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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 Jorge Willy VALERA CHUQUILLANQUI,

12 Petitioner,

13 v.

14 POLLY KAISER, Acting Field Office Director
15 of the San Francisco Immigration and Customs
16 Enforcement Office; TODD LYONS, Acting
17 Director of United States Immigration and
18 Customs Enforcement; KRISTI NOEM,
19 Secretary of the United States Department of
20 Homeland Security, PAMELA BONDI,
21 Attorney General of the United States, acting in
22 their official capacities,

23 Respondents.

CASE NO. _____

**PETITION FOR WRIT OF HABEAS
CORPUS**

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PETITION FOR WRIT OF HABEAS CORPUS
CASE NO. _____

INTRODUCTION

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2 1. Petitioner Jorge Willy Valera Chuquillanqu is an asylum seeker who fled Peru.
3 After Petitioner arrived in the United States in December 2022, federal agents briefly detained
4 him, determined that he was not a flight risk or danger to the community, and released him on his
5 own recognizance with a notice to appear for removal proceedings in immigration court. Since
6 then, Petitioner has done everything the government asked him to do: he has diligently attended
7 every immigration court hearing and filed an application for asylum. He has no criminal history
8 anywhere in the world.

9 2. On July 25, 2025, Petitioner again did what the government told him to do: He went
10 to San Francisco Immigration Court for a routine hearing before Immigration Judge Joseph Park,
11 where the government orally moved to dismiss his case. On information and belief, the government
12 did so for the purpose of placing him in so-called “expedited removal” proceedings. IJ Park did
13 not grant the motion to dismiss. Instead, the judge gave Petitioner time to respond and set a further
14 hearing on October 17, 2025.

15 3. Minutes after Petitioner exited the courtroom, Department of Homeland Security
16 (“DHS”) agents arrested him before he could leave the courthouse. After he was taken into
17 custody, Petitioner started experiencing pain in the left half of his body that was paralyzed from a
18 medical incident the year before. As his symptoms grew worse, ICE Officers called an ambulance
19 to take him to a hospital in San Francisco, only to return him to custody the following morning.

20 4. Petitioner’s arrest is part of a new, nationwide DHS strategy of sweeping up people
21 who attend their immigration court hearings, detaining them, and seeking to re-route them to fast-
22 track deportations. Since mid-May, DHS has implemented a coordinated practice of leveraging
23 immigration detention to strip people like Petitioner of their substantive and procedural rights and
24 pressure them into deportation. Immigration detention is civil, and thus is permissible for only two
25 reasons: to ensure a noncitizen’s appearance at immigration hearings and to prevent danger to the
26 community. But DHS did not arrest and detain Petitioner—who demonstrably poses no risk of
27 absconding from immigration proceedings or danger to the community—for either of these
28 reasons. Instead, as part of its broader enforcement campaign, DHS detained Petitioner to strip him

1 of his procedural rights, force him to forfeit his applications for relief, and pressure him into fast-
2 track removal.

3 5. In immigration court, noncitizens have the right to pursue claims for relief from
4 removal (including asylum), be represented by counsel, gather and present evidence, and pursue
5 appeals. 8 U.S.C. § 1229(a). By dismissing an ongoing case, DHS—in its view—can transfer a
6 noncitizen’s case from removal proceedings in immigration court, governed by 8 U.S.C. § 1229a,
7 to cursory proceedings under 8 U.S.C. § 1225(b)(1) called “expedited removal,” where the
8 procedural protections and opportunities to pursue relief from removal built into regular
9 immigration-court proceedings do not apply.

10 6. Petitioner’s arrest and detention are causing him tremendous and ongoing harm. He
11 has been torn away from his family and his community. The conditions of his confinement are also
12 egregious. The detainees are only given two cereal bars and a bottle of water for breakfast, lunch,
13 and dinner. He sleeps on a metal slab in a room with about five other men and must use an open
14 toilet with no privacy.

15 7. The Constitution protects Petitioner—and every other person present in this
16 country—from arbitrary deprivations of his liberty, and guarantees him due process of law. The
17 government’s power over immigration is broad, but as the Supreme Court has declared, it “is
18 subject to important constitutional limitations.” *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001).
19 “Freedom from bodily restraint has always been at the core of the liberty protected by the Due
20 Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

21 8. Petitioner respectfully seeks a writ of habeas corpus ordering the government to
22 immediately release him from his ongoing, unlawful detention, and prohibiting his re-arrest
23 without a hearing to contest that re-arrest before a neutral decisionmaker. In addition, to preserve
24 this Court’s jurisdiction, Petitioner also requests that this Court order the government not to
25 transfer him outside of the District or deport him for the duration of this proceeding.

26 **JURISDICTION AND VENUE**

27 9. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal
28 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),

28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

10. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.

PARTIES

11. Petitioner is a 47-year-old man from Peru. He has no criminal history anywhere in the world. He has a pending application for asylum, withholding of removal, and protection under the Convention Against Torture. He is presently in civil immigration detention at 630 Sansome Street in San Francisco.

12. Respondent Polly Kaiser is the Acting Field Office Director of the San Francisco ICE Field Office. In this capacity, she is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's San Francisco Area of Responsibility, including the detention of Petitioner. Respondent Kaiser maintains an office and regularly conducts business in this district. Respondent Kaiser is sued in her official capacity.

13. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States; routinely transacts business in this District; and is legally responsible for pursuing any effort to detain and remove the Petitioner. Respondent Lyons is sued in his official capacity.

14. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate authority over DHS. In that capacity and through her agents, Respondent Noem has broad authority over and responsibility for the operation and enforcement of the immigration laws; routinely transacts business in this District; and is legally responsible for pursuing any effort to detain and remove the Petitioner. Respondent Noem is sued in her official capacity.

15. Respondent Pamela Bondi is the Attorney General of the United States and the most senior official at the Department of Justice. In that capacity and through her agents, she is

1 responsible for overseeing the implementation and enforcement of the federal immigration laws.
 2 The Attorney General delegates this responsibility to the Executive Office for Immigration
 3 Review, which administers the immigration courts and the BIA. Respondent Bondi is sued in her
 4 official capacity.

5 EXHAUSTION

6 16. There is no requirement to exhaust because no other forum exists in which
 7 Petitioner can raise the claims herein. There is no statutory exhaustion requirement prior to
 8 challenging the constitutionality of an arrest or detention, or challenging a policy under the
 9 Administrative Procedure Act. Prudential exhaustion is not required here because it would be
 10 futile, and Petitioner will “suffer irreparable harm if unable to secure immediate judicial
 11 consideration of [their] claim.” *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Any further
 12 exhaustion requirements would be unreasonable.

13 LEGAL BACKGROUND

14 *A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and* 15 *Detention.*

16 17. The Constitution establishes due process rights for “all ‘persons’ within the United
 17 States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or
 18 permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533
 19 U.S. at 693). These due process rights are both substantive and procedural.

20 18. *First*, “[t]he touchstone of due process is protection of the individual against
 21 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the
 22 exercise of power without any reasonable justification in the service of a legitimate government
 23 objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

24 19. These protections extend to noncitizens facing detention, as “[i]n our society
 25 liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”
 26 *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom from
 27 imprisonment—from government custody, detention, or other forms of physical restraint—lies
 28 at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

1 20. Substantive due process thus requires that all forms of civil detention—including
2 immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See Jackson v.*
3 *Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible
4 non-punitive purposes for immigration detention: ensuring a noncitizen’s appearance at
5 immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–
6 92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

7 21. *Second*, the procedural component of the Due Process Clause prohibits the
8 government from imposing even permissible physical restraints without adequate procedural
9 safeguards.

10 22. Generally, “the Constitution requires some kind of a hearing *before* the State
11 deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so
12 even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d at 683
13 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional
14 supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)
15 (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

16 23. After an initial release from custody on conditions, even a person paroled following
17 a conviction for a criminal offense for which they may lawfully have remained incarcerated has a
18 protected liberty interest in that conditional release. *Morrissey* at 408 U.S. at 482. As the Supreme
19 Court recognized, “[t]he parolee has relied on at least an implicit promise that parole will be
20 revoked only if he fails to live up to the parole conditions.” *Id.* “By whatever name, the liberty is
21 valuable and must be seen within the protection of the [Constitution].” *Id.*

22 24. This reasoning applies with equal if not greater force to people released from civil
23 immigration detention at the border, like Petitioner. After all, noncitizens living in the United
24 States like Petitioner have a protected liberty interest in their ongoing freedom from confinement.
25 *See Zadvydas*, 533 U.S. at 690. And, “[g]iven the civil context [of immigration detention], [the]
26 liberty interest [of noncitizens released from custody] is arguably greater than the interest of
27 parolees.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

1 **FACTUAL ALLEGATIONS**

2 ***A. DHS Dramatically Expands the Scope of Expedited Removal.***

3 25. For decades, DHS applied expedited removal exclusively in the border enforcement
4 context, with only narrow exceptions to that general rule. From 1997 until 2002, expedited removal
5 applied only to inadmissible noncitizens arriving at ports of entry. *See* Inspection and Expedited
6 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
7 Procedures; Final Rule, 62 Fed. Reg. 10312 (Mar. 6, 1997).

8 26. In 2002, the government for the first time invoked its authority to apply expedited
9 removal to persons already inside the country, but only for a narrow group of people who arrived
10 by sea, were not admitted or paroled, and were apprehended within two years of entry. *See* Notice
11 Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the
12 Immigration and Nationality Act, 67 Fed. Reg. 68924 (Nov. 13, 2002).

13 27. In 2004, the government authorized the application of expedited removal to
14 individuals who entered by means other than sea, but only if they were apprehended within 100
15 miles of a land border and were unable to demonstrate that they had been continuously physically
16 present in the United States for 14 days. *See* Designating Aliens for Expedited Removal, 69 Fed.
17 Reg. 48877 (Aug. 11, 2004).

18 28. In 2019, at the direction of President Trump, DHS published a Federal Register
19 Notice authorizing the application of expedited removal to certain noncitizens arrested anywhere
20 in the country who could not affirmatively show that they had been continuously present for two
21 years. *See* Designating Aliens for Expedited Removal, 84 Fed. Reg. 35409 (July 23, 2019). The
22 District Court for the District of Columbia entered a preliminary injunction preventing the rule
23 from taking effect, which the D.C. Circuit later vacated. *Make the Rd. New York v. McAleenan*,
24 405 F. Supp. 3d 1, 11 (D.D.C. 2019), *vacated sub nom. Make the Rd. New York v. Wolf*, 962 F.3d
25 612, 618 (D.C. Cir. 2020).

26 29. In 2021, President Biden directed the DHS Secretary to review the rule expanding
27 expedited removal and consider whether it comported with legal and constitutional requirements,
28 including due process. In 2022, DHS rescinded the rule. *See* Rescission of the Notice of July 23,

1 2019, Designating Aliens for Expedited Removal, 87 Fed. Reg. 16022 (Mar. 21, 2022).

2 30. While the 2019 expansion was in effect, the government applied expedited removal
3 to persons inside the country in an exceedingly small number of cases. Thus, from 1997 to 2025,
4 with limited exceptions, immigration authorities generally did not apply expedited removal to
5 noncitizens apprehended far from the border, or individuals anywhere in the United States
6 (including near the border) who had been residing in the country for more than fourteen days.

7 31. This state of affairs changed drastically on January 20, 2025, the day that President
8 Trump took office for his second term. That day, President Trump signed Executive Order 14159,
9 “Protecting the American People Against Invasion,” the purpose of which was “to faithfully
10 execute the immigration laws against all inadmissible and removable aliens, particularly those
11 aliens who threaten the safety or security of the American people.” Exec. Order No. 14,159, 90
12 C.F.R. § 8443 (Jan. 20, 2025). The order directed the Secretary of Homeland Security to take
13 various actions “to ensure the efficient and expedited removal of aliens from the United States.”
14 *Id.*

15 32. To implement this Executive Order, DHS issued a notice immediately authorizing
16 application of expedited removal to certain noncitizens arrested anywhere in the country who
17 cannot show “to the satisfaction of an immigration officer” that they have been continuously
18 present in the United States for at least two years. 90 Fed. Reg. 8139 (published Jan. 24, 2025).

19 33. On January 23, 2025, the Acting Secretary of Homeland Security issued a
20 memorandum “provid[ing] guidance regarding how to exercise enforcement discretion in
21 implementing” the new expedited-removal rule. The guidance directed federal immigration
22 officers to “consider . . . whether to apply expedited removal” to “any alien DHS is aware of who
23 is amenable to expedited removal but to whom expedited removal has not been applied.” As part
24 of that process, the guidance encourages officers to “take steps to terminate any ongoing removal
25 proceeding and/or any active parole status.”¹

26
27 ¹ Benjamine C. Huffman, *Guidance Regarding How to Exercise Enforcement Discretion*, Dep’t
28 of Homeland Sec. (Jan. 23, 2025), [https://www.dhs.gov/sites/default/files/2025-01/25_0123_er-](https://www.dhs.gov/sites/default/files/2025-01/25_0123_er-and-parole-guidance.pdf)
[and-parole-guidance.pdf](https://www.dhs.gov/sites/default/files/2025-01/25_0123_er-and-parole-guidance.pdf).

34. Under the administration’s expanded approach to expedited removal, hundreds of thousands of noncitizens who have lived in the country for less than two years are at imminent risk of summary removal without any hearing, meaningful process, access to counsel, or judicial review—regardless of the strength of their ties to the United States.

B. To Place More People in Expedited Removal, DHS Undertakes New Campaign of Courthouse Arrests and Detention.

35. Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign targeting people who are in regular removal proceedings in immigration court, many of whom have pending applications for asylum or other relief. This “coordinated operation” is “aimed at dramatically accelerating deportations” by arresting people at the courthouse and placing them into expedited removal.²

36. The first step of this enforcement operation typically takes place inside the immigration court. When people arrive in court for their master calendar hearings, DHS attorneys orally file a motion to dismiss the proceedings—without any notice to the affected individual. Although DHS regulations do not permit such motions to dismiss absent a showing that the “[c]ircumstances of the case have changed,” 8 C.F.R. § 239.2(a)(7), (c), DHS attorneys do not conduct any case-specific analysis of changed circumstances before filing these motions to dismiss.

37. Even though individuals are supposed to have ten days to respond to a motion to dismiss, some IJs have granted the government’s oral motion on the spot and immediately dismissed the case. This is consistent with recent instructions from the Department of Justice to immigration judges stating that they may allow the government to move to dismiss cases orally, in court, without a written motion, and to decide that motion without allowing the noncitizen an opportunity to file a response.

² Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in Trump’s Deportation Push*, Wash. Post, May 23, 2025, <https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>; see also Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE is Seeking to Ramp Up Deportations Through Courthouse Arrests*, N.Y. Times, May 30, 2025, <https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>.

38. Despite these instructions, some IJs have still asked DHS to re-file the motion as a written motion and continued proceedings to allow individuals to file their response. A smaller group of IJs have expressly denied the motion to dismiss on the record or in a written order.

39. The next step of DHS's new campaign takes place outside the courtroom. ICE officers, in consultation with DHS attorneys and officials, station themselves in courthouse waiting rooms, hallways, and elevator banks. When an individual exits their immigration hearings, ICE officers—typically masked and in plainclothes—immediately arrest the person and detain them. ICE officers execute these arrests regardless of how the IJ rules on the government's motion to dismiss. On information and belief, they typically do not have an arrest warrant.

40. Once the person has been transferred to a detention facility, the government places the individual in expedited removal. In cases in which the IJ did not dismiss the person's removal proceedings, DHS attorneys unilaterally transfer venue of the case to a "detained" immigration court, where they renew their motions to dismiss—again with the goal of putting the person in expedited removal.

41. DHS is aggressively pursuing this arrest and detention campaign at courthouses throughout the country. In New York City, for example, "ICE agents have apprehended so many people showing up for routine appointments this month that the facilities" are "overcrowded," with "[h]undreds of migrants . . . sle[eping] on the floor or sitting upright, sometimes for days."³

42. The same is true at the San Francisco Immigration Court, where Petitioner was arrested. Over the last month, dozens of people have been arrested and detained after attending their routine immigration hearings.⁴

³ Luis Ferré-Sadurní, *Inside a Courthouse, Chaos and Tears as Trump Accelerates Deportations*, N.Y. Times, June 12, 2025, <https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html>.

⁴ Sarah Ravani, *ICE Arrests Two More at S.F. Immigration Court, Advocates Say*, S.F. Chron., June 12, 2025, <https://www.sfchronicle.com/bayarea/article/sf-immigration-court-arrests-20374755.php>; Margaret Kadifa & Gustavo Hernandez, *Immigrants fearful as ICE Nabs at least 15 in S.F., Including Toddler*, Mission Local, June 5, 2025, <https://missionlocal.org/2025/06/ice-arrest-san-francisco-toddler/>; Tomoki Chien, *Undercover ICE Agents Begin Making Arrests at SF Immigration Court*, S.F. Standard, May 27, 2025, <https://sfstandard.com/2025/05/27/undercover-ice-agents-make-arrests-san-francisco-court/>.

43. DHS's aggressive tactics at immigration courts appear to be motivated by the Administration's imposition of a new daily quota of 3,000 ICE arrests.⁵ In part as a result of this campaign, ICE's arrests of noncitizens with no criminal record have increased more than 800% since before January.⁶

44. The new courthouse arrest and detention campaign is a sharp break from DHS's previous practices, when immigration officers avoided arrests at courthouses given the concern that such enforcement actions would deter people from appearing for their proceedings and complying with court orders.⁷

45. In fact, DHS officials previously permitted ICE officers to conduct "civil immigration enforcement action . . . in or near a courthouse" only in highly limited circumstances, such as when "it involves a national security threat," or "there is an imminent risk of death, violence, or physical harm." These limitations were necessary, DHS explained, because "[e]xecuting civil immigration enforcement actions in or near a courthouse may chill individuals' access to courthouses, and, as a result, impair the fair administration of justice."⁸ The new policy includes no such limiting language.⁹

46. The government's new campaign is also a significant shift from previous DHS

⁵ Ted Hesson & Kristina Cooke, *ICE's Tactics Draw Criticism as it Triples Daily Arrest Targets*, Reuters, June 10, 2025, <https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/>; Alayna Alvarez & Brittany Gibson, *ICE Ramps Up Immigration Arrests in Courthouses Across the U.S.*, Axios, June 12, 2025, <https://www.axios.com/2025/06/12/ice-courthouse-arrests-trump>.

⁶ José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under Trump*, The Guardian, June 14, 2025, <https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures>.

⁷ Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE Is Seeking to Ramp Up Deportations Through Courthouse Arrests*, N.Y. Times, May 30, 2025, <https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>.

⁸ A true and correct copy of DHS' April 27, 2021 *Civil Immigration Enforcement Actions in or Near Courthouses* memorandum from Tae Johnson and Troy Miller is attached hereto as Exhibit 1.

⁹ A true and correct copy of ICE's January 21, 2025 *Interim Guidance: Civil Immigration Enforcement Actions in or near Courthouses* memorandum from Caleb Vitello is attached hereto as Exhibit 2. A true and correct copy of ICE's May 27, 2025 *Civil Immigration Enforcement Actions In or Near Courthouses* memorandum from Todd M. Lyons is attached hereto as Exhibit 3.

practice of re-detaining noncitizens only after a material change in circumstances. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (describing prior practice).

C. Petitioner is Unlawfully Arrested and Detained Pursuant to DHS's New Policy.

47. Petitioner fled Peru in 2022 after members of an organized criminal group threatened him and his family.

48. Petitioner entered the United States without inspection in December 2022. Immigration officials detained him for about three days and then released him into the United States. In granting him release without requiring that he pay bond or wear an ankle monitor, DHS determined that he posed little if any risk of flight or danger to the community.

49. Petitioner thereafter moved to Daly City, California. He attended multiple required check-ins at the San Francisco ICE office and appeared for regular phone check-ins.

50. In 2024, Petitioner applied for asylum, withholding of removal, and relief under the Convention Against Torture. He received employment authorization. He worked as a cleaner.

51. Petitioner was scheduled for a master calendar hearing on July 25, 2025. Prior to the hearing, he submitted a motion to appear by video to the Immigration Judge. He did not want to appear at his hearing in-person in part because he was undergoing medical issues as a result of a medical incident he endured last year, which he believes was a stroke. The Immigration Judge denied the motion.

52. On July 25, 2025, Petitioner appeared in-person at San Francisco Immigration Court for a master calendar hearing before Immigration Judge Park. The government made a motion to dismiss. IJ Park did not rule on the motion at that hearing. He reset the hearing for October 17, 2025 at 8:30 AM.

53. Immediately after the hearing, ICE agents arrested Petitioner and took him into custody.

54. On July 25, 2025, a dispatcher with the San Mateo County Rapid Response Network (SMC RRN) network was notified about Petitioner's arrest. An on-call responding attorney went to meet with him. Another SMC RR attorney joined her later.

1 55. DHS officials brought out Petitioner to meet with one of the SMC RRN attorneys
2 in a visitation room on the sixth floor. They were separated by plexiglass and spoke through
3 telephone handsets. The attorney could see Petitioner was in obvious pain. Petitioner was
4 struggling to breathe and experiencing swelling in his neck, hands, and feet.

5 56. The attorney escalated Petitioner's medical condition to ICE. ICE Officer Johnson
6 came out and spoke to them. He kept asking if Petitioner needed to be screened medically, and
7 Petitioner kept responding "yes" in Spanish, but ICE Officer Johnson feigned that he couldn't
8 understand. It wasn't until Petitioner said "yes" in English that ICE finally called an ambulance.

9 57. The attorney submitted a release request to ICE and request to keep Petitioner in
10 the local AOR based on the severity of his health shortly afterward. She attached medical records
11 provided by his sister. She never received a response.

12 58. Later that evening, another attorney with the SMC RRN e-mailed ICE ERO, ICE
13 San Francisco Outreach, and the two contacts she had listed as AFODs. She wrote she was worried
14 about Petitioner's health and asked what hospital he was at. She also asked for his location if he
15 was not in a hospital because she urgently needed to meet with him for legal reasons. She attached
16 a G-28, which is the form that authorizes ICE to provide information to an attorney acting on
17 behalf of a noncitizen. She also submitted a G-28 through ERO eFile, an online system developed
18 to electronically file G-28s with ICE ERO. As of the date of this filing, ICE has not responded to
19 her e-mail.

20 59. Petitioner was taken to Zuckerberg San Francisco General Hospital and Trauma
21 Center. He spent the night there, and a blood test was taken the next day. He was also given an
22 injection of what may have been a sedative. ICE agents returned Petitioner to 630 Sansome Street
23 later that morning. ICE agents were in possession of Petitioner's medical documents but would
24 not give them to Petitioner.

25 60. On July 28, 2025, an intern working with an attorney from the SMC RRN visited
26 Petitioner at 630 Sansome. Petitioner was still in severe pain. He felt like he had been hit on the
27 side of his body that was paralyzed. The back of his head hurt. He had poor balance on his right
28 foot for the last few days. He thinks he may have had a stroke.

1 61. He also explained that the conditions at 630 Sansome are horrendous. The detainees
2 are only given two cereal bars and a bottle of water for breakfast, lunch, and dinner. He shares a
3 room with about five men. He sleeps on a metal slab and everything is metal. There is no place to
4 shower. There is an open toilet and no privacy. It feels like a high security prison. He hasn't been
5 able to communicate with his family.

6 62. The intern asked ICE Officer Caldwell for Petitioner's medical records. Officer
7 Caldwell responded that she would have to do a Freedom of Information Act request or ask the
8 hospital for the records. She asked him if Petitioner was staying at the building, and he said he
9 didn't know if he could tell her and that they were "doing things."

10 63. As the intern was leaving, she heard women in a room banging on a door, saying
11 someone inside was overheating and it was a medical emergency. They let her come out, and the
12 intern saw an indigenous-appearing women who seemed in distress.

13 64. Because Petitioner has never been determined to be a flight risk or danger to the
14 community, his ongoing detention is not related to either of the permissible justifications for civil
15 immigration litigation. His detention does not further any legitimate government interest.

16 ***D. As a Result of His Arrest and Detention, Petitioner is Suffering Ongoing and Irreparable***
17 ***Harm.***

18 65. Petitioner is being deprived of his liberty without any permissible justification. The
19 government previously released him on his own recognizance because he did not pose sufficient
20 risk of flight or danger to the community to warrant detention.

21 66. None of that has changed. Petitioner has no criminal record, and there is no basis
22 to believe that he poses any public-safety risk. Nor is Petitioner, who was arrested *while appearing*
23 *in court for his immigration case*, conceivably a flight risk. To the contrary, Petitioner appeared
24 for every immigration court hearing and supervision check-in, and he has consistently informed
25 the court about any change in his address or other circumstances.

26 67. Petitioner is currently experiencing severe pain as a result of a serious medical
27 incident he endured in mid-2024. He was also diagnosed with Bell's Palsy in September 2024. He
28 has been held for several days in inhumane conditions.

1 ///

2 **CLAIMS FOR RELIEF**

3 **FIRST CLAIM FOR RELIEF**

4 **Violation of the Fifth Amendment to the United States Constitution**

5 **(Substantive Due Process—Detention)**

6 68. Petitioner repeats and re-alleges the allegations contained in the preceding
7 paragraphs of this Petition as if fully set forth herein.

8 69. The Due Process Clause of the Fifth Amendment protects all “person[s]” from
9 deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom from
10 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
11 the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

12 70. Immigration detention is constitutionally permissible only when it furthers the
13 government’s legitimate goals of ensuring the noncitizen’s appearance during removal
14 proceedings and preventing danger to the community. *See id.*

15 71. Petitioner is not a flight risk or danger to the community. Respondents’ detention
16 of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in
17 violation of the Due Process Clause of the Fifth Amendment.

18 72. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation” to
19 any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly
20 “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s detention appears to be “not
21 to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for
22 other reasons”—namely, to meet newly-imposed DHS quotas and transfer immigration court
23 venue away from an IJ who refused to facilitate DHS’s new expedited removal scheme. *Demore*,
24 538 U.S. at 532–33 (Kennedy, J., concurring).

25 **SECOND CLAIM FOR RELIEF**

26 **Violation of the Fifth Amendment to the United States Constitution**

27 **(Procedural Due Process—Detention)**

28 73. Petitioner repeats and re-alleges the allegations contained in the preceding

1 paragraphs of this Petition as if fully set forth herein.

2 74. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty
3 liberty interest in avoiding re-incarceration after his release. *See Young v. Harper*, 520 U.S. 143,
4 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S.
5 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a
6 protected liberty interest in remaining out of custody following an IJ’s bond determination).

7 75. Accordingly, “[i]n the context of immigration detention, it is well-settled that due
8 process requires adequate procedural protections to ensure that the government’s asserted
9 justification for physical confinement outweighs the individual’s constitutionally protected
10 interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinerman*, 494
11 U.S. at 127 (Generally, “the Constitution requires some kind of a hearing *before* the State
12 deprives a person of liberty or property.”). In the immigration context, for such hearings to
13 comply with due process, the government must bear the burden to demonstrate, by clear and
14 convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh*
15 *v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785,
16 786 (9th Cir. 2024).

17 76. Petitioner’s re-detention without a pre-deprivation hearing violated due process.
18 Nearly two years after deciding to release Petitioner from custody on his own recognizance,
19 Respondents re-detained Petitioner with no notice, no explanation of the justification of his re-
20 detention, and no opportunity to contest his re-detention before a neutral adjudicator before being
21 taken into custody.

22 77. Petitioner has a profound personal interest in his liberty. Because he received no
23 procedural protections, the risk of erroneous deprivation is high. And the government has no
24 legitimate interest in detaining Petitioner without a hearing; bond hearings are conducted as a
25 matter of course in immigration proceedings, and nothing in Petitioner’s record suggested that
26 he would abscond or endanger the community before a bond hearing could be carried out. *See*,
27 *e.g., Jorge M.F. v. Wilkinson*, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v.*
28 *Jennings*, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) (“the government’s concern that

1 delay in scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of
2 petitioner's strong family ties and his continued employment during the pandemic as an essential
3 agricultural worker").

4 **PRAYER FOR RELIEF**

5 Petitioner respectfully requests that this Court:

- 6 1. Assume jurisdiction over this matter;
 - 7 2. Issue a writ of habeas corpus ordering Respondents to immediately release
8 Petitioner from custody;
 - 9 3. Declare that Petitioner's arrest and detention violate the Due Process Clause of the
10 Fifth Amendment.
 - 11 4. Enjoin Respondents from transferring Petitioner outside this District or deporting
12 Petitioner pending these proceedings;
 - 13 5. Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered
14 at a custody hearing before a neutral arbiter in which the government bears the
15 burden of proving, by clear and convincing evidence, that Petitioner is a flight risk
16 or danger to the community;
 - 17 6. Award Petitioner his costs and reasonable attorneys' fees in this action as provided
18 for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
 - 19 7. Grant such further relief as the Court deems just and proper.
- 20

21 Date: July 28, 2025

Respectfully Submitted,

22 /s/ Jordan Weiner

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