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7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 SALAM MAKLAD,

11 Petitioner,

12 v.

13 RON MURRAY, Mesa Verde ICE Processing
Center; POLLY KAISER, Acting Field Office
14 Director of the San Francisco Immigration and
Customs Enforcement Office; TODD
15 LYONS, Acting Director of United States
Immigration and Customs Enforcement;
16 KRISTI NOEM, Secretary of the United
States Department of Homeland Security,
17 PAMELA BONDI, Attorney General of the
United States, acting in their official
18 capacities,

19 Respondents.

Case No.

**PETITION FOR WRIT OF HABEAS
CORPUS**

Date Filed: August 2, 2025

I. INTRODUCTION

1. Salam Maklad (“Petitioner”) is an asylum seeker who cannot safely return to her native country of Syria. After Petitioner arrived in the United States on or around September 20, 2022, federal agents apprehended her and detained her for approximately two weeks. They later determined that she was not a flight risk or danger to the community, and formally paroled her into the country, releasing her on her own recognizance with orders to appear for regular check-ins at her local ICE Field Office. Since then, Petitioner has done everything the government asked her to do: she filed an application for asylum in September 2023 and has appeared for routine check-ins, largely without the assistance of legal representation. She has no criminal history anywhere in the world.

2. On July 9, 2025, Petitioner did exactly what the government told her to do: She went to the ICE San Francisco Field Office for a check-in, joining the line before 8:00 a.m. to await her turn to report. But when Petitioner’s turn came, ICE told her that because USCIS has not yet decided her asylum claim, she was required to be under ICE custody. She was immediately arrested, and briefly permitted to call her husband before her phone was confiscated. An ICE official in the San Francisco Field Office later confirmed to Petitioner’s husband that she was being detained that day because she had a pending political asylum application. The DHS agents did not present a warrant at the time of arrest or provide any basis for her arrest other than her pending asylum application. She was confined in a holding room at the ICE office from about 9:30 a.m. to 3 p.m.

3. Upon receiving Petitioner’s panicked phone call after her initial arrest, her husband rushed to the ICE office from his workplace. He reached the ICE office around 10:00 a.m. He asked an ERO officer what had happened, explaining that Petitioner was only there for a check-in and should be released. An ERO Officer responded that Petitioner’s husband, who is also of Syrian national origin, could not tell her how to do her job and was welcome to join his wife in detention if he’d like.

4. Petitioner’s husband left the ICE Office and later returned around 3:00 p.m. When he inquired about Petitioner, ERO officers asked him if he wanted to “see her for the last time.”

1 Petitioner and her husband were given five minutes to tearfully say an indefinite goodbye to each
2 other through a plexiglass barrier. ICE then bound Petitioner at her wrists, ankles, and waist with
3 restraints and handcuffs, and loaded her onto a bus to Mesa Verde ICE Processing Center in
4 Bakersfield. The bus ride lasted approximately five hours, and Petitioner remained painfully
5 restrained for the entire bus ride. Upon arrival at Mesa Verde, Petitioner was removed from the
6 bus, and placed on something akin to a leash as though she were a dog.

7 5. This arrest is part of a new, nationwide DHS strategy of sweeping up people who
8 attend their routine immigration check-ins and court hearings, detaining them, and unlawfully
9 seeking to re-route them to fast-track deportations. Since mid-May, DHS has implemented a
10 coordinated practice of leveraging immigration detention to deny people like Petitioner their
11 substantive and procedural rights and pressure them into deportation. Because immigration
12 detention is civil, it is permissible for only two reasons: to ensure a noncitizen's appearance at
13 immigration hearings and to prevent danger to the community. But DHS did not arrest and detain
14 Petitioner—who demonstrably poses no risk of absconding from immigration proceedings and no
15 danger to the community—for either of these reasons. Instead, as part of its broader enforcement
16 campaign, DHS detained Petitioner to strip her of her procedural rights, attempt to nullify her
17 long-pending application for relief, and pressure her into fast-track removal.

18 6. Noncitizens have the right to pursue claims for relief from removal (including
19 asylum), be represented by counsel, gather and present evidence, and pursue appeals. 8 U.S.C.
20 § 1229(a). DHS increasingly purports to be able to bypass removal proceedings in immigration
21 court, governed by 8 U.S.C. § 1229(a), in favor of cursory “expedited removal” proceedings
22 under 8 U.S.C. § 1225(b)(1), where the procedural protections and opportunities to pursue relief
23 from removal built into regular immigration-court proceedings do not apply.

24 7. ICE may purport to detain Petitioner under its expedited removal authority.
25 Expedited removal is a type of process-less deportations that Congress authorized under certain
26 circumstances; it does not necessarily afford immigrants a hearing before an immigration judge.
27 Critically for Petitioner's case, the expedited removal authority is limited by statute to situations
28 where the immigrant has been in the United States *for less than two years*. Petitioner has been in

1 the United States since September 20, 2022. Immigration officials have no statutory authority to
2 subject her to expedited removal; doing so would violate Congress's choice (enshrined in the
3 plain text of the statute) to preserve the full set of process rights, including the right to a hearing
4 before an immigration judge, for immigrants present in the United States for over two years.

5 8. Petitioner's arrest and detention since July 9, 2025 is causing her tremendous and
6 ongoing harm. She has been torn away from her husband and her community. Her arrest and
7 detention are exacerbating the diagnosed medical conditions from which Petitioner suffers—
8 including hypothyroidism, polycystic ovary syndrome, prediabetes, and vitamin D deficiency—
9 and damaging her mental health. She is unable to eat or sleep and is suffering from constant
10 anxiety that makes her feel like she can't get enough air. She is required to get up at 5:00 a.m.
11 every day to go outside. There have been physical altercations between other detainees that have
12 caused Petitioner to fear for her safety in a way that causes her to be constantly hypervigilant.
13 Every additional day Petitioner spends in unlawful detention subjects her to further irreparable
14 harm.

15 9. Further, on July 31, 2025, the U.S. Citizenship and Immigration Services
16 purported to summarily dismiss Petitioner's pending affirmative asylum petition on the basis of
17 her detention and placement in expedited removal proceedings. Nonetheless, Petitioner maintains
18 *immediate* eligibility for legal immigration status as a result of her husband's recently approved
19 asylum application. Because she was his spouse at the time of approval, she qualifies for
20 derivative asylum. Her Form I-730 application for derivative asylum has been submitted to
21 USCIS for adjudication.

22 10. Petitioner was able to retain pro bono counsel on August 1, 2025 after attempting
23 to locate counsel since July 9, 2025. Petitioner immediately worked with counsel to prepare the
24 instant petition.

25 11. The Constitution protects Petitioner—and every other person present in this
26 country—from arbitrary deprivations of her liberty and guarantees her due process of law. The
27 government's power over immigration is broad, but as the Supreme Court has declared, it "is
28 subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001).

1 “Freedom from bodily restraint has always been at the core of the liberty protected by the Due
2 Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80
3 (1992)). Other courts in this District (and throughout the Ninth Circuit) have found that habeas
4 relief is appropriate where, as here, ICE detains an individual at a routine court appearance or
5 check-in. *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735 (E.D. Cal. July 16,
6 2025) (granting request for preliminary injunction and ordering that the government may not re-
7 detain the petitioner without a bond hearing); *Singh v. Andrews*, No. 1:25-cv-00801-KES-SKO,
8 2025 WL 1918679 (E.D. Cal. July 11, 2025) (same); *Pinchi v. Noem*, No. 5:25-CV-05632-PCP,
9 2025 WL 2084921, at *7 (N.D. Cal. July 24, 2025) (same); *Ramirez Clavijo v. Kaiser*, No. 25-
10 CV-06248-BLF, 2025 WL 2097467, at *4 (N.D. Cal. July 25, 2025) (granting temporary
11 restraining order and ordering government to show cause why preliminary injunction should not
12 issue).

13 12. Petitioner respectfully seeks a writ of habeas corpus ordering the government to
14 immediately release her from her ongoing, unlawful detention, prohibiting her re-arrest without a
15 hearing to contest that re-arrest before a neutral decisionmaker, and prohibiting the government
16 from placing her in expedited removal proceedings, as she is plainly exempt from the criteria. In
17 addition, to preserve this Court’s jurisdiction, Petitioner also requests that this Court order the
18 government not to deport her for the duration of this proceeding.

19 II. JURISDICTION AND VENUE

20 13. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal
21 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),
22 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension
23 Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706
24 (Administrative Procedure Act).

25 14. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
26 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.
27
28

III. PARTIES

15. Petitioner Salam Maklad is a 28-year-old woman and resident of San Francisco. She has no criminal history and applied for asylum in September 2023 based on a well-founded fear of persecution in Syria. Even after USCIS unlawfully and summarily dismissed her affirmative asylum application based on her arrest and unlawful ongoing detention, she has immediately available paths to legal immigration status in the United States. Because her husband's asylum petition was granted in June 2025, she is eligible for derivative asylum. Petitioner's husband has filed the derivative asylum application on her behalf (Form I-730) and awaits adjudication by USCIS. If approved, this application will place her on the path to permanent residency and, eventually, U.S. citizenship. In addition to her husband, petitioner has a brother who is a U.S. Citizen residing in New York. She is presently in the physical custody of Immigration and Customs Enforcement (ICE) at Mesa Verde ICE Processing Center in Bakersfield, California.

16. Ron Murray is the Warden at Mesa Verde ICE Processing Center, a private for-profit detention facility owned and operated by the GEO Group, Inc., that contracts with ICE to detain individuals suspected of civil immigration violations. Respondent Murray is Petitioner's immediate physical custodian. Respondent Murray is sued in his official capacity.

17. Respondent Polly Kaiser is the Acting Field Office Director of the San Francisco ICE Field Office. She is the physical custodian of Petitioner. 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.

18. 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.

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

6 20. Respondent Pamela Bondi is the Attorney General of the United States and the
7 most senior official at the Department of Justice. In that capacity and through her agents, she is
8 responsible for overseeing the implementation and enforcement of the federal immigration laws.
9 The Attorney General delegates this responsibility to the Executive Office for Immigration
10 Review, which administers the immigration courts and the BIA. Respondent Bondi is sued in her
11 official capacity.

12 **IV. EXHAUSTION**

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

20 **V. LEGAL BACKGROUND**

21 **A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest** 22 **and Detention.**

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

27 23. First, “[t]he touchstone of due process is protection of the individual against
28 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the

1 exercise of power without any reasonable justification in the service of a legitimate government
 2 objective,” *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

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

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

14 26. Second, the procedural component of the Due Process Clause prohibits the
 15 government from imposing even permissible physical restraints without adequate procedural
 16 safeguards.

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

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

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

B. Due Process and the Immigration and Nationality Act Protect Noncitizens like Petitioner from Summary Removal Without a Hearing.

30. Deportation, like detention, constitutes a deprivation of liberty protected by the Due Process Clause. As the Supreme Court has held, a noncitizen’s interest in deportation proceedings “is, without question, a weighty one” because “[s]he stands to lose the right ‘to stay and live and work in this land of freedom.’” *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (quoting *Bridges v. Wixon*, 326 U.S. 135, 154 (1945)).

31. Indeed, modern-day removal proceedings developed in response to a series of Supreme Court decisions recognizing that the deportation of noncitizens already in the United States without a hearing before a neutral arbiter would violate due process. *See Yamataya v. Fisher*, 189 U.S. 86, 101 (1903) (construing immigration statutes to require hearing before deportation to “bring them into harmony with the constitution”); *Wong Yang Sung v. McGrath*, 339 U.S. 33, 49, modified, 339 U.S. 908 (1950) (same, reasoning that “the difficulty with any argument premised on the proposition that the deportation statute does not require a hearing is that, without such hearing, there would be no constitutional authority for deportation”).

32. Removal proceedings under Section 240 of the Immigration and Nationality Act (“Section 240” proceedings) accordingly provide important substantive and procedural protections. Noncitizens in Section 240 proceedings are entitled to full hearings in immigration court before immigration authorities can remove them. 8 U.S.C. § 1229a. They are statutorily afforded rights and procedural protections, including the right to be represented by counsel of their choice, and the right to present and confront evidence. *See id.* § 1229a(4). They are also

entitled to administrative appellate review at the Board of Immigration Appeals and further judicial review in the federal Courts of Appeals. *See* 8 C.F.R. § 1003.1(b) (Board of Immigration Appeals); 8 U.S.C. § 1252(a)(5) (Courts of Appeals).

33. Expedited removal is a form of summary removal historically applicable only to recently arrived noncitizens that sharply limits the rights and process available in Section 240 proceedings. Expedited removal is not applicable to noncitizens, like Petitioner, who have been continuously present in the United States for more than two years.

34. In contrast to Section 240 proceedings, expedited removal takes place almost entirely outside of immigration court: A person subject to expedited removal can be removed by an immigration officer “without further hearing or review.” 8 U.S.C. § 1225(b)(1)(A)(i). At this stage, the person is typically detained and unable to access counsel. In effect, immigration enforcement agents from ICE or Border Patrol serve as judge, jury, and jailer; they detain the noncitizen, unilaterally determine whether they are subject to the expedited removal statute, and unilaterally order them removed.

35. When a person in expedited removal expresses a fear of persecution or intent to seek asylum, the immigration officer refers the person to an asylum officer for a credible fear interview. 8 U.S.C. § 1225(b)(1)(A)(ii). If the asylum officer finds that the person has a credible fear, they are permitted to seek to apply for asylum through Section 240 proceedings. *Id.* § 1225(b)(1)(B)(ii). However, when an asylum officer determines that someone has not established a credible fear, the officer must order them removed “without further hearing or review,” subject to highly limited review by an immigration judge that the person “does not have a credible fear of persecution.” *Id.* § 1225(b)(1)(B)(iii).

VI. FACTUAL ALLEGATIONS

A. To Deport More People, DHS Undertakes New Campaign of Arrests and Detention Following Routine ICE Check-Ins and Court Appearances.

36. Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign targeting people who have pending affirmative applications for relief. This “coordinated operation” is “aimed at dramatically accelerating deportations” by arresting people at the

1 courthouse or immigration buildings and placing them into expedited removal, whether lawful or
2 not.¹

3 37. A critical part of DHS's campaign is to make arrests at ICE check-ins. Immigrants
4 like Petitioner are required to physically check-in at an ICE office on a periodic basis. The
5 interaction between the immigrant and the officer is typically brief, consisting of showing
6 identification, signing confirmatory paperwork, and setting a new check-in date. But, like with
7 the courthouse arrests, ICE is now using these check-ins as arrest opportunities, even where there
8 is no change to the immigrant's ability to comply with immigration orders or any new facts
9 suggesting that the immigrant poses a danger to the community (such as a criminal conviction).

10 38. DHS is aggressively pursuing this arrest and detention campaign at courthouses
11 and immigration buildings throughout the country. In New York City, for example, "ICE agents
12 have apprehended so many people showing up for routine appointments this month that the
13 facilities" are "overcrowded," with "[h]undreds of migrants . . . sle[eping] on the floor or sitting
14 upright, sometimes for days."²

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20 ¹ Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in*
21 *Trump's Deportation Push*, Wash. Post, May 23, 2025,
22 <https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>;
23 *see also* Natalia Gurevich, *ICE Arrests at Least 15, Including Children, at SF Check-Ins*, S.F.
24 *Examiner*, June 5, 2025, [https://www.sfexaminer.com/news/politics/ice-arrests-at-least-15-](https://www.sfexaminer.com/news/politics/ice-arrests-at-least-15-immigrants-at-routine-sf-check-ins/article_b8e4d21a-b01a-4dc8-a05c-049b12dbfc9a.html)
25 [immigrants-at-routine-sf-check-ins/article_b8e4d21a-b01a-4dc8-a05c-049b12dbfc9a.html](https://www.sfexaminer.com/news/politics/ice-arrests-at-least-15-immigrants-at-routine-sf-check-ins/article_b8e4d21a-b01a-4dc8-a05c-049b12dbfc9a.html); *ICE*
26 *Detains Sonoma County Asylum Seeker, Here Legally, During Routine Check-In, Trained*
27 *Observers Say*, Press Democrat, July 30, 2025,
28 <https://www.pressdemocrat.com/article/news/sonoma-county-man-ice-detained-asylum/>; Omar S.
Rashad, *Immigration Attorneys Question ICE Detentions at Required Check-Ins in Downtown*
Fresno, FresnoLand, June 15, 2025, [https://fresnoland.org/2025/06/15/isap-check-in-](https://fresnoland.org/2025/06/15/isap-check-in-undocumented-immigrants/)
[undocumented-immigrants/](https://fresnoland.org/2025/06/15/isap-check-in-undocumented-immigrants/); 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>.

² 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-](https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html)
[courthouse-arrests-trump-deportation.html](https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html).

39. The same is true at the San Francisco Field Office for ICE, where Petitioner was arrested. Over the past three months, dozens of people have been arrested and detained after attending their routine immigration hearings or ICE check-ins.³

40. DHS's aggressive tactics at legally mandated appointments appear to be motivated by the Administration's imposition of a new daily quota of 3,000 ICE arrests.⁴ 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.⁵

41. The new arrest and detention campaign is a sharp break from DHS's previous practices, when immigration officers avoided arrests at courthouses and routine check-ins given the concern that such enforcement actions would deter people from appearing for their proceedings and complying with court orders.⁶ In fact, DHS officials previously permitted ICE officers to conduct "civil immigration enforcement action . . . in or near a courthouse"⁷ 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

³ 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/>.

⁴ 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>.

⁵ 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>.

⁶ Hamed Aleaziz, Luis Ferré-Sadurni, & 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>.

⁷ The building at 630 Sansome Street in San Francisco, where Petitioner was arrested, houses both the San Francisco Immigration Court and the San Francisco Field Office for ICE.

1 may chill individuals' access to courthouses, and, as a result, impair the fair administration of
 2 justice." The new policy includes no such limiting language.

3 42. The government's new campaign is also a significant shift from previous DHS
 4 practice of re-detaining noncitizens only after a material change in circumstances. *See Saravia v.*
 5 *Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v.*
 6 *Sessions*, 905 F.3d 1137 (9th Cir. 2018) (describing prior practice).

7 **B. Petitioner is Unlawfully Arrested and Detained Pursuant to DHS's New**
 8 **Policy.**

9 43. Petitioner is a 28-year-old citizen of Syria. She was born in Sweida, Syria.

10 44. In 2021, Petitioner fled from Syria with the ultimate intention of traveling to the
 11 United States to assert her asylum claim. She flew to Venezuela, traveled via the Darien Gap, and
 12 reached the U.S. border on September 20, 2022, where she was detained by immigration officials,
 13 but later released from custody and allowed to enter the United States with a formal grant of
 14 parole. In granting her parole, DHS determined that she posed little if any risk of flight or danger
 15 to the community.

16 45. Petitioner continues to fear persecution in her home country, and she qualifies for
 17 asylum in a number of ways. For example, an asylum applicant can obtain asylum based on
 18 showing a well-founded fear of persecution on the basis of political opinion, religion, and/or on
 19 the basis of membership in a particular social group. As one example, and without limitation,
 20 Petitioner has a well-founded fear of persecution as a result of her membership in the Druze
 21 community, which is a minority religion in Syria which is currently suffering ongoing and severe
 22 persecution.⁸ Such persecution on the basis of religion, membership in a particular social group,
 23 and political opinion are well-recognized bases for asylum.

24 46. In addition, Petitioner qualifies for asylum as a derivative applicant based on the
 25 asylum application of her husband, which was approved on June 24, 2025. Her husband's
 26 application on her behalf for this derivative status has been submitted to USCIS for adjudication.

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 28 ⁸ *See, e.g.,* Tammy Bruce, U.S. State Department Spokesperson, *Ending Violence in Syria*,
<https://www.state.gov/ending-violence-in-syria> (May 1, 2025).

1 47. Following her parole into the United States, Petitioner moved to San Francisco,
2 California, where she married her now-husband. She informed immigration officials about her
3 change of address and has completed regular in-person ICE check-ins for years, as well as check-
4 ins using a cell phone application that requires the user to submit a photograph to immigration
5 officials at a designated time each week.

6 48. Less than one year after her arrival in the United States, Petitioner applied for
7 asylum, withholding of removal, and relief under the Convention Against Torture by submitting
8 an affirmative I-589 application to U.S. Citizenship and Immigration Services. USCIS confirmed
9 receipt of the petition on September 1, 2023.

10 49. Ever since Petitioner entered the country, she has fully complied with immigration
11 supervision requirements. She has no criminal history anywhere in the world.

12 50. On July 9, 2025, Petitioner appeared at the ICE San Francisco Field Office for her
13 check-in appointment. She appeared pro se, without the representation of counsel.

14 51. Upon entry into the building at 630 Sansome Street in San Francisco, California,
15 Petitioner proceeded to the designated room for her ICE check-in. At that time, an ICE officer
16 told her that because USCIS had not decided her application for asylum, she was required to be
17 under the custody of ICE. She was not presented with any warrant for her arrest, but was
18 immediately placed under arrest. While she was briefly allowed to call her husband to notify him
19 of her arrest, her phone was then confiscated.

20 52. Upon receiving Petitioner's panicked phone call after her initial arrest, her
21 husband rushed to the ICE office from his workplace. He reached the ICE office around 10:00
22 a.m. He asked an ERO officer what had happened, explaining that Petitioner was only there for a
23 check-in and should be released. The ERO Officer told Petitioner's husband that she was being
24 detained because she had a pending asylum application. An ERO Officer further stated that
25 Petitioner's husband, who is also of Syrian national origin, could not tell her how to do her job
26 and was welcome to join his wife in detention if he'd like.

53. Because Petitioner has never been determined to be a flight risk or danger to the community, her detention is not related to either of the permissible justifications for civil immigration detention. Her detention does not further any legitimate government interest.

C. As a Result of Her Arrest and Detention, Petitioner is Suffering Ongoing and Irreparable Harm.

54. Petitioner is being deprived of her liberty without any permissible justification. The government previously permitted her to enter this country on parole because she did not pose sufficient risk of flight or danger to the community to warrant detention.

55. None of that has changed. Petitioner has no criminal record, and there is no basis to believe that she poses any public-safety risk. Nor is Petitioner, who was arrested while appearing at court for her routine ICE check-in, conceivably a flight risk. To the contrary, Petitioner has appeared for every ICE check-in and has complied with every other requirement.

56. Petitioner is now separated from her husband and her community. She has presumably lost the job at a restaurant in San Francisco she worked hard to obtain after USCIS granted her work authorization. She was loaded onto a bus for a five-hour drive while painfully bound at her wrists, ankles, and waist. She has now been detained for three weeks with no interview or hearing about her case. Petitioner's arrest and detention since July 9, 2025 is causing her tremendous and ongoing harm. Her arrest and detention are exacerbating the diagnosed medical conditions from which Petitioner suffers—including hypothyroidism, polycystic ovary syndrome, prediabetes, and vitamin D deficiency—and damaging her mental health. She is unable to eat or sleep in detention, and is suffering from constant anxiety that makes her feel like she can't get enough air. She is required to get up at 5:00 a.m. every day to go outside. There have been physical altercations between other detainees that have caused Petitioner to fear for her safety in a way that causes her to be constantly hypervigilant. Every additional day Petitioner spends in unlawful detention subjects her to further irreparable harm.

VII. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process—Detention)

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

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

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

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

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

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Procedural Due Process—Detention)

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

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

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

65. Petitioner’s detention after being released on her own recognizance from immigration custody, granted parole by the government, and without any pre-deprivation hearing violated due process. Nearly three years after deciding to release Petitioner from custody and grant her entry into this country on parole and without any bond requirement, Respondents detained Petitioner with no notice, no explanation of the justification of her re-detention (aside from mention of her pending asylum application), and no opportunity to contest her detention before a neutral adjudicator before being taken into custody.

66. Petitioner has a profound personal interest in her liberty. Because she received no procedural protections, the risk of erroneous deprivation is high. And the government has no legitimate interest in detaining Petitioner without a hearing; bond hearings are conducted as a matter of course in immigration proceedings, and nothing in Petitioner’s record suggested that she would abscond or endanger the community before a bond hearing could be carried out. *See, e.g.,*

1 *Jorge M.F. v. Wilkinson*, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*,
 2 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) (“the government’s concern that delay in
 3 scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of
 4 petitioner’s strong family ties and his continued employment during the pandemic as an essential
 5 agricultural worker”).

6 **THIRD CLAIM FOR RELIEF**

7 **Violation of the Fourth Amendment to the United States Constitution**

8 **(Unlawful Arrest)**

9 67. Petitioner repeats and re-alleges the allegations contained in the preceding
 10 paragraphs of this Petition as if fully set forth herein.

11 68. The Fourth Amendment protects the right of persons present in the United States
 12 to be free from unreasonable seizures by government officials.

13 69. As a corollary to that right, the Fourth Amendment prohibits government officials
 14 from conducting repeated arrests on the same probable cause.

15 It is axiomatic that seizures have purposes. When those purposes are spent, further
 16 seizure is unreasonable. . . . [T]he primary purpose of an arrest is to ensure the
 17 arrestee appears to answer charges. . . . Once the arrestee appears before the court,
 18 the purpose of the initial seizure has been accomplished. Further seizure requires a
 19 court order or new cause; the original probable cause determination is no
 20 justification.

21 *Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020) (cleaned up); *see also United States v.*
 22 *Kordosky*, No. 88-CR-52-C, 1988 WL 238041, at *7 n.14 (W.D. Wis. Sept. 12, 1988) (“Absent
 23 some compelling justification, the repeated seizure of a person on the same probable cause
 24 cannot, by any standard, be regarded as reasonable under the Fourth Amendment.”).

25 70. In the immigration context, this prohibition means that a person who immigration
 26 authorities released from custody and permitted to enter into this country on parole cannot be re-
 27 arrested “solely on the ground that he is subject to removal proceedings” and without some new,
 28 intervening cause. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff’d sub*
nom., *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). Courts have long recognized
 that permitting such re-arrests could result in “harassment by continual rearrests.” *United States v.*
Holmes, 452 F.2d 249, 261 (7th Cir. 1971).

71. DHS agents arrested and detained Petitioner at the border in September 2022 after she entered the United States, and later released her into this country with no bond requirement, and with a formal grant of parole. Petitioner checked in with ICE as instructed and diligently pursued an application for relief from removal in the form of asylum and withholding of removal.

72. DHS re-arrested Petitioner on July 9, 2025, based on nothing more than her “pending political asylum application.” Petitioner had not engaged in any conduct since her entry into this country in 2022 that made her a flight risk or danger to the community. No material change in circumstances justified Petitioner’s arrest.

73. Petitioner’s re-arrest and detention by Respondents after she had already checked in with ICE as instructed and absent any material change in circumstances is thus an unreasonable seizure in violation of the Fourth Amendment.

FOURTH CLAIM FOR RELIEF

Violation of the First and Fifth Amendments to the United States Constitution

(Right to Petition for Redress)

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

75. The First and Fifth Amendments to the United States Constitution guarantee the rights to petition for redress of grievances, which includes the right to participate as a party or witness in judicial and administrative proceedings.

76. The Constitution as a corollary prohibits systemic official action that bans or obstructs meaningful access to the courts, including the filing or presenting of legal claims. *See Christopher v. Harbury*, 536 U.S. 403 (2002).

77. Petitioner’s arrest and detention have interfered with her ability to participate in her immigration proceedings—including pursuing her applications for asylum, withholding of removal, and relief under the Convention Against Torture.

78. The government’s arrest of Petitioner therefore deprived her of her First and Fifth Amendment rights to meaningfully petition for redress of grievances.

79. Petitioner has no adequate remedy at law.

VIII. PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;

2. Issue a writ of habeas corpus ordering Respondents to immediately release

Petitioner from custody;

3. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment, the Fourth Amendment, and the First Amendment;

4. Enjoin Respondents from transferring Petitioner outside this District or deporting Petitioner pending these proceedings;

5. Enjoin Respondents from re-detaining Petitioner unless her re-detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community;

6. Award Petitioner her costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and

7. Grant such further relief as the Court deems just and proper.

Respectfully Submitted,

Dated: August 2, 2025

KEKER, VAN NEST & PETERS LLP

By: /s/ Erin E. Meyer

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