Alegria only missed one photo check-in on
20 the ISAP application. Rather than re-detain him at that time, ICE officers placed him on an ankle
21 monitor. Apart from this one missed virtual check-in, Mr. Alegria has complied with all the
22 conditions of his release.
23

24 49. ICE has identified no new facts or circumstances that would alter the previous
25 determination that Mr. Alegria is neither a flight risk nor a danger to the community.
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1 50. The government's conduct here demonstrates a pattern of deliberate interference with
2 noncitizens' right to counsel and fair hearings, necessitating immediate emergency relief to prevent
3 further constitutional violations.

4 51. Upon information and belief, ICE intends to transfer Mr. Alegria outside the Eastern
5 District of California to a detention facility in another jurisdiction.
6

7 52. Such transfer would effectively deny Mr. Alegria access to his counsel, who is located in
8 the Bay Area.

9 53. Transfer would also prevent Mr. Alegria from accessing witnesses and evidence located in
10 the Stockton area as well as the San Francisco metropolitan area.
11

12 54. Mr. Alegria's counsel and potential witnesses are located in the Northern and Eastern
13 Districts of California, and transfer would create insurmountable barriers to effective
14 representation and case preparation.

15 55. Transfer would render Mr. Alegria's removal proceedings fundamentally unfair and would
16 violate his constitutional right to effective assistance of counsel.
17

18 **FIRST CAUSE OF ACTION**
19 **Procedural Due Process**
20 **U.S. Const. amend. V**

21 56. Mr. Alegria re-alleges and incorporates herein by reference, as is set forth fully herein, the
22 allegations in all the preceding paragraphs.

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

25 58. Mr. Alegria has a vested liberty interest in his conditional release. Due Process does not
26 permit the government to strip him of that liberty without a hearing before this Court. *See*
27 *Morrissey*, 408 U.S. at 487-488.
28

59. Under the balancing test established in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), Mr. Alegria was entitled to notice and a hearing before a neutral decisionmaker prior to his re-detention.

60. The *Mathews* factors strongly favor Mr. Alegria:

- a. **Private Interest:** Mr. Alegria has a substantial private interest in his liberty, including his ability to work, care for his family, and participate meaningfully in his immigration proceedings;
- b. **Risk of Erroneous Deprivation:** The risk of erroneous deprivation is high where ICE can unilaterally revoke release without any process or oversight;
- c. **Government Interest:** The government's interest is minimal where ICE's own conduct for four years, including several months after a single missed virtual check-in, demonstrated their assessment that Mr. Alegria posed no flight risk or danger.

61. The Court must therefore order Mr. Alegria's immediate release from detention and that, prior to any future detention, the government must provide him with a hearing before a neutral adjudicator. At any such hearing, the neutral adjudicator would evaluate, *inter alia*, whether clear and convincing evidence demonstrates, taking into consideration alternatives to detention and Mr. Alegria's ability to pay a bond, that Mr. Alegria is a danger to the community or a flight risk, such that his detention is warranted. During any custody determination hearing that occurs, this Court or, in the alternative, a neutral adjudicator must consider alternatives to detention when determining whether Mr. Alegria's detention is warranted.

SECOND CAUSE OF ACTION
Substantive Due Process
U.S. Const. amend. V

1 62. Mr. Alegria re-alleges and incorporates herein by reference, as is set forth fully herein, the
2 allegations in all the preceding paragraphs.

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

5 64. Mr. Alegria has a vested liberty interest in his conditional release. Due Process does not
6 permit the government to strip him of that liberty without it being tethered to one of the two
7 constitutional bases for civil detention: to mitigate against the risk of flight or to protect the
8 community from danger.
9

10 65. Since December 2021, ICE has only required a monthly photo check-in that Mr. Alegria
11 was able to complete remotely from his home. ICE chose to place him on an ankle monitor for this
12 error, but did not detain him. This demonstrated ICE's continuing assessment that he posed neither
13 a flight risk nor a danger to the community. Re-arresting him now violates his constitutional right
14 to be free from unjustified deprivation of liberty.
15

16 66. For these reasons, Mr. Alegria's re-arrest without first being provided a hearing violates
17 the Constitution.
18

19 67. The Court must therefore order Mr. Alegria's immediate release from detention and that,
20 prior to any future detention, the government must provide him with a hearing before a neutral
21 adjudicator. At any such hearing, the neutral adjudicator would evaluate, *inter alia*, whether clear
22 and convincing evidence demonstrates, taking into consideration alternatives to detention and Mr.
23 Alegria's ability to pay a bond, that Mr. Alegria is a danger to the community or a flight risk, such
24 that his detention is warranted. During any custody determination hearing that occurs, this Court
25 or, in the alternative, a neutral adjudicator must consider alternatives to detention when
26 determining whether Mr. Alegria's detention is warranted.
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28

THIRD CAUSE OF ACTION

Violation of Immigration Statutes and Regulations

68. Mr. Alegria re-alleges and incorporates herein by reference, as is set forth fully herein, the allegations in all the preceding paragraphs.

69. Under 8 U.S.C. § 1226(b) and 8 C.F.R. § 236.1(c)(9), ICE may revoke an individual's release only upon a showing of changed circumstances.

70. The Board of Immigration Appeals has held that "where a previous bond determination has been made by an immigration judge, no change should be made by [DHS] absent a change of circumstance." *Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981).

71. ICE's own conduct contradicts any claim that material circumstances justify Mr. Alegria's detention. After he was fitted with an ankle monitor in April 2025, Mr. Alegria has not violated any condition of his release, nor has he broken any laws. The only material change is ICE's enforcement priorities under the current administration, which does not constitute a material change in Mr. Alegria's individual circumstances.

72. Further, ICE did not notify Mr. Alegria of the reason for the revocation of his release, per 8 C.F.R. § 241.12(i)(2). No interview was conducted. Mr. Alegria did not have the opportunity to submit any evidence or information that he has not violated the order of supervision.

73. Respondents' detention of Mr. Alegria violates the statutory and regulatory requirements for revocation of release.

PRAYER FOR RELIEF

WHEREFORE, Mr. Alegria prays that this Court grant the following relief:

- a) Assume jurisdiction over this matter;
- b) Issue a writ of habeas corpus ordering Mr. Alegria's immediate release from ICE custody;

- 1 c) In the alternative, enjoin ICE from continuing to detain Mr. Alegria unless and until a
2 hearing can be held before a neutral adjudicator to determine whether his continued
3 incarceration would be lawful because the government has shown that he is a danger or a
4 flight risk by clear and convincing evidence;
5
6 d) Enjoin Respondents from transferring Mr. Alegria outside the Eastern District of California
7 unless and until he is afforded his scheduled merits hearing and the opportunity to pursue
8 relief from removal with effective assistance of counsel;
9
10 e) Declare that Mr. Alegria cannot be detained unless and until he is afforded a hearing on
11 the question of whether his incarceration would be lawful—i.e., whether the government
12 has demonstrated to a neutral adjudicator that he is a danger or a flight risk by clear and
13 convincing evidence;
14
15 f) Award reasonable costs and attorney fees; and
16
17 g) Grant such further relief as the Court deems just and proper.

18 Dated: July 26, 2025

Respectfully submitted,

19 /s/ Anuar Ramirez

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Attorneys for Mr. Alegria

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 Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this July 26, 2025, in Oakland, California.

/s/ Anuar Ramirez
Anuar Ramirez
Attorney for Petitioner