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6 **UNITED STATES DISTRICT COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**
8 **SAN FRANCISCO DIVISION**

9 PETITIONER,

10 Mayra Arcely MENDEZ,

11 v.

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

17 Respondents.
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CASE NO. _____

**PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

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2 1. Petitioner Mayra Arcely Mendez is an asylum seeker who fled gender-based
3 violence in Belize. After Petitioner arrived in the United States 2024, federal agents briefly
4 detained her, determined that she was not a flight risk or danger to the community, and released
5 her on her own recognizance with a notice to appear for removal proceedings in immigration court.
6 Since then, Petitioner has done everything the government asked her to do: She has diligently
7 attended every immigration court hearing and filed an application for asylum. She has no criminal
8 history anywhere in the world.

9 2. On August 1, 2025, Petitioner again did what the government told her to do: She
10 went to San Francisco Immigration Court for a routine hearing before Immigration Judge Joseph
11 Park, where the government orally moved to dismiss her case. On information and belief, the
12 government did so for the purpose of placing her in so-called “expedited removal” proceedings. If
13 Park did not grant the motion to dismiss. Instead, the judge gave Petitioner time to respond and set
14 a merits hearing on her asylum application for February 24, 2028.

15 3. Minutes after Petitioner exited the courtroom, Department of Homeland Security
16 (“DHS”) agents arrested her before she could leave the courthouse. Petitioner was in a serious car
17 accident about a month prior and sustained serious leg injuries. Once arrested, she was cut off from
18 the ongoing medical treatment she had been receiving for her injuries.

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

1 track removal.

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

9 6. Petitioner’s arrest and detention have caused her tremendous and ongoing harm.
10 Petitioner was in a car accident about a month ago and seriously injured. She was not wearing the
11 leg brace she needs as part of her recovery from the car accident the day she was detained. She
12 was also cut off from the regular medical treatment she was receiving to treat her injuries. Her
13 legal injury is also aggravated by cold, and she is in freezing cold conditions. She also cannot
14 effectively participate in the ongoing lawsuit against the driver who hit her. Every additional day
15 Petitioner spends in unlawful detention subjects her to further irreparable harm.

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

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

27 **JURISDICTION AND VENUE**

28 9. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal

1 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),
2 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension
3 Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706
4 (Administrative Procedure Act).

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

7 **PARTIES**

8 11. Petitioner is a 44 year old woman born in Guatemala and a Belize National. She
9 has a pending application for asylum, withholding of removal, and protection under the
10 Convention Against Torture. She is presently in civil immigration detention at 630 Sansome Street
11 in San Francisco, California.

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

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

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

28 15. Respondent Pamela Bondi is the Attorney General of the United States and the most

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

6 EXHAUSTION

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

14 LEGAL BACKGROUND

15 *A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and* 16 *Detention.*

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

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

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

1 at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

2 20. Substantive due process thus requires that all forms of civil detention—including
3 immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See Jackson v.*
4 *Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible
5 non-punitive purposes for immigration detention: ensuring a noncitizen’s appearance at
6 immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–
7 92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

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

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

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

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

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FACTUAL ALLEGATIONS

A. DHS Dramatically Expands the Scope of Expedited Removal.

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

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

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

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

29. In 2021, President Biden directed the DHS Secretary to review the rule expanding expedited removal and consider whether it comported with legal and constitutional requirements,

1 including due process. In 2022, DHS rescinded the rule. *See* Rescission of the Notice of July 23,
2 2019, Designating Aliens for Expedited Removal, 87 Fed. Reg. 16022 (Mar. 21, 2022).

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

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

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

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

27
28 ¹ Benjamine C. Huffman, *Guidance Regarding How to Exercise Enforcement Discretion*, Dep’t

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

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

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

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

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

24 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)
25 [and-parole-guidance.pdf](https://www.dhs.gov/sites/default/files/2025-01/25_0123_er-and-parole-guidance.pdf).

26 ² Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic*
27 *in Trump’s Deportation Push*, Wash. Post, May 23, 2025,
28 <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>.

1 opportunity to file a response.

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

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

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

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

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

23
24 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-](https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html)
25 [courthouse-arrests-trump-deportation.html](https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html).

26 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-](https://www.sfchronicle.com/bayarea/article/sf-immigration-court-arrests-20374755.php)
27 [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*
28 *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/)
[arrest-san-francisco-toddler/](https://missionlocal.org/2025/06/ice-arrest-san-francisco-toddler/); Tomoki Chien, *Undercover ICE Agents Begin Making Arrests at*

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

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

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

16
17 *SF Immigration Court*, S.F. Standard, May 27, 2025,
<https://sfstandard.com/2025/05/27/undercover-ice-agents-make-arrests-san-francisco-court/>.

18 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-](https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/)
19 [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*
20 *Immigration Arrests in Courthouses Across the U.S.*, Axios, June 12, 2025,
<https://www.axios.com/2025/06/12/ice-courthouse-arrests-trump>.

21 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-](https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures)
22 [arrests-migrants-trump-figures](https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures).

23 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,
24 <https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>.

25 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.

26 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
27 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
28 3.

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

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

6 47. Petitioner was born in Guatemala and is a Belizean national. She has four children.
7 She fled Belize in 2024 after suffering severe gender-based violence. She arrived in the United
8 States in January 2024. She was apprehended by immigration officials and released her on her own
9 recognizance with a notice to appear for removal proceedings in immigration court. In granting
10 her release without requiring that she pay bond or wear an ankle monitor, DHS determined that
11 she posed little if any risk of flight or danger to the community.

12 48. Petitioner thereafter moved to Redwood City, California. She diligently attended
13 all of her required check-ins at the San Francisco ICE office.

14 49. On September 25, 2024, Petitioner applied for asylum, withholding of removal,
15 relief under the Convention Against Torture.

16 50. Ever since Petitioner entered the country, she has fully complied with court and
17 supervision requirements and diligently attended all court hearings and ICE check-ins. She has no
18 criminal history.

19 51. On August 1, 2025, Petitioner appeared at San Francisco Immigration Court for a
20 master calendar hearing before IJ Park. The government made a motion to dismiss. IJ Park did not
21 rule on the motion at that hearing. Instead, the judge gave Petitioner time to respond and set a
22 merits hearing on her asylum application for February 24, 2028.

23 52. Immediately after the hearing, ICE agents arrested Petitioner and took her into
24 custody in the same building, where she remains detained.

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

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

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

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

11 56. Petitioner was in a car accident in about July 2025. She suffered serious injuries to
12 her leg. Before she was detained, she received regular medical treatment for her injuries. She also
13 wore a leg brace every day as part of her medical treatment but unfortunately did not have it on
14 the day of her hearing and currently still does not have it. Her leg injury is also aggravated by the
15 cold, and detainees at 630 Sansome Street have reported being forced to sleep on metal and without
16 blankets in freezing cold conditions for days. She is also in the process of filing a lawsuit against
17 the driver of the vehicle that hit her and cannot effectively participate in the litigation while she is
18 in immigration detention.

19
20 **CLAIMS FOR RELIEF**

21 **FIRST CLAIM FOR RELIEF**

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

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

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

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

1 the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

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

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

8 61. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation” to
9 any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly
10 “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s detention appears to be “not
11 to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for
12 other reasons”—namely, to meet newly-imposed DHS quotas and transfer immigration court
13 venue away from an IJ who refused to facilitate DHS’s new expedited removal scheme. *Demore*,
14 538 U.S. at 532–33 (Kennedy, J., concurring).

15 **SECOND CLAIM FOR RELIEF**

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

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

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

20 63. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty
21 liberty interest in avoiding re-incarceration after his release. *See Young v. Harper*, 520 U.S. 143,
22 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S.
23 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a
24 protected liberty interest in remaining out of custody following an IJ’s bond determination).

25 64. Accordingly, “[i]n the context of immigration detention, it is well-settled that due
26 process requires adequate procedural protections to ensure that the government’s asserted
27 justification for physical confinement outweighs the individual’s constitutionally protected
28 interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinerman*, 494

1 U.S. at 127 (Generally, “the Constitution requires some kind of a hearing *before* the State
2 deprives a person of liberty or property.”). In the immigration context, for such hearings to
3 comply with due process, the government must bear the burden to demonstrate, by clear and
4 convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh*
5 *v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785,
6 786 (9th Cir. 2024).

7 65. Petitioner’s re-detention without a pre-deprivation hearing violated due process.
8 Nearly two years after deciding to release Petitioner from custody on his own recognizance,
9 Respondents re-detained Petitioner with no notice, no explanation of the justification of her re-
10 detention, and no opportunity to contest her re-detention before a neutral adjudicator before being
11 taken into custody.

12 66. Petitioner has a profound personal interest in her liberty. Because she received no
13 procedural protections, the risk of erroneous deprivation is high. And the government has no
14 legitimate interest in detaining Petitioner without a hearing; bond hearings are conducted as a
15 matter of course in immigration proceedings, and nothing in Petitioner’s record suggested that
16 she would abscond or endanger the community before a bond hearing could be carried out. *See*,
17 *e.g., Jorge M.F. v. Wilkinson*, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v.*
18 *Jennings*, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) (“the government’s concern that
19 delay in scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of
20 petitioner’s strong family ties and his continued employment during the pandemic as an essential
21 agricultural worker”).

22 PRAYER FOR RELIEF

23 Petitioner respectfully requests that this Court:

- 24 1. Assume jurisdiction over this matter;
- 25 2. Issue a writ of habeas corpus ordering Respondents to immediately release
26 Petitioner from custody;
- 27 3. Declare that Petitioner’s arrest and detention violate the Due Process Clause of the
28 Fifth Amendment.

- 1 4. Enjoin Respondents from transferring Petitioner outside this District or deporting
- 2 Petitioner pending these proceedings;
- 3 5. Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered
- 4 at a custody hearing before a neutral arbiter in which the government bears the
- 5 burden of proving, by clear and convincing evidence, that Petitioner is a flight risk
- 6 or danger to the community;
- 7 6. Award Petitioner her costs and reasonable attorneys' fees in this action as provided
- 8 for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
- 9 7. Grant such further relief as the Court deems just and proper.

10
11 Date: August 1, 2025

Respectfully Submitted,

12 /s/ Jordan Weiner

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