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OF THE SAN FRANCISCO BAY AREA

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Maidel AROSTEGUI CASTELLON,

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;
Minga WOFFORD, Mesa Verde ICE Processing
Center Facility Administrator

Respondents-Defendants.

Case No.

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

INTRODUCTION

1
2 1. Maidel Arostegui Castellon (“Petitioner”) is a medically vulnerable asylum seeker
3 from Nicaragua. Days after she entered the United States in January 2022, Customs and Border
4 Patrol (“CBP”) released her into the interior to proceed with her asylum application before the San
5 Francisco Immigration Court. Until about six days ago, Petitioner was gainfully employed,
6 attending classes at a local college, and participating in her church community. She has no criminal
7 record in any country, and she attended all schedule appointments with Immigration and Customs
8 Enforcement (“ICE”) and immigration court hearings without fail. Nothing particularly eventful
9 had happened in Maidel’s immigration case until Wednesday, July 30, 2025, when she became
10 one of the latest victims in the government’s unprecedented weaponization of immigration court
11 hearings as traps for immigrants who show up in reliance on the American promise of a fair process
12 before a judge but are instead met with handcuffs.

13 2. On July 30, 2025, Maidel attended her “master calendar” hearing at the San
14 Francisco Immigration Court. Government counsel orally moved to dismiss her case—until
15 recently, a very unusual motion and very unusual way to bring a motion (orally and without
16 obtaining the noncitizen’s position or affording them time to respond before court is in session).
17 The immigration judge did not grant the motion. Instead, the immigration judge scheduled another
18 hearing for October 1, 2025, in part to give Maidel more time to find a lawyer to represent her.
19 Thus, her proceedings remain pending before the San Francisco Immigration Court.

20 3. Upon exiting the courtroom, Maidel was suddenly arrested by ICE agents. She was
21 not told why she was being arrested, but her arrest fits with a recent government policy and practice
22 of attempting to cancel noncitizens’ immigration court proceedings, arrest them at immigration
23 court hearings, place them instead in expedited removal proceedings, and detain them in long term
24 for-profit detention facilities. This is a cursory and abrupt process by design, and it is overseen by
25 ICE agents without procedural due protections. As noted, however, Maidel remains in immigration
26 court proceedings, and no apparent lawful basis exists for using expedited removal procedures
27 against her. Indeed, she is not subject to expedited removal at all, because she entered the country
28 more than two years ago and has not been subject to a determination of inadmissibility pursuant
to the expedited removal statute. *See* 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

4. By arresting and detaining Maidel, ICE also unlawfully revoked the release that Maidel has enjoyed since January 2022 without any neutral evaluation of the supposed justifications. That is unconstitutional. In recent days, this District has ordered ICE to release individuals that it arrested like Maidel, who were previously granted parole or some other form of release from immigration custody, and to not re-arrest them without first providing a pre-detention bond hearing. *See, e.g., Garcia v. Andrews*, No. 25-cv-01884-TLN, 2025 WL 1927596, at *4 (E.D. Cal. July 14, 2025) (granting preliminary injunction and ordering ICE to release recently detained individual for whom, two years prior, an immigration judge had granted bond); *Singh v. Andrews*, No. 1:25-CV-801, 2025 WL 1918679, at *10 (E.D. Cal. July 11, 2025) (granting preliminary injunction and ordering release for individual previously released from CBP custody); *Doe v. Becerra*, No. 2:25-cv-647-DJC, __ F. Supp. 3d __, 2025 WL 691664, at *8 (E.D. Cal. Mar. 3, 2025) (ordering release and a bond hearing for individual previously released on bond); *see also Garro Pinchi v. Noem*, No. 5:25-cv-05632, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025), *converted to preliminary injunction at* __ F. Supp. 3d __, 2025 WL 2084921 (N.D. Cal. July 24, 2025) (ordering ICE to free a woman previously released from CBP custody).

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

JURISDICTION AND VENUE

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

7. Venue for the instant habeas corpus petition lies in this District because it is the district with territorial jurisdiction over Respondent Minga Wofford, the Facility Administrator and *de facto* warden of the ICE contract facility at which Petitioner is currently detained. *See Rasul*

1 *v. Bush*, 542 U.S. 466, 478 (2004) (holding that “because ‘the writ of habeas corpus does not act
 2 upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be
 3 unlawful custody,’” proper federal district is dependent on the location of the custodian); *accord*
 4 *Rumsfeld v. Padilla*, 542 U.S. 426, 444-45 (2004) (holding that jurisdiction must be obtained by
 5 service within the territorial jurisdiction of the district court); *id.* at 451 (explaining petition “must
 6 be filed in the district court whose territorial jurisdiction includes the place where the custodian is
 7 located”) (Kennedy, J., concurring).

8 PARTIES

9 8. Petitioner-Plaintiff Maidel Arostegui Castellon is an asylum seeker from Nicaragua
 10 with no criminal history, who, until her re-arrest on July 30, 2025, had been free for over three
 11 years after her release on her own recognizance at the southern border. She is currently in civil
 12 immigration detention at Mesa Verde ICE Processing Center in Bakersfield, California (“Mesa
 Verde”).

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

18 10. 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 Petition.
 22 Respondent Lyons is sued in his official capacity.

23 11. 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 Petitioner. Respondent Noem is sued in her official capacity.

28 12. Respondent Pamela Bondi is the Attorney General of the United States and the most
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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 13. Respondent Minga Wofford is the Facility Administrator (and *de facto* warden) of
7 Mesa Verde. She oversees operations at Mesa Verde, where Petitioner is detained. She is an
8 employee of The GEO Group, Inc. ("GEO"), a private prison company that contracts with ICE to
9 operate Mesa Verde.

10 EXHAUSTION

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

17 LEGAL BACKGROUND

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

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

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

27 17. These protections extend to noncitizens facing detention, as "[i]n our society
28 liberty is the norm, and detention prior to trial or without trial is the carefully limited exception."

1 *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom from
 2 imprisonment—from government custody, detention, or other forms of physical restraint—lies
 3 at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

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

10 19. *Second*, the procedural component of the Due Process Clause prohibits the
 11 government from imposing even permissible physical restraints without adequate procedural
 12 safeguards.

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

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

25 22. This reasoning applies with equal if not greater force to people released from civil
 26 immigration detention at the border, like Petitioner. After all, noncitizens living in the United
 27 States have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*,
 28 533 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.*

1 *Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

2 **LEGAL BACKGROUND**

3 ***B. The Constitution Protects Noncitizens from Arbitrary Arrest and Detention.***

4 23. The Due Process Clause of the Fifth Amendment prohibits governmental
5 deprivation of life, liberty, or property without due process of law. U.S. Const. amend. V. “[T]he
6 Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether
7 their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S.
8 678, 693 (2001); *see also Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting
9 *Zadvydas*, 533 U.S. at 693). These due process rights are both substantive and procedural.

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

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

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20 immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See Jackson v.*
21 *Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible
22 non-punitive purposes for immigration detention: ensuring a noncitizen’s appearance at
23 immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–
24 92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

25 27. *Second*, the procedural component of the Due Process Clause prohibits the
26 government from imposing even permissible physical restraints without adequate procedural
27 safeguards.

28 28. Generally, “the Constitution requires some kind of a hearing *before* the State
deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). This is so

1 even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d at 683
 2 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional
 3 supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)
 4 (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

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 6 a conviction for a criminal offense for which they may lawfully have remained incarcerated has a
 7 protected liberty interest in that conditional release. *Morrissey*, 408 U.S. at 482. As the Supreme
 8 Court recognized, “[t]he parolee has relied on at least an implicit promise that parole will be
 9 revoked only if he fails to live up to the parole conditions.” *Id.* “By whatever name, the liberty is
 10 valuable and must be seen within the protection of the [Constitution].” *Id.*

11 30. This reasoning applies with equal if not greater force to people released from civil
 12 immigration detention at the border, like Petitioner. After all, noncitizens living in the United
 13 States have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*,
 14 533 U.S. at 690. And, “[g]iven the civil context [of immigration detention], [the] liberty interest
 15 [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).

16 **FACTUAL ALLEGATIONS**

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

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

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

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

5 34. In 2019, at the direction of President Trump, DHS published a Federal Register
6 Notice authorizing the application of expedited removal to certain noncitizens arrested anywhere
7 in the country who could not affirmatively show that they had been continuously present for two
8 years. *See* Designating Aliens for Expedited Removal, 84 Fed. Reg. 35409 (July 23, 2019). The
9 District Court for the District of Columbia entered a preliminary injunction preventing the rule
10 from taking effect, which the D.C. Circuit later vacated. *Make the Rd. New York v. McAleenan*,
11 405 F. Supp. 3d 1, 11 (D.D.C. 2019), *vacated sub nom. Make the Rd. New York v. Wolf*, 962 F.3d
12 612, 618 (D.C. Cir. 2020).

13 35. In 2021, President Biden directed the DHS Secretary to review the rule expanding
14 expedited removal and consider whether it comported with legal and constitutional requirements,
15 including due process. In 2022, DHS rescinded the rule. *See* Rescission of the Notice of July 23,
16 2019, Designating Aliens for Expedited Removal, 87 Fed. Reg. 16022 (Mar. 21, 2022).

17 36. While the 2019 expansion was in effect, the government applied expedited removal
18 to persons inside the country in an exceedingly small number of cases. Thus, from 1997 to 2025,
19 with limited exceptions, immigration authorities generally did not apply expedited removal to
20 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.

21 37. This state of affairs changed drastically on January 20, 2025, the day that President
22 Trump took office for his second term. That day, President Trump signed Executive Order 14159,
23 “Protecting the American People Against Invasion,” the purpose of which was “to faithfully
24 execute the immigration laws against all inadmissible and removable aliens, particularly those
25 aliens who threaten the safety or security of the American people.” Exec. Order No. 14,159 (Jan.
26 20, 2025). The order directed the Secretary of Homeland Security to take various actions “to ensure
27 the efficient and expedited removal of aliens from the United States.” *Id.*

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

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

11 40. The government has subsequently taken other steps to expand the use of expedited
 12 removal far beyond what has been seen before. In a leaked ICE memo from earlier this year, ICE
 13 leadership shared its interpretation of the law such that some noncitizens encountered at the border
 14 are subject to expedited removal with no time limit. On information and belief, ICE is applying
 15 that erroneous interpretation to Petitioner.

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

20 ***B. To Subject More People to Expedited Removal, DHS Undertakes New Campaign of***
 21 ***Courthouse Arrests and Detention.***

22 42. Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign
 23 targeting people who are in regular removal proceedings in immigration court, many of whom
 24 have pending applications for asylum or other relief. This “coordinated operation” is “aimed at
 25 dramatically accelerating deportations” by arresting people at the courthouse and placing them
 26

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

1 into expedited removal.²

2 43. The first step of this enforcement operation typically takes place inside the
3 immigration court. When people arrive in court for their master calendar hearings, DHS attorneys
4 orally file a motion to dismiss the proceedings—without any notice to the affected individual, in
5 violation of the EOIR Practice Manual. *See* EOIR Practice Manual 3.1(1)(A) (requiring motions
6 to be filed at least 15 days in advance of Master Calendar Hearings). Although DHS regulations
7 do not permit dismissal absent a showing that the “[c]ircumstances of the case have changed,” 8
8 C.F.R. § 239.2(a)(7), (c), DHS attorneys do not conduct any case-specific analysis of changed
9 circumstances before filing these motions to dismiss.

10 44. In addition to orally moving to dismiss, DHS arranges for ICE officers to station
11 themselves in courthouse waiting rooms, hallways, and elevator banks. When an individual exits
12 their immigration hearing, ICE officers—typically masked and in plainclothes—immediately
13 arrest the person and detain them. ICE officers execute these arrests regardless of how the IJ rules
14 on the government’s motion to dismiss.

15 45. Once the person has been transferred to a detention facility, the government moves
16 to place the individual in expedited removal. In cases in which the IJ did not dismiss the person’s
17 removal proceedings, DHS attorneys unilaterally transfer venue of the case to a “detained”
18 immigration court, where they renew their motions to dismiss—again with the goal of putting the
19 person in expedited removal.

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

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

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

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

48. DHS's aggressive tactics at immigration courts appear to be motivated by what certain members of the Administration have described as a new daily quota of 3,000 ICE arrests.⁵ Overall, ICE's arrests of noncitizens with no criminal record have increased more than 800% since January 2025.⁶

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

50. This campaign has been memorialized in at least three new Executive Branch policies.

51. First, a new ICE policy abandoned, without any plausible explanation, restrictions ICE had previously adopted to protect (and not chill) access to immigration courts. See Memorandum from Tae Johnson, Acting ICE Director, *Civil Immigration Enforcement Actions in or Near Courthouses* (April 27, 2021). DHS officials previously limited ICE officers' authority

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

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

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

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

1 to conduct “civil immigration enforcement action . . . in or near a courthouse,” permitting
2 courthouse arrests only in limited circumstances, such as when “it involves a national security
3 threat,” or “there is an imminent risk of death, violence, or physical harm.” These limitations
4 were necessary, DHS explained, because “[e]xecuting civil immigration enforcement actions in
5 or near a courthouse may chill individuals’ access to courthouses, and, as a result, impair the fair
6 administration of justice.” The new policy includes no such limiting language. Instead, the new
7 policy broadly authorizes arrests at immigration courthouses (“ICE Courthouse Arrest Policy”).
8 *See* Todd M. Lyons, Acting ICE Director, Policy Number 11072.4, Civil Immigration
9 Enforcement Actions In or Near Courthouses (May 27, 2025).

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

23 53. Third, ICE has abandoned its prior policy and practice of re-detaining noncitizens
24 only after a material change in circumstances. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168,
25 1197 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018)
26 (describing prior practice). ICE’s new policy arrogates to itself the unilateral authority to revoke
27 release, without respect to whether anything has happened that has converted the individual into
28 a flight risk or danger to the community and without involving any neutral arbiter.

1 ***C. Petitioner was Unlawfully Re-Arrested and Re-Detained Pursuant to New DHS Policies.***

2 54. Petitioner fled Nicaragua after facing violent political persecution. She entered the
3 United States on or about January 14, 2022. She turned herself into CBP officers near the southern
4 border and was subsequently detained by immigration officials in Eagle Pass, Texas.

5 55. On or about January 20, 2022, immigration officials released Petitioner from
6 custody on her own recognizance and served her with a Notice to Appear in San Francisco
7 Immigration Court. In releasing her, DHS determined that Petitioner did not present a risk of flight
8 or danger to the community. *See* 8 C.F.R. § 1236.1(c)(8) (“Any officer authorized to issue a
9 warrant of arrest may, in the officer’s discretion, release an alien not described in section 236(c)(1)
10 of the Act, under the conditions at section 236(a)(2) and (3) of the Act; provided that the alien
11 must demonstrate to the satisfaction of the officer that such release would not pose a danger to
12 property or persons, and that the alien is likely to appear for any future proceeding.”)

13 56. Petitioner went to live in San Francisco with family.

14 57. Petitioner attended her first immigration court hearing at the San Francisco
15 Immigration Court on or about March 10, 2022. She then submitted applications for asylum and
16 protection from removal under the Convention against Torture on or about January 10, 2023.
17 Petitioner complied with all requirements to appear in immigration court for hearings and at all
18 check-ins with ICE.

19 58. On July 30, 2025, Petitioner entered the San Francisco Immigration Court for a
20 “master calendar” hearing. As in previous hearings, Petitioner appeared unrepresented because she
21 does not have the financial means to pay for an attorney and has not found an attorney to represent
22 her on a *pro bono* basis. During the hearing, the DHS attorney orally presented a motion to dismiss
23 Petitioner’s immigration court proceedings so that she could be processed for expedited removal.
24 The immigration judge explained the motion to Petitioner and asked Petitioner whether she agreed
25 to the motion. When Petitioner said that she did not consent to the motion to dismiss, the
26 immigration judge adjourned the hearing and set the case for another “master calendar” hearing to
27 occur on October 1, 2025.

28 59. Upon exiting the court room, Petitioner was approached by ICE agents who asked
her to confirm her name. When she did, the ICE agents handcuffed her and chained her at the
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1 ankles. Petitioner asked why she was being detained, but the ICE agents did not respond.

2 60. Petitioner suffers from hypertension and early-stage diabetes. She takes at least six
3 prescription medications twice daily to manage her conditions. When Petitioner arrived at her
4 hearing on July 30, 2025, she only had on hand two of the six medications.

5 61. Petitioner also has severe anxiety. When ICE abruptly arrested her, she felt
6 paralyzed, and her body began to tremble.

7 62. The ICE agents then transported Petitioner to a short-term holding area inside the
8 ICE San Francisco Field Office located at 630 Sansome St San Francisco, CA 94111. Once there,
9 Petitioner started to feel sick. Volunteers present at the Field Office alerted ICE agents that
10 Petitioner's blood pressure was increasing to dangerous levels and that she required immediate
11 medical attention. An ICE agent took her blood pressure reading on at least two occasions after
12 the volunteers asked him to do so, and both readings indicated that Petitioner's blood pressure was
high and rising.

13 63. Following her arrest and detention at the Field Office, ICE transferred Petitioner to
14 Mesa Verde, where she is currently detained.

15 ***D. As a Result of Her Re-Arrest and Re-Detention, Petitioner is Suffering Irreparable Harm.***

16 64. Petitioner is being deprived of her liberty without any permissible justification. The
17 government previously released her on her own recognizance because she did not pose sufficient
18 risk of flight or danger to the community to warrant detention. *See* 8 C.F.R. § 1236.1(c)(8).

19 65. Nothing has materially changed since Petitioner's release from immigration
20 custody in 2022. She has no criminal record, and there is no basis to assert that she poses any
21 public safety risk. Additionally, she was arrested *while appearing in court for her immigration*
22 *case*, circumstances that demonstrate she is not conceivably a flight risk.

23 66. On information and belief, Petitioner has not been placed into expedited removal
24 procedures. The immigration judge did not grant DHS' motion to dismiss her immigration court
25 proceedings, and she has a master calendar hearing scheduled for October 10, 2025.

26 67. Detention has posed and will continue to pose irreparable harm to Petitioner.

27 68. Detention imposes a serious risk to Petitioner's health. She takes at least six
28 different daily prescription medications. When she was detained, she had less than a month's

1 supply of only two of those medications on hand. Though Mesa Verde is now providing Petitioner
2 five of the six medicines, Petitioner has still not received the sixth medication that is required to
3 be taken twice per day to maintain her blood pressure at stable levels. She also received regular
4 examinations and treatment from medical providers in San Francisco that are now out of reach.
5 Now that she is detained, Petitioner cannot seek medical assistance from the providers who have
6 detailed knowledge about her medical history and needs. Furthermore, the California Department
7 of Justice (“Cal DOJ”) recently found that at Mesa Verde, “does not acquire and review offsite
8 care and medical records in a timely manner to ensure adequate treatment.” Cal. Dept. of Justice,
9 Office of the Attorney General, Immigration Detention in California (Apr. 2025), at pp. 80,
10 <https://oag.ca.gov/system/files/media/immigration-detention-2025.pdf>. Cal DOJ also found that
11 “[d]etainees experience prolonged wait times for some out-of-facility care for health care issues.”
12 *Id.*

13 69. Petitioner’s psychological health is also harmed by her remaining detained.
14 Petitioner’s anxiety symptoms have worsened since her arrest.

15 70. By detaining Petitioner, Respondents have also jeopardized her employment.
16 Petitioner had work authorization and was employed full time in San Francisco. Her ability to earn
17 income to support herself has been disrupted, which endangers her ability to pay for basic needs
18 like medication, food, rent, and transportation.

19 71. Being detained will complicate Petitioner’s ability to pursue asylum. Since she
20 entered in 2022, Petitioner has been searching for immigration counsel to represent her in her
21 asylum proceedings. Petitioner lacks the financial resources necessary to retain private
22 immigration counsel. Now that she is detained, Petitioner cannot freely contact attorneys or
23 nonprofit organizations. At Mesa Verde, Petitioner must pay for phone calls by the minute. She
24 also lacks access to internet to research attorneys and organizations that she would ordinarily be
25 able to contact to seek representation.

26 72. Detention also deprives Petitioner of access to her family, with whom she lived in
27 San Francisco, and her church community. Instead, Petitioner is isolated within the confines of
28 prison-like conditions hours away in Bakersfield. Petitioner feels alone and afraid for her safety.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of Substantive Due Process

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

74. 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.

75. 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.*

76. 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.

77. 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 expedited removal scheme. *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

SECOND CLAIM FOR RELIEF

Violation of Procedural Due Process

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

79. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty liberty interest in avoiding re-incarceration after her initial release from DHS custody. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973);

1 *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70
2 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an
3 IJ’s bond determination).

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

13 81. Petitioner’s re-detention without a pre-deprivation hearing violated due process.
14 Over three years after deciding to release Petitioner from custody on her own recognizance,
15 Respondents re-detained her with no notice, no explanation of the justification of the re-
16 detention, and no opportunity to contest her re-detention before a neutral adjudicator before being
17 taken into custody.

18 82. Petitioner has a profound personal interest in her liberty. Because she received no
19 procedural protections, the risk of erroneous deprivation is high, and the government has no
20 legitimate interest in detaining her without a hearing. Bond hearings are conducted as a matter of
21 course in immigration proceedings, and nothing in Petitioner’s record suggests that she would
22 abscond or endanger the community before a bond hearing could be carried out.

23 **THIRD CLAIM FOR RELIEF**

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

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

27 84. The Fourth Amendment protects the right of persons present in the United States to be free
28 from unreasonable seizures by government officials.

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

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

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

86. In the immigration context, this prohibition means that a person who immigration authorities released from initial custody cannot be re-arrested “solely on the ground that he is subject to removal proceedings” and without some new, 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 rearrests could result in “harassment by continual rearrests.” *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971).

87. DHS agents arrested Petitioner in 2022 after she entered the United States, charged her with a violation of civil immigration law, and released her on his own recognizance with a notice to appear in immigration court. Petitioner appeared in immigration court as instructed, answered the charges, and diligently pursued an application for relief from removal.

88. DHS re-arrested Petitioner on July 30, 2025, based on nothing more than the 2022 civil charge of violating immigration law for which she had just appeared in court. The Immigration Judge did not grant DHS’ motion to dismiss, so her case remains pending in immigration court. Petitioner had not engaged in any conduct in the intervening time that made her a flight risk or danger to the community. No material changes in circumstances justified Petitioner’s re-arrest.

89. Petitioner's re-arrest and detention by Respondents after she had already appeared in court on his civil immigration charge 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 Administrative Procedure Act

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

91. The Administrative Procedure Act prohibits federal action that is "in excess of statutory jurisdiction, authority or limitations, or short of statutory right," 5 U.S.C. § 706(2)(C), and "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," *id.* § 706(2)(A).

92. ICE was not statutorily authorized to re-arrest Petitioner. Moreover, the decision to re-arrest her was arbitrary and capricious in that it represents a change in the agency's longstanding policy without consideration of important aspects of the issue or reasonable alternatives.

93. Petitioner's arrest and detention pursuant to the government's recent campaign is a final agency action that violates the Administrative Procedure Act. *See* 5 U.S.C. § 706(2).

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 violates the Due Process Clause of the Fifth Amendment;
4. Declare that Petitioner's arrest and detention violates the Fourth Amendment;

5. Declare that ICE's decision to arrest and detain Petitioner is arbitrary and capricious and contrary to law and vacate and set it aside.
6. Enjoin Respondents from transferring Petitioner outside this District or deporting Petitioner pending these proceedings;
7. 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 she is a flight risk or danger to the community;
8. 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
9. Grant such further relief as the Court deems just and proper.

Date: August 5, 2025

Respectfully Submitted,

/s/ Victoria Petty

LAWYERS' COMMITTEE FOR CIVIL
RIGHTS OF THE SAN FRANCISCO BAY
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Verification Pursuant to 28 U.S.C. § 2242

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

Date: August 5, 2025

Respectfully Submitted,

/s/ Victoria Petty

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