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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

Alexander Mauricio MARTINEZ
HERNANDEZ,

Petitioner,

v.

TONYA ANDREWS, Facility Administrator of
Golden State Annex Detention Facility; 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. 25-703

**PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

1
2 1. Petitioner Alexander Mauricio Martinez Hernandez (“AMMH” or “Petitioner”) is a
3 32-year old asylum seeker from El Salvador. He identifies as gay. Upon entry to the United States, on
4 or about April 6, 2021, he was issued a Notice to Appear and placed in removal proceedings. The
5 Department of Homeland Security (“the Department”) detained Petitioner at Winn Correctional
6 Center in Louisiana. He applied for asylum before the Executive Office for Immigration Review
7 (“EOIR”) on August 16, 2021. On December 2, 2021, the Department released him on his own
8 recognizance, contingent on his participation in the Alternatives to Detention (“ATD”) program.
9

10 2. For nearly four years, Petitioner diligently complied with the terms of the ATD
11 program. He attended monthly phone appointments with the Intensive Supervision Appearance
12 Program (“ISAP”) while he awaited a hearing on the merits of his asylum claim at the San Francisco
13 Immigration Court. On September 6, 2023, United States Citizenship and Immigration Services
14 issued him an employment authorization document.
15

16 3. On August 5, 2025, Petitioner received a notification on the ISAP application that he
17 was required to check-in in-person the following day at the ISAP Office in San Jose, California.
18 When Petitioner attended the check-in on August 6, 2025, Immigration and Customs Enforcement
19 (“ICE”) aggressively arrested him, causing him to suffer a head injury. He was transported to St.
20 Louise Regional Hospital in Gilroy, California. After his discharge from the hospital, ICE transported
21 Petitioner to its offices at 630 Sansome Street in San Francisco. ICE then detained him at Golden
22 State Annex in McFarland, California, where he remains today. The Department has not provided
23 Petitioner an explanation as to why he was being detained, other than to say that he had “many”
24 unspecified violations.
25
26

27 4. This arrest is part of a new, nationwide Department strategy of sweeping up people
28

1 despite their compliance with the terms of their release from immigration detention. Since mid-May,
2 the Department has implemented a coordinated practice of leveraging immigration detention to strip
3 people like Petitioner of their substantive and procedural rights and pressure them into deportation.
4 Immigration detention is civil, and thus is permissible for only two reasons: to ensure a noncitizen's
5 appearance at immigration hearings and to prevent danger to the community. But the Department did
6 not arrest and detain Petitioner—who demonstrably poses no risk of absconding from immigration
7 proceedings or danger to the community—for either of these reasons. Instead, as part of its broader
8 enforcement campaign, the Department detained Petitioner to strip him of his procedural rights, force
9 him to forfeit his applications for relief, and pressure him into fast-track removal.
10

11
12 5. In immigration court, noncitizens have the right to pursue claims for relief from
13 removal (including asylum), be represented by counsel, gather and present evidence, and pursue
14 appeals. 8 U.S.C. § 1229(a). By detaining Petitioner, the Department is attempting to accelerate his
15 removal, because detained cases move more quickly than non-detained cases.
16

17 6. Detention also has the effect of limiting Petitioner's ability to communicate with his
18 attorneys, gather evidence, and prepare testimony for his asylum claim. For example, to speak to
19 Petitioner over video in detention, undersigned counsel had to make an appointment for a 30-minute
20 call more than a week ahead of time. When Petitioner calls his attorney or loved ones outside of
21 detention to request their assistance in gathering documents for his case, he is charged by the minute.
22 Given the evidentiary demands of an asylum case, Petitioner's detention has severely impaired his
23 ability to present his application for relief from removal.
24

25 7. Petitioner's arrest and detention have caused him tremendous and ongoing harm.
26 During the course of his arrest, he suffered a serious head injury that has caused him ongoing
27 headaches and temporary loss of vision. Without the ability to support himself and pay rent, he lost
28

1 his apartment, and his roommate had to move out. He also risks homophobic treatment from fellow
2 detainees, as he experienced during his prior time in immigration custody. Every additional day
3 Petitioner spends in unlawful detention subjects him to further irreparable harm.

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

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

17 JURISDICTION AND VENUE

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

24
25 11. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
26 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.

27 PARTIES

12. Petitioner is an asylum applicant from El Salvador. The Department initially detained him for several months upon his arrival in the United States, before releasing him on his own recognizance in December 2021. He has no criminal history, apart from one arrest that led to no charges. He filed for asylum on August 16, 2021 and is awaiting a hearing on the merits of that application. He is presently in civil immigration detention in Golden State Annex, in McFarland, California.

13. Respondent Tonya Andrews is the Facility Administrator of Golden State Annex, a private for-profit detention facility owned and operated by the GEO Group, Inc., that contracts with ICE to detain individuals suspected of civil immigration violations. Respondent Andrews is Petitioner's immediate physical custodian. Respondent Andrews is sued in her official capacity.

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

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

16. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate authority over the Department. In that capacity and through her agents, Respondent Noem has broad authority over and responsibility for the operation and enforcement of the immigration laws;

1 routinely transacts business in this District; and is legally responsible for pursuing any effort to detain
2 and remove the Petitioner. Respondent Noem is sued in her official capacity.

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

9 **EXHAUSTION**

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

18 **LEGAL BACKGROUND**

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

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

25 20. *First*, “[t]he touchstone of due process is protection of the individual against
26 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the
27 exercise of power without any reasonable justification in the service of a legitimate government
28

1 objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

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

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

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

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

27 25. After an initial release from custody on conditions, even a person paroled following a
28

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; *see also, e.g., Hurd*, 864 F.3d at 683 (“a person who is in fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due process before he is re-incarcerated”). 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.*

26. This reasoning applies with equal if not greater force to people previously released from civil immigration detention, 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. To Deport More People, the Department Undertakes New Campaign of Arresting People at Immigration Court and ISAP.

27. Since mid-May 2025, the Department has initiated an aggressive new enforcement campaign targeting people who are in regular removal proceedings in immigration court, many of whom have pending applications for asylum or other relief. This “coordinated operation” is “aimed at dramatically accelerating deportations” by arresting people at the courthouse or ISAP office to place

1 them in detained removal proceedings¹. The Department's detentions during this operation—on those
 2 who are attending their immigration court hearings or ISAP check-ins, as required—have the effect
 3 of punishing those who comply with the Department's own restrictions.

4
 5 28. Once the person has been transferred to a detention facility, the government places the
 6 individual in detained removal proceedings. The Department is aggressively pursuing this arrest and
 7 detention campaign at courthouses and ISAP offices throughout the country. In New York City, for
 8 example, "ICE agents have apprehended so many people showing up for routine appointments this
 9 month that the facilities" are "overcrowded," with "[h]undreds of migrants . . . sle[eping] on the floor
 10 or sitting upright, sometimes for days."²

11
 12 29. The same is true in San Francisco, where data shows ICE arrests have doubled since
 13 last year.³ This increase has resulted in overcrowding at the San Francisco ICE offices, where
 14 detainees have reported they were "not given food and had to sleep on the floor."⁴

15 30. The Department's aggressive tactics appear to be motivated by the Administration's
 16 imposition of a new daily quota of 3,000 ICE arrests.⁵ In part as a result of this campaign, ICE's
 17

18
 19 ¹ Arelis R. Hernández & Maria Sacchetti, *Immigrant arrests at courthouses signal new tactic in*
Trump's deportation push, Washington Post, May 23, 2025,

20 <https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>.

21 ² Luis Ferré-Sadurní, *Inside a Courthouse, Chaos and Tears as Trump Accelerates Deportations*,
 N.Y. Times, June 12, 2025, [https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-](https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html)
 22 [arrests-trump-deportation.html](https://www.nytimes.com/2025/06/12/nyregion/immigration-courthouse-arrests-trump-deportation.html).

23 ³ Kelly Waldron & Frankie Solinsky Duryea, *2123 lives: insides the stats and stories of those*
arrested by ICE from the S.F. area, July 30, 2025, [https://missionlocal.org/2025/07/ice-data-](https://missionlocal.org/2025/07/ice-data-immigrants-arrested-sf/)
 24 [immigrants-arrested-sf/](https://missionlocal.org/2025/07/ice-data-immigrants-arrested-sf/).

25 ⁴ George Kelly, Tomoki Chien, and Michael McLaughlin, *ICE detains mothers and children in SF,*
officials say, June 5, 2025, [https://sfstandard.com/2025/06/05/san-francisco-ice-arrests-mothers-](https://sfstandard.com/2025/06/05/san-francisco-ice-arrests-mothers-children/)
 26 [children/](https://sfstandard.com/2025/06/05/san-francisco-ice-arrests-mothers-children/).

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

1 arrests of noncitizens with no criminal record have increased more than 800% since before January.⁶

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

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

8 32. Petitioner is a gay man from El Salvador who fled that country after testifying against
9 MS-13 as a witness to the gang's murder of his friend.⁷

10 33. When Petitioner entered the United States, on or about April 6, 2021, he was placed in
11 immigration detention. While he awaited a credible fear interview, on April 29, 2021, the Department
12 issued a "Memo of Adverse Information" to the Asylum Office Director alleging that Petitioner is a
13 security risk and persecutor, adding without further explanation or evidence that he is "known MS-13
14 member." A day later, on April 30, 2021, the Asylum Office conducted a credible fear interview with
15 Petitioner, finding that he had a "credible fear of persecution" based on beatings and threats he
16 experienced by MS-13 and police in El Salvador. Notably, the officer concluded that Mr. Martinez
17 "does not appear to be subject to a bar(s) to asylum or withholding of removal." He also added that
18 Petitioner's testimony was "internally consistent and externally consistent with CBP records," as well
19 as "detailed, consistent, and plausible."
20

21 34. On August 16, 2021, Petitioner filed a Form I-589, Application for Asylum and for
22 Withholding of Removal, to the Oakdale Immigration Court in Louisiana. In his asylum application,
23
24

25
26 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>.

27 ⁷ Arélis R. Hernández and Maria Sacchetti, *Immigrant detentions soar despite Biden's campaign promises*, Associated Press, August 5, 2021, <https://apnews.com/article/joe-biden-health-immigration-coronavirus-pandemic-4d7427ff67d586a77487b7efec58e74d>.
28

1 he explains that he fears returning to El Salvador because he is gay and because of threats and
2 persecution he suffered after testifying against MS-13 gang members who murdered his friend. That
3 application remains pending.

4
5 35. On December 2, 2021, after he had spent nearly eight months in immigration custody,
6 ICE released Petitioner on his own recognizance. He was placed in the Alternatives to Detention
7 (“ATD”) program, which required him to wear an ankle monitor.

8
9 36. After leaving detention, Petitioner moved to San Jose, California. He filed a Form E-
10 33, Change of Address, with the Immigration Court. The Department’s Order of Release on
11 Recognizance required that Petitioner call ICE in San Francisco, his intended destination, upon his
12 release. Later, his ISAP supervision was moved to San Jose, at which point he was assigned monthly
13 check-ins over the SmartLink phone application.

14
15 37. Ever since Petitioner entered the country, he has fully complied with court and
16 supervision requirements. He informed the immigration court every time he changed his address, and
17 he diligently attended all court hearings and ICE check-ins. He has no criminal history in the United
18 States, apart from a single arrest that resulted in no charges.

19
20 38. On September 6, 2023, United States Citizenship and Immigration Services
21 (“USCIS”) granted Petitioner’s application for employment authorization. He has maintained
22 employment authorization ever since, and filed a renewal application on July 22, 2025, just days
23 before his detention. Throughout this time, he has worked as a warehouse worker at a beverage
24 distribution company.

25
26 39. The San Francisco Immigration Court scheduled Petitioner for a hearing on his asylum
claim on June 18, 2025. Later, the court reset this hearing to November 16, 2026.

27
28 40. In July 2025, Mr. Martinez attended his monthly ISAP telephone check-in. Then,

1 approximately two weeks later, on August 5, 2025, he received a notification that he needed to come
2 into ISAP in person the following day. No explanation was provided for this change. Because he had
3 such little notice, Petitioner's work schedule was disrupted, and his attorney was unable to
4 accompany him to the appointment.

5
6 41. Nonetheless, on the morning of August 6, 2025, Petitioner appeared as directed for his
7 ISAP check-in. There, without presenting a warrant, ICE officers detained him. When Petitioner
8 asked why he was being detained, ICE officers responded that he had "many violations," but did not
9 specify what they were. Then, they aggressively detained him, causing a head injury.

10
11 42. That same day, attorney Martha Ruch ("Ms. Ruch") received a message from
12 Petitioner's friend informing her that Petitioner had not yet come out of his ISAP appointment. When
13 Ms. Ruch inquired with ICE about Petitioner's whereabouts, Supervising Detention and Deportation
14 Officer Douglas Plummer ("SDDO Plummer") informed her that Petitioner had been detained. He
15 also told Ms. Ruch that Petitioner had suffered a head injury and was being transported to the
16 hospital.

17
18 43. After he left the hospital, Petitioner was transported to the San Francisco ICE offices
19 at 630 Sansome Street in San Francisco. Thereafter, the Department transferred him to Golden State
20 Annex, where he remains detained.

21
22 44. In detention, as a result of his injury, Petitioner has continued to experience
23 headaches, nausea, as well as temporary loss of vision several times a day.

24
25 45. On August 7, 2025, the Department filed a change of address and Motion to Change
26 Venue at the San Francisco Immigration Court, citing Petitioner's detention, and indicating that the
27 appropriate venue would be the detained court at Golden State Annex. Petitioner's hearing was
28 subsequently transferred to the Adelanto Detained Immigration Court, with a master calendar hearing

1 scheduled for August 25, 2025.

2 46. Petitioner has never been determined to be a flight risk or danger to the community;
3 thus, his ongoing detention is not related to either of the permissible justifications for civil
4 immigration litigation. Because his detention does not further any legitimate government interest, it
5 can only be understood as the result of a change in government policy that sets a quota for daily ICE
6 arrests.
7

8
9 ***C. As a Result of His Arrest and Detention, Petitioner is Suffering Ongoing and Irreparable Harm.***

10 47. Petitioner is being deprived of his liberty without any permissible justification. The
11 Department previously released him on his own recognizance because it assessed that he did not pose
12 sufficient risk of flight or danger to the community to warrant detention.
13

14 48. None of that has changed. Petitioner has never been charged with or convicted of a
15 crime, and there is no basis to believe that he poses any public-safety risk. Nor is Petitioner, who was
16 arrested *while appearing at a check-in for his immigration case*, conceivably a flight risk. To the
17 contrary, Petitioner appeared for every immigration court hearing and supervision check-in, and he
18 has consistently informed the court about any change in his address or other circumstances.
19

20 49. Meanwhile, Petitioner continues to suffer from headaches, nausea, and temporary loss
21 of vision as a result of the head injury he suffered during his arrest, which has affected his ability to
22 sleep. In detention, he risks the same racist and homophobic abuse that he suffered during his initial
23 time in detention in Louisiana. He has lost his apartment, because without his portion of rent, his
24 roommate could no longer afford to live there and had to move out. He also risks losing his job if he
25 is unable to return to work. ///

26
27 **CLAIMS FOR RELIEF**
28

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process—Detention)

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

51. 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.

52. 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.*

53. Petitioner is not a flight risk or danger to the community, as evidenced by the Department’s decision to release him from detention in December 2021. In the time since, Mr. Martinez has proven that decision be a wise one: he has dutifully attended his immigration hearings and ICE check-ins, and has never been charged with or convicted of a crime. Respondents’ re-detention of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in violation of the Due Process Clause of the Fifth Amendment.

54. 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 Department quotas and transfer immigration court venue

away from an IJ who refused to facilitate Department's new scheme of unconstitutional detention.
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)

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

56. 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).

57. 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).

58. Petitioner’s re-detention without a pre-deprivation hearing violated due process. Nearly four years after deciding to release Petitioner from custody on his own recognizance,

1 Respondents re-detained Petitioner with no notice, no explanation, and no opportunity to contest his
2 re-detention before a neutral adjudicator before being taken into custody.

3 59. Petitioner has a profound personal interest in his liberty. Because he received no
4 procedural protections, the risk of erroneous deprivation is high. And the government has no
5 legitimate interest in detaining Petitioner without a hearing; bond hearings are conducted as a matter
6 of course in immigration proceedings, and nothing in Petitioner's record suggested that he would
7 abscond or endanger the community before a bond hearing could be carried out. *See, e.g., Jorge*
8 *M.F. v. Wilkinson*, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020 WL
9 5074312, at *3 (N.D. Cal. Aug. 23, 2020) ("the government's concern that delay in scheduling a
10 hearing could exacerbate flight risk or danger is unsubstantiated in light of petitioner's strong
11 family ties and his continued employment during the pandemic as an essential agricultural
12 worker").
13
14

15 **PRAYER FOR RELIEF**

16 Petitioner respectfully requests that this Court:

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

- 3 6. Award Petitioner his costs and reasonable attorneys' fees in this action as provided for
4 by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
5
6 7. Grant such further relief as the Court deems just and proper.

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8 Date: August 15, 2025

Respectfully Submitted,

9
10 /s/ Kate Lewis
11 Kate Lewis (SBN 327952)
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14 1861 Bay Road
15 East Palo Alto, CA 94303
16 Telephone: (650) 326-6440

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Attorneys for Petitioner