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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

PETITIONER,

**JOSE IVAR PINEDA
CAMPOS,**

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.

CASE NO. _____

**PETITION FOR WRIT OF HABEAS
CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS
CASE NO. _____

INTRODUCTION

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2 1. Petitioner Jose Ivar Pineda Campos is an asylum seeker who fled Nicaragua. After
3 Petitioner arrived in the United States in April 2024, federal agents briefly detained him,
4 determined that he was not a flight risk or danger to the community, and released him on his own
5 recognizance with a notice to appear for removal proceedings in immigration court. Since then,
6 Petitioner has done everything the government asked him to do: he has diligently attended every
7 immigration court hearing and filed an application for asylum. He has no criminal history
8 anywhere in the world.

9 2. On August 15, 2025, Petitioner again did what the government told him to do: He
10 went to San Francisco Immigration Court for a routine hearing before Immigration Judge Joseph
11 Park, where the government orally moved to dismiss his case. On information and belief, the
12 government did so for the purpose of placing him in so-called “expedited removal” proceedings.
13 IJ Park did not grant the motion to dismiss. Instead, the judge gave Petitioner time to respond and
14 set a further hearing on November 7, 2025.

15 3. Minutes after Petitioner exited the courtroom, Department of Homeland Security
16 (“DHS”) agents arrested him before he could leave the courthouse.

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

28 5. In immigration court, noncitizens have the right to pursue claims for relief from

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

7 6. Petitioner’s arrest and detention have caused him tremendous and ongoing harm.
 8 He was ripped from his life and community. He supports his two young children in Nicaragua,
 9 who rely on him. Every additional day Petitioner spends in unlawful detention subjects him to
 10 further irreparable harm.

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

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

22 JURISDICTION AND VENUE

23 9. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal
 24 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),
 25 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension
 26 Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706
 27 (Administrative Procedure Act).

28 10. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28

1 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.

2 **PARTIES**

3 11. Petitioner is a 30-year-old asylum seeker from Nicaragua. He has a pending asylum
4 application. He has no criminal history in the United States. He is presently in civil immigration
5 at 630 Sansome Street in San Francisco, California.

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

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

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

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

28 **EXHAUSTION**

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

LEGAL BACKGROUND

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

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

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

19. These protections extend to noncitizens facing detention, as “[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom 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.

20. Substantive due process thus requires that all forms of civil detention—including immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen’s appearance at 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).

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

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

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

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

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*

1 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
2 Procedures; Final Rule, 62 Fed. Reg. 10312 (Mar. 6, 1997).

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

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

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

21 29. In 2021, President Biden directed the DHS Secretary to review the rule expanding
22 expedited removal and consider whether it comported with legal and constitutional requirements,
23 including due process. In 2022, DHS rescinded the rule. *See* Rescission of the Notice of July 23,
24 2019, Designating Aliens for Expedited Removal, 87 Fed. Reg. 16022 (Mar. 21, 2022).

25 30. While the 2019 expansion was in effect, the government applied expedited removal
26 to persons inside the country in an exceedingly small number of cases. Thus, from 1997 to 2025,
27 with limited exceptions, immigration authorities generally did not apply expedited removal to
28 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.

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

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

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

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

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

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

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

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

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

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

22 39. The next step of DHS’s new campaign takes place outside the courtroom. ICE
23 officers, in consultation with DHS attorneys and officials, station themselves in courthouse waiting
24 rooms, hallways, and elevator banks. When an individual exits their immigration hearings, ICE

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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>.

officers—typically masked and in plainclothes—immediately arrest the person and detain them. ICE officers execute these arrests regardless of how the IJ rules on the government’s motion to dismiss. On information and belief, they typically do not have an arrest warrant.

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

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

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

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

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

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

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>.

1 since before January.⁶

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

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

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

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

18 47. Petitioner is an asylum seeker from Nicaragua. He fled Nicaragua in 2024 to escape
19 political persecution.

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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-arrests-migrants-trump-figures>.

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

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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.

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

1 48. He arrived in the United States in April 2024. He was apprehended by U.S.
2 immigration officials at the border and released in the United States with a Notice to Appear at
3 immigration court. In granting him release without requiring that he pay bond or wear an ankle
4 monitor, DHS determined that he posed little if any risk of flight or danger to the community.

5 49. Petitioner thereafter moved to South San Francisco, California. When DHS
6 released him, they told him to check in regularly with the local ICE office. Petitioner complied
7 with all his ICE check-ins and obligations.

8 50. In December 2024, Petitioner applied asylum, withholding of removal, and relief
9 under the Convention Against Torture. He received a work permit.

10 51. Ever since Petitioner entered the country, he has fully complied with court and
11 supervision requirements. He diligently attended all court hearings and ICE check-ins. He has no
12 criminal history.

13 52. On August 15, 2025, Petitioner appeared at San Francisco Immigration Court for a
14 master calendar hearing before IJ Park. Petitioner's attorney appeared in person. He did not have
15 an attorney. The government made a motion to dismiss. IJ Park did not rule on the motion at that
16 hearing. He reset the hearing November 7, 2025

17 53. Immediately after the hearing, ICE agents arrested Petitioner and took him into
18 custody, where he currently remains.

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

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

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

27 56. None of that has changed. Petitioner has no criminal record in the United States.
28 There is no basis to believe that he poses any public-safety risk. Nor is Petitioner, who was arrested

1 while appearing in court for his immigration case, conceivably a flight risk. To the contrary,
 2 Petitioner appeared for every immigration court hearing and supervision check-in, and he has
 3 consistently informed the court about any change in his address or other circumstances.

4 57. Petitioner has suddenly been ripped from his life and community in California. He
 5 supports his two young children in Nicaragua, and the effects of his detention will be felt by them
 6 too.

7 **CLAIMS FOR RELIEF**

8 **FIRST CLAIM FOR RELIEF**

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

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

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

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

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

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

23 62. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation” to
 24 any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly
 25 “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s detention appears to be “not
 26 to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for
 27 other reasons”—namely, to meet newly-imposed DHS quotas and transfer immigration court
 28 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 the Fifth Amendment to the United States Constitution

(Procedural Due Process—Detention)

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

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

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

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

67. Petitioner has a profound personal interest in his liberty. Because he received no procedural protections, the risk of erroneous deprivation is high. And the government has no

legitimate interest in detaining Petitioner without a hearing; bond hearings are conducted as a matter of course in immigration proceedings, and nothing in Petitioner's record suggested that he would abscond or endanger the community before a bond hearing could be carried out. *See, e.g., Jorge M.F. v. Wilkinson*, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) ("the government's concern that delay in scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of petitioner's strong family ties and his continued employment during the pandemic as an essential agricultural worker").

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

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

Date: August 15, 2025

Respectfully Submitted,

/s/ Jordan Weiner
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