

LAWYERS' COMMITTEE FOR CIVIL RIGHTS
OF THE SAN FRANCISCO BAY AREA

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Maria Elena Ruiz Otero, as next friend on behalf
of Ismael David Caicedo Ruiz,

Petitioner-Plaintiff,

v.

Polly KAISER, Acting Field Office Director of
the San Francisco Immigration and Customs
Enforcement Office;

Todd LYONS, Acting Director of United States
Immigration and Customs Enforcement;

Kristi NOEM, Secretary of the United States

Department of Homeland Security;

Pamela BONDI, Attorney General of the United
States, acting in their official capacities;

Respondents-Defendants.

Case No.

**PETITION FOR WRIT OF HABEAS
CORPUS AND COMPLAINT**

INTRODUCTION

1
2 1. Maria Elena Ruiz Otero (“Petitioner” or “Petitioner-Plaintiff”) brings this action as
3 next friend on behalf of her son, Ismael David Caicedo-Ruiz, a 20-year-old from Colombia who
4 has applied for asylum and appears eligible for Special Immigrant Juvenile Status (“SIJS”). Ismael
5 came to the United States in November 2023 to seek asylum, and DHS released him into the
6 interior on his own recognizance, with a notice to appear in immigration court. He has provided
7 his home address to the immigration court, attended court, and does not have any criminal record.

8 2. Nothing particularly eventful had happened in Ismael’s case until Friday, August
9 1, 2025, when he became one of the latest victims in the government’s unprecedented
10 weaponization of the immigration courts to ensnare immigrants who show up for court in reliance
11 on the American promise of a fair process before a judge but are instead met with handcuffs. To
12 make matters worse, Immigration and Customs Enforcement (ICE) has since locked him away in
13 substandard conditions in a crowded holding room at 630 Sansome Street that is not designed or
14 prepared to hold people overnight and has not been systematically used for that purpose in decades,
15 following hunger strikes and a suicide that sparked public outrage over the facility’s “notorious
detention quarters.”¹

16 3. On Friday, August 1, 2025, Ismael attended his “master calendar” immigration
17 court hearing at the San Francisco Immigration Court. Government counsel orally moved to
18 dismiss his case—until recently, a very unusual motion and very unusual way to bring a motion
19 (orally and without obtaining the other side’s position or affording them time to respond before
20 court is in session). The immigration judge did not grant the motion and instead gave Ismael ten
21 days to respond to the motion. Thus, his proceedings remain pending before the immigration court.
22 A pro bono attorney entered an appearance as counsel in his immigration case and filed a
23 “Respondent’s Opposition to the Government’s Oral Motion to Dismiss,” a copy of which is
24 attached to—and incorporated into—this pleading in the instant federal case.

25 4. Upon exiting the courtroom, Ismael was suddenly arrested by ICE agents. He was
26 not told why he was being arrested, but his arrest fits with a recent DHS policy and practice of

27 ¹ Daniela Blei, *A Federal Immigration Building With a Dark Past*, Smithsonian Magazine (May
28 12, 2017), <https://www.smithsonianmag.com/history/federal-immigration-building-180963265/>.
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1 seeking to retroactively pull people (literally and figuratively) out of regular removal proceedings
2 in anticipation of beginning expedited removal proceedings, a cursory process overseen by ICE
3 agents that has few procedural or substantive protections. As noted, however, Ismael remains in
4 regular removal proceedings, and no apparent lawful basis exists for dismissing those proceedings.

5 5. Several policies have enabled Ismael's ongoing ordeal. **To end Ismael's unlawful**
6 **detention, pending ultimate relief in this case, his mother initially seeks a temporary**
7 **restraining order of release** primarily based on the third such policy described in the following
8 paragraphs. Judges in this District have issued such orders in recent days in similar circumstances.
9 *See, e.g., Garro Pinchi v. Noem*, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025) (granting
10 temporary restraining order requiring release of asylum seeker and a pre-detention bond hearing
11 before re-arrest), converted to preliminary injunction at ___ F. Supp. 3d ___, 2025 WL 2084921
12 (N.D. Cal. July 24, 2025); *Singh v. Andrews*, No. 1:25-CV-801, 2025 WL 1918679, at *10 (E.D.
13 Cal. July 11, 2025) (granting preliminary injunction under similar circumstances); *Doe v. Becerra*,
14 No. 2:25-cv-647-DJC-DMC, 2025 WL 691664, at *8 (E.D. Cal. Mar. 3, 2025) (granting temporary
15 restraining order to noncitizen detained over a month earlier); *see also Diaz v. Kaiser*, No. 3:25-
16 CV-5071, 2025 WL 1676854, 2025 WL 1676854 (N.D. Cal. June 14, 2025) (granting temporary
17 restraining order requiring pre-detention hearing before re-detention of noncitizen out of custody
18 five years); *Garcia v. Bondi*, No. 3:25-CV-5070, 2025 WL 1676855, at *3 (N.D. Cal. June 14,
19 2025) (granting temporary restraining order requiring pre-detention hearing before re-detention of
20 noncitizen out of custody six years); *Enamorado v. Kaiser*, No. 25-CV-4072-NW, 2025 WL
21 1382859, at *3 (N.D. Cal. May 12, 2025).

22 6. First, a new ICE policy abandoned, without any plausible explanation, restrictions
23 ICE had previously adopted in order to protect (and not chill) access to immigration courts. *See*
24 *Memorandum from Tae Johnson, Acting ICE Director, Civil Immigration Enforcement Actions in*
25 *or Near Courthouses* (April 27, 2021). Instead, the new policy broadly authorizes arrests at
26 immigration courthouses ("ICE Courthouse Arrest Policy"). *See* Todd M. Lyons, Acting ICE
27 Director, Policy Number 11072.4, *Civil Immigration Enforcement Actions In or Near Courthouses*
28 (May 27, 2025).

 7. Second, a new Executive Office of Immigration Review ("EOIR") policy
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1 memorandum likewise rescinded EOIR's prior limitations on immigration courthouse arrests. *See*
2 Memorandum from Sirce E. Owen, Acting Director of EOIR, OPPM 25-06, Cancellation of
3 Operating Policies and Procedures, to All of EOIR (Jan. 28, 2025) ("EOIR Courthouse Arrest
4 Memo"). The EOIR asserted that, because ICE had changed its policy regarding courthouse
5 arrests, "there is no longer a basis to maintain" the prior EOIR policy limiting immigration
6 enforcement actions in or near immigration courts. *Id.* at 1. The memo dismissed the prior policy's
7 core concern that courthouse arrests would chill the exercise of the right to seek relief in
8 immigration court, offering only the cursory assertion that this concern was "vague,"
9 "unspecified," and "contrary to logic." *Id.* The memo instead stated, with no explanation that
10 individuals with valid immigration claims have "no reason to fear any enforcement action by
11 DHS." *Id.* at 2. That unfounded statement is belied by the now all-too-common facts of the instant
12 case.

13 8. Third, ICE has abandoned its prior policy and practice of re-detaining noncitizens
14 only after a material change in circumstances. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197
15 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018)
16 (describing prior practice). ICE's new policy arrogates to itself the unilateral authority to revoke
17 release, without respect to whether anything has happened that has converted the individual into a
18 flight risk or danger to the community and without involving any neutral arbiter.

19 9. And fourth, ICE issued a blanket memorandum for every ICE Field Office, granting
20 a waiver to suspend a previous 12-hour detention limit for every hold room nationwide and
21 authorize holding people for 72 hours (or more, in the presence of unspecific extraordinary
22 circumstances). Memorandum from Monica S. Burke, Assistant Director Custody Management,
23 through Thomas Giles, Interim Assistant Director Field Operations, Nationwide Hold Room
24 Waiver (June 24, 2025). The memo advertises vaguely to ensuring "the safety, security and humane
25 treatment of those in custody in hold rooms," but says nothing about how to design or prepare such
26 rooms to accommodate systematic multi-day detention, and does not appear to even contemplate
27 the myriad ways in which "humane" multi-day detention necessarily differs from detentions of 12-
28 hours or less. It does not evince any review of whether hold rooms nationwide—let alone 630
Sansome Street's, in particular—are prepared to safely and humanely implement multi-day
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1 detention. And ICE bases this dreadfully under-planned, abrupt change on the agency's self-
2 created obligation not to release anyone in its discretion.

3 10. Immigration detention is civil, and thus is permissible for only two reasons: to
4 ensure a noncitizen's appearance at immigration hearings and to prevent danger to the community.
5 But DHS did not arrest and detain Ismael—who demonstrably poses no risk of absconding from
6 immigration proceedings nor danger to the community—for either of these reasons. Instead, as
7 part of its broader enforcement campaign, DHS detained Ismael to strip him of his procedural
8 rights, force him to forfeit his asylum and SIJS applications, and pressure him into fast-track
9 removal.

10 11. In regular removal proceedings, noncitizens have the right to pursue claims for
11 relief from removal (including asylum and SIJS), be represented by counsel, gather and present
12 evidence, and pursue appeals. 8 U.S.C. § 1229(a). By dismissing an ongoing case, DHS aims to
13 transfer a noncitizen's case from regular removal proceedings in immigration court, governed by
14 8 U.S.C. § 1229a, to cursory proceedings under 8 U.S.C. § 1225(b)(1) called "expedited removal,"
15 where the procedural protections and opportunities to pursue relief from removal built into regular
16 immigration-court proceedings do not apply. In places where immigration judges do not routinely
17 grant unsupported DHS motions to dismiss, in some cases DHS has arrested individuals,
18 transferred them to faraway detention centers, and re-filed motions to dismiss before judges who
19 are more likely to grant dismissal. At the same time, those detained respondents typically have
20 great difficulty seeking legal assistance in responding to such motions, because DHS transfers
21 them to legal deserts where available counsel is extremely limited.

22 12. Ismael's recent arrest and detention have already caused him substantial harm,
23 including the emotional trauma of a sudden custodial arrest when he had been compliant with legal
24 requirements since his entry to the United States. The psychological toll of confinement is
25 considerable, and upon information and belief, conditions at 630 Sansome Street are
26 substandard—including lack of appropriate food, clothing, hygiene, sleeping arrangements, basic
27 privacy, and access to counsel and family visitation. Every additional day of unlawful detention
28 will add to his immiseration and subject him to further irreparable harm.

13. Moreover, detention is highly prejudicial to his chance of success in his
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1 immigration proceedings. The privation of his liberty greatly complicates his ability to pursue his
2 asylum and SIJS applications and causes difficulty in communicating with counsel.

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

9 15. Ismael respectfully seeks a writ of habeas corpus ordering the government to
10 immediately release him from ongoing, unlawful detention, and prohibiting his re-arrest without a
11 hearing to contest that re-arrest before a neutral decision-maker. In addition, to preserve this
12 Court's jurisdiction, Petitioner also requests that this Court order the government not to transfer
13 Ismael outside of the District, or deport him, for the duration of this proceeding.

14 JURISDICTION AND VENUE

15 16. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal
16 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),
17 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension
18 Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706
(Administrative Procedure Act).

19 17. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
20 U.S.C. § 1391(b)(2) and (e)(1).

21 PARTIES

22 18. Maria Elena Ruiz Otero brings this action as next friend on behalf of her son, Ismael
23 David Caicedo-Ruiz. Ismael is a 20-year-old asylum seeker from Colombia with no criminal
24 history, who until August 1, 2025 had been free for nearly two years after his release on
25 recognizance at the southern border. He is currently in civil immigration detention, in a temporary
26 holding room at 630 Sansome Street in San Francisco.

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

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

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

14 22. Respondent Pamela Bondi is the Attorney General of the United States and the most
15 senior official at the Department of Justice. In that capacity and through her agents, she is
16 responsible for overseeing the implementation and enforcement of the federal immigration laws.
17 The Attorney General delegates this responsibility to the Executive Office for Immigration
18 Review, which administers the immigration courts and the BIA. Respondent Bondi is sued in her
19 official capacity.

20 EXHAUSTION

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

28 LEGAL BACKGROUND

A. The Constitution Protects Noncitizens from Arbitrary Arrest and Detention.

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

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

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

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

19 28. Second, the procedural component of the Due Process Clause prohibits the
20 government from imposing even permissible physical restraints without adequate procedural
21 safeguards.

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

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

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

12 FACTUAL ALLEGATIONS

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

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

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

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

35. In 2019, at the direction of President Trump, DHS published a Federal Register
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1 Notice authorizing the application of expedited removal to certain noncitizens arrested anywhere
2 in the country who could not affirmatively show that they had been continuously present for two
3 years. *See* Designating Aliens for Expedited Removal, 84 Fed. Reg. 35409 (July 23, 2019). The
4 District Court for the District of Columbia entered a preliminary injunction preventing the rule
5 from taking effect, which the D.C. Circuit later vacated. *Make the Rd. New York v. McAleenan*,
6 405 F. Supp. 3d 1, 11 (D.D.C. 2019), *vacated sub nom. Make the Rd. New York v. Wolf*, 962 F.3d
7 612, 618 (D.C. Cir. 2020).

8 36. In 2021, President Biden directed the DHS Secretary to review the rule expanding
9 expedited removal and consider whether it comported with legal and constitutional requirements,
10 including due process. In 2022, DHS rescinded the rule. *See* Rescission of the Notice of July 23,
11 2019, Designating Aliens for Expedited Removal, 87 Fed. Reg. 16022 (Mar. 21, 2022).

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

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

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

28 40. On January 23, 2025, the Acting Secretary of Homeland Security issued a
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1 memorandum “provid[ing] guidance regarding how to exercise enforcement discretion in
2 implementing” the new expedited-removal rule. The guidance directed federal immigration
3 officers to “consider . . . whether to apply expedited removal” to “any alien DHS is aware of who
4 is amenable to expedited removal but to whom expedited removal has not been applied.” As part
5 of that process, the guidance encourages officers to “take steps to terminate any ongoing removal
6 proceeding and/or any active parole status.”²

7 41. The government has subsequently taken other steps to expand the use of expedited
8 removal far beyond what has been seen before. In a leaked ICE memo from earlier this year, ICE
9 leadership shared its interpretation of the law such that some noncitizens encountered at the border
10 are subject to expedited removal with no time limit.

11 42. Under the administration’s expanded approach to expedited removal, hundreds of
12 thousands of noncitizens who have lived in the country for significant periods of time are at
13 imminent risk of summary removal without any hearing, meaningful process, access to counsel,
14 or judicial review—regardless of the strength of their ties to the United States.

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

17 43. Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign
18 targeting people who are in regular removal proceedings in immigration court, many of whom
19 have pending applications for asylum or other relief. This “coordinated operation” is “aimed at
20 dramatically accelerating deportations” by arresting people at the courthouse and placing them
21 into expedited removal.³

22 44. The first step of this enforcement operation typically takes place inside the
23 immigration court. When people arrive in court for their master calendar hearings, DHS attorneys

24 ² Benjamine C. Huffman, *Guidance Regarding How to Exercise Enforcement Discretion*, Dep’t
25 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)
26 [and-parole-guidance.pdf](https://www.dhs.gov/sites/default/files/2025-01/25_0123_er-and-parole-guidance.pdf).

27 ³ Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic*
28 *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>.

orally file a motion to dismiss the proceedings—without any notice to the affected individual, in violation of the EOIR Practice Manual. *See* EOIR Practice Manual 3.1(1)(A) (requiring motions to be filed at least 15 days in advance of Master Calendar Hearings). Although DHS regulations do not permit dismissal 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.

45. 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, 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.

46. 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.

47. In addition to orally moving to dismiss, DHS arranges for ICE officers to station themselves in courthouse waiting rooms, hallways, and elevator banks. When an individual exits their immigration hearing, 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.

48. 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.

49. 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

1 “[h]undreds of migrants . . . sle[eping] on the floor or sitting upright, sometimes for days.”⁴

2 50. The same is true at the San Francisco Immigration Court, where Ismael was
3 arrested. In recent months, unprecedented numbers of people have been arrested and detained after
4 attending their routine immigration hearings.⁵

5 51. DHS’s aggressive tactics at immigration courts appear to be motivated by what
6 certain members of the Administration have described as a new daily quota of 3,000 ICE arrests.⁶
7 Overall, ICE’s arrests of noncitizens with no criminal record have increased more than 800% since
8 January 2025.⁷

9 52. The new courthouse arrest and detention campaign is a sharp break from DHS’s
10 previous practices, when immigration officers avoided arrests at courthouses given the concern
11 that such enforcement actions would deter people from appearing for their proceedings and
12 complying with court orders.⁸

13 53. In fact, DHS officials previously limited ICE officers’ authority to conduct “civil
14 immigration enforcement action . . . in or near a courthouse,” permitting courthouse arrests only
15 in highly limited circumstances, such as when “it involves a national security threat,” or “there

16 ⁴ Luis Ferré-Sadurní, *Inside a Courthouse, Chaos and Tears as Trump Accelerates Deportations*,
17 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)
18 [courthouse-arrests-trump-deportation.html](https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html).

19 ⁵ Sarah Ravani, *ICE Arrests Two More at S.F. Immigration Court, Advocates Say*, S.F. Chron.,
20 June 12, 2025, [https://www.sfchronicle.com/bayarea/article/sf-immigration-court-arrests-](https://www.sfchronicle.com/bayarea/article/sf-immigration-court-arrests-20374755.php)
21 [20374755.php](https://www.sfchronicle.com/bayarea/article/sf-immigration-court-arrests-20374755.php); Margaret Kadifa & Gustavo Hernandez, *Immigrants fearful as ICE Nabs at least*
22 *15 in S.F., Including Toddler*, Mission Local, June 5, 2025, [https://missionlocal.org/2025/06/ice-](https://missionlocal.org/2025/06/ice-arrest-san-francisco-toddler/)
23 [arrest-san-francisco-toddler/](https://missionlocal.org/2025/06/ice-arrest-san-francisco-toddler/); Tomoki Chien, *Undercover ICE Agents Begin Making Arrests at*
24 *SF Immigration Court*, S.F. Standard, May 27, 2025,
25 <https://sfstandard.com/2025/05/27/undercover-ice-agents-make-arrests-san-francisco-court/>.

26 ⁶ Ted Hesson & Kristina Cooke, *ICE’s Tactics Draw Criticism as it Triples Daily Arrest Targets*,
27 Reuters, June 10, 2025, [https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-](https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/)
28 [daily-arrest-targets-2025-06-10/](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*
29 *Immigration Arrests in Courthouses Across the U.S.*, Axios, June 12, 2025,
30 <https://www.axios.com/2025/06/12/ice-courthouse-arrests-trump>.

31 ⁷ José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under*
32 *Trump*, The Guardian, June 14, 2025, [https://www.theguardian.com/us-news/2025/jun/14/ice-](https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures)
33 [arrests-migrants-trump-figures](https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures).

34 ⁸ Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE Is Seeking to Ramp Up*
35 *Deportations Through Courthouse Arrests*, N.Y. Times, May 30, 2025,
36 <https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>.

1 is an imminent risk of death, violence, or physical harm.” These limitations were necessary, DHS
2 explained, because “[e]xecuting civil immigration enforcement actions in or near a courthouse
3 may chill individuals’ access to courthouses, and, as a result, impair the fair administration of
4 justice.” The new policy includes no such limiting language.

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

9 ***C. Ismael is Unlawfully Arrested and Detained Pursuant to DHS’s New Policy.***

10 55. Ismael fled Colombia in the face of credible threats, giving rise to an asylum claim.
11 He also appears to have a viable claim to SIJS, which is a path to lawful permanent residency. He
12 has already filed a state court case requesting the necessary predicate order and has a hearing set
13 in state court for September 24, 2025. *See* Ex. A to Respondent’s Opposition to Oral Motion to
Dismiss.

14 56. When Ismael entered the United States, he turned himself into border patrol. After
15 a brief detention, he was released on his own recognizance. In releasing him, DHS determined that
16 he did not present a risk of flight or danger to the community. A DHS agent told him to show up
17 for court, and he has. He was told to give his address to EOIR, and he has. He has made no attempt
18 to abscond and has no reason to do so. He has a pending petition for asylum and a pending state
19 court case which, if granted, will allow him to apply for SIJS.

20 57. On August 1, 2025, Ismael appeared in San Francisco Immigration Court for a
21 master calendar hearing before IJ Park. He was unrepresented.

22 58. On information and belief, at the hearing, DHS counsel moved to dismiss Ismael’s
23 case, and Judge Park gave him ten days to respond to the motion. The attorney handling his SIJS
24 case filed an opposition, which is attached and incorporated by reference into this pleading.

25 59. Upon leaving the court, Ismael was surrounded by aggressive ICE agents who were
26 waiting for him in the hall. They did not explain the reason for his arrest. Upon information and
27 belief, he has been in a holding room at 630 Sansome Street since August 1, 2025.

28 60. Because Ismael has never been determined to be a flight risk nor a danger to the
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1 community, his ongoing detention is not related to either of the permissible justifications for civil
2 immigration detention. His confinement does not further any legitimate government interest.

3 ***D. As a Result of His Arrest and Detention, Ismael is Suffering Ongoing Irreparable Harm.***

4 61. Ismael is being deprived of his liberty without any permissible justification. The
5 government previously released him on his own recognizance because he did not pose sufficient
6 risk of flight or danger to the community to warrant detention.

7 62. None of that has changed. He has no criminal record, and there is no basis to believe
8 that he poses any public safety risk. He was arrested *while appearing in court for his immigration*
9 *case*, circumstances that demonstrate he is not conceivably a flight risk.

10 63. Detention has posed and will pose him irreparable harm. Even if his case is not
11 dismissed, detention will greatly complicate his ability to pursue his asylum and SIJS claims and
12 to communicate with his counsel. He is scheduled to appear in person in state court in September
13 2025 to pursue his SIJS case. Immigration proceedings aside, detention will impose a
14 compounding psychological burden, in addition to the physical hardships he has already endured
15 from his abrupt detention and from the eventual prison-like conditions of ICE detention facilities.
16 Detention deprives him of access to his family, his community, his church, and life as he knows
17 it.

17 **CLAIMS FOR RELIEF**

18 **FIRST CLAIM FOR RELIEF**

19 **Violation of Substantive Due Process**

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

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

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

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1 67. Ismael is not a flight risk or danger to the community. Respondents' detention of
2 Ismael is therefore unjustified and unlawful. Accordingly, Ismael is being detained in violation of
3 the Due Process Clause of the Fifth Amendment.

4 68. Moreover, Ismael's detention is punitive as it bears no "reasonable relation" to any
5 legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly
6 "nonpunitive in purpose and effect"). Here, the purpose of Ismael's detention appears to be "not
7 to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for
8 other reasons"—namely, to meet newly-imposed DHS quotas and transfer immigration court
9 venue away from an IJ who refused to facilitate DHS's new expedited removal scheme. *Demore*,
10 538 U.S. at 532–33 (Kennedy, J., concurring).

11 **SECOND CLAIM FOR RELIEF**

12 **Violation of Procedural Due Process**

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

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

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

1 786 (9th Cir. 2024).

2 72. Ismael's re-detention without a pre-deprivation hearing violated due process.
3 Nearly two years after deciding to release Ismael from custody on his own recognizance,
4 Respondents re-detained him with no notice, no explanation of the justification of the re-
5 detention, and no opportunity to contest his re-detention before a neutral adjudicator before being
6 taken into custody.

7 73. Ismael has a profound personal interest in his liberty. Because he received no
8 procedural protections, the risk of erroneous deprivation is high, and the government has no
9 legitimate interest in detaining him without a hearing. Bond hearings are conducted as a matter
10 of course in immigration proceedings, and nothing in Ismael's record suggests that he would
11 abscond or endanger the community before a bond hearing could be carried out. *See, e.g., Jorge*
12 *M.F. v. Wilkinson*, 2021 WL 783561, at *4 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, No.
13 20-CV-5785-PJH, 2020 WL 5074312, at *4 (N.D. Cal. Aug. 23, 2020) (finding unsubstantiated
14 "government's concern that delay in scheduling a hearing could exacerbate flight risk or danger
unsubstantiated" given, *inter alia*, strong family ties).

15 **PRAYER FOR RELIEF**

16 Petitioner respectfully requests that this Court:

- 17 1. Assume jurisdiction over this matter;
- 18 2. Issue a writ of habeas corpus ordering Respondents to immediately release Ismael
19 from custody;
- 20 3. Declare that Ismael's arrest and detention violates the Due Process Clause of the
21 Fifth Amendment;
- 22 4. Enjoin Respondents from transferring Ismael outside this District or deporting
23 Ismael pending these proceedings;
- 24 5. Enjoin Respondents from re-detaining Ismael unless his re-detention is ordered at
25 a custody hearing before a neutral arbiter in which the government bears the burden
26 of proving, by clear and convincing evidence, that he is a flight risk or danger to
27 the community;

- 1 6. Award Ismael his costs and reasonable attorneys' fees in this action as provided for
2 by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
3 7. Grant such further relief as the Court deems just and proper.

4
5 Date: August 3, 2025

Respectfully Submitted,

6 /s/ Jordan Wells

7 Jordan Wells (SBN 326491)
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15 *Attorney for Petitioner*

16 **Verification Pursuant to 28 U.S.C. § 2242**

17 I am submitting this verification on behalf of Ms. Ruiz Otero because I am her attorney in the
18 instant habeas petition. As her attorney, I hereby verify that the factual statements made in this
19 Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

20 Dated:

21 Date: August 3, 2025

Respectfully Submitted,

22 /s/ Jordan Wells

23 Jordan Wells (SBN 326491)
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