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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

Marianela LEON ESPINOZA; Mayra MENDEZ; Lorgia BOLAINEZ DIAZ; Yury VASQUEZ PEREZ; Ammy VARGAS BAQUEDANO; Mariela RAMOS,

Petitioners-Plaintiffs,

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. In this dizzying moment in our Nation's history—as uniformed troops patrol the capital during peacetime and ununiformed, masked agents stalk immigration courthouses—many justifiably wonder whether, in the words of John Adams, if we will long have a "government of laws, not of men." The federal courts—and particularly the ancient writ of habeas corpus, stand as a bulwark against lawlessness. This Petition challenges the unconstitutional and *ultra vires* detention of six women that Immigration and Customs Enforcement ("ICE") is detaining at Mesa Verde ICE Processing Center. One woman is pregnant and receiving no pre-natal care. Another was breastfeeding and is now suffering from untreated clogged milk ducts. Almost all are mothers who desperately miss their children.

2. All six women's re-arrests follow a pattern that has become all too familiar to this Court. After they entered the United States, immigration authorities elected to release them on their own recognizance, a form of conditional parole. They have no criminal history, have complied with requirements to check in with ICE, and have attended their immigration court hearings. Then, with no notice, they all fell prey to ICE's new practice of seeking unnoticed dismissal of immigration court proceedings and immediately arresting them under the auspices of purported mandatory detention and expedited removal authority.

3. This Court has repeatedly enjoined the government from continuing to detain people arrested in circumstances like these. *See, e.g.*, *Salazar v. Kaiser*, No. 1:25-CV-01017-JLT-SAB, 2025 WL 2456232, at *10-11 (E.D. Cal. Aug. 26, 2025) (granting preliminary injunction and ordering ICE to stop detaining a petitioner who was released on her own recognizance after entering the United States without inspection); *Singh v. Andrews*, No. 1:25-CV-801, 2025 WL 1918679, at *10 (E.D. Cal. July 11, 2025) (same); *Hernandez v. Wofford*, No. 1:25-CV-00986-KES-CDB, 2025 WL 2420390, at *4-6 (E.D. Cal. Aug. 21, 2025) (ordering temporary restraining order); *Doe v. Becerra*, No. 2:25-cv-647-DJC, __ F. Supp. 3d __, 2025 WL 691664, at *8 (E.D. Cal. Mar. 3, 2025); *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). As the unconstitutional conduct persists, so too does the unrelenting influx of individual

petitions for writs of habeas corpus filed in district courts.

4. ICE officers swear an oath to uphold the Constitution, yet the agency's campaign of lawless arrests continues unabated in the face of court decision after court decision releasing the individuals ICE has baselessly arrested—burdening both courts and civil legal service providers. [1] ICE's impunity has led to countless calls flooding the phone lines of legal service providers. Petitioners are represented *pro bono* by the Lawyers' Committee for Civil Rights of San Francisco Bay Area, a small nonprofit with only two attorneys engaged in habeas work. Filing individual petitions for each person subject to ICE's unconstitutional practice has become unmanageable for undersigned counsel and other providers. Petitioners therefore file their petition and forthcoming motion for temporary restraining order jointly in service of not only swift justice but also judicial economy.

5. Petitioners respectfully seek a writ of habeas corpus ordering Respondents to immediately release them from ongoing, unlawful detention, and prohibiting their re-arrest without a hearing to contest that re-arrest before a neutral decision-maker. In addition, to preserve this Court's jurisdiction and practically ensure timely compliance with all court orders, Petitioners also request that this Court order Respondents not to transfer Petitioners outside of this District, or deport them, for the duration of this proceeding.

PARTIES

Plaintiffs

6. Petitioner-Plaintiff Marianela Leon Espinoza ("Marianela") is a 24-year-old asylum seeker from Peru. When Marianela entered the United States in July 2022, she was detained at a facility near the border for about 15 days. On or about July 11, 2022, the Department of Homeland Security ("DHS") issued her a Notice to Appear in immigration court, where she could present her asylum application, and released on her own recognizance into the interior of the country. Before her re-arrest, Marianela lived in Oakland, California. She has no criminal

[1] Even before this lawless campaign of arrests by ICE, the Eastern District was carrying "mind-boggling" caseloads. *Hearing on the Need for New Lower Court Judgeships, 30 Years in the Making Before the Subcomm. on Cts., Intell. Prop., & the Internet of the H. Comm. on the Judiciary*, 117th Cong. 3 (2021) (statement of Kimberly J. Mueller, Chief Judge, United States District Court for the Eastern District of California).

history and has attended all immigration court hearings. On or about July 18, 2025, Marianela appeared for a Master Calendar Hearing before the San Francisco Immigration Court, after which she was re-arrested by ICE. She is currently detained at Mesa Verde ICE Processing Center in Bakersfield, California ("Mesa Verde"). Marianela is approximately two months pregnant. Marianela's immigration court proceedings remain ongoing, and she has an "individual" hearing to consider the merits of her asylum claim scheduled for October 20, 2025.

7. Petitioner-Plaintiff Mayra Mendez ("Mayra") is a 44-year-old asylum seeker who is a citizen of Belize that was born in Guatemala. When Mayra entered the United States on or about July 8, 2024, she was detained at a facility near the border for about 24 hours. DHS issued her a Notice to Appear in immigration court, where she could present her asylum application, and released her on her own recognizance. Before ICE re-arrested her, Mayra was living in Redwood City, California providing caretaking services to elderly people. She has no criminal history and has attended all immigration court hearings. On or about August 1, 2025, ICE re-arrested Mayra after her Master Calendar Hearing before the San Francisco Immigration Court. She is currently in civil immigration detention at Mesa Verde. Mayra's immigration court proceedings remain ongoing, and she has a Master Calendar Hearing scheduled for September 22, 2025.

8. Petitioner-Plaintiff Lorgia Bolainez Diaz ("Lorgia") is a 43-year-old asylum seeker from Nicaragua. When Lorgia entered the United States on or about March 19, 2024, she was detained for over a week at a facility near the border. Immigration authorities originally issued an expedited removal order to Lorgia, but she expressed a fear of return to Nicaragua and explained that she was seeking asylum. Lorgia then had a credible fear interview before an asylum officer, but the officer incorrectly asked Lorgia questions about her fear of return to Mexico. Because of this error, the immigration judge vacated Lorgia's expedited removal order. On or about March 29, 2024, DHS issued Lorgia a Notice to Appear in immigration court, where she could pursue her asylum application, and released her on her own recognizance. She has no criminal history and has attended all immigration court hearings. Before ICE re-arrested Lorgia, she was living in Fresno, California. On or about August 6, 2025, Lorgia appeared as required to a scheduled check-in appointment at ICE's Field Office in Fresno, where she was re-arrested.

She is currently in civil immigration detention at Mesa Verde. Lorgia's immigration court proceedings remain ongoing, and she has a Master Calendar Hearing scheduled for September 2, 2025.

9. Petitioner-Plaintiff Yury Vasquez Perez ("Yury") is a 19-year-old asylum seeker from Guatemala. When she entered the United States on or about January 29, 2024, she was detained for about three days at a facility near the border. On or about February 1, 2024, Yury was issued a Notice to Appear in immigration court, where she could pursue her asylum application from within the interior of the country, and she was released on her own recognizance. Before ICE re-arrested her, Yury was living in Eugene, Oregon. She has no criminal history and has attended all immigration court hearings. On or about June 3, 2025, ICE re-arrested Yury at a scheduled check-in appointment at the ICE Field Office in Eugene, Oregon. She has no criminal history, has appeared at all immigration check-ins, and is currently in civil immigration detention at Mesa Verde. Yury's immigration court proceedings remain ongoing, and she has a Master Calendar Hearing set for September 11, 2025.

10. Petitioner-Plaintiff Ammy Vargas Baquedano ("Ammy") is a 32-year-old asylum seeker from Nicaragua. When she entered the United States on or about April 12, 2022, Ammy was detained for about two days at a facility near the border. On or about April 14, 2022, Ammy was issued a Notice to Appear in immigration court, where she could pursue her asylum application, and released on her own recognizance. Before ICE re-arrested her, Ammy was living in San Francisco, California. She has no criminal history and has attended all immigration court hearings. On or about June 30, 2025, ICE re-arrested Ammy after her Master Calendar Hearing at the San Francisco Immigration Court. Ammy is now detained at Mesa Verde. Ammy's immigration court proceedings remain ongoing, and she has a Master Calendar Hearing set for September 8, 2025.

11. Petitioner Plaintiff Mariela Ramos ("Mariela") is a 44-year-old asylum seeker from Guatemala. When Mariela entered the United States on or about November 22, 2024, she was detained at a facility near the border for about 24 hours. On or about November 23, 2024, DHS released Mariela on her own recognizance. Mariela cannot read or write in any language, and she struggles to remember events in the past. To her knowledge, she has not missed any

required check-in with ICE. She also attended all immigration court hearings, to her knowledge. On or about July 27, 2025, an ICE officer knocked on Mariela's door at her home address and asked her to state her name. When she did, the officer placed her in handcuffs and carried her away. Mariela is now detained at Mesa Verde. Her immigration court proceedings remain ongoing, and she has a Master Calendar Hearing set for September 8, 2025.

Respondents-Defendants

12. 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 Petitioners' detention. Respondent Kaiser is sued in her official capacity.

13. 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 Petitioners. Respondent Lyons is sued in his official capacity.

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

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

16. Respondent Minga Wofford is the Facility Administrator (and *de facto* warden) of Mesa Verde. She oversees operations at Mesa Verde, where Petitioners are detained. She is an

employee of The GEO Group, Inc. ("GEO"), a private prison company that contracts with ICE to operate Mesa Verde.

JURISDICTION AND VENUE

17. 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).

18. 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 Petitioners are currently detained. *See Rasul v. Bush*, 542 U.S. 466, 478 (2004) (holding that "because 'the writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody,'" proper federal district is dependent on the location of the custodian); *accord Rumsfeld v. Padilla*, 542 U.S. 426, 444-45 (2004) (holding that jurisdiction must be obtained by service within the territorial jurisdiction of the district court); *id.* at 451 (explaining petition "must be filed in the district court whose territorial jurisdiction includes the place where the custodian is located") (Kennedy, J., concurring).

EXHAUSTION

19. There is no requirement to exhaust, because no other forum exists in which Petitioners 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 Petitioners will "suffer irreparable harm if unable to secure immediate judicial consideration of [her] claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Any further exhaustion requirements would be unreasonable.

LEGAL BACKGROUND

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

20. 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.

21. *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).

22. 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.

23. 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).

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

25. Generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon 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).

26. 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*, 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.*

27. This reasoning applies with equal if not greater force to people released from civil immigration detention at the border, like Petitioners. After all, noncitizens living in the United States 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.

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

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

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

31. In 2019, at the direction of President Trump, DHS published a Federal Register Notice authorizing the application of expedited removal to certain noncitizens arrested anywhere

in the country who could not affirmatively show that they had been continuously present for two years. *See* Designating Aliens for Expedited Removal, 84 Fed. Reg. 35409 (July 23, 2019). The District Court for the District of Columbia entered a preliminary injunction preventing the rule from taking effect, which the D.C. Circuit later vacated. *Make the Rd. New York v. McAleenan*, 405 F. Supp. 3d 1, 11 (D.D.C. 2019), *vacated sub nom. Make the Rd. New York v. Wolf*, 962 F.3d 612, 618 (D.C. Cir. 2020).

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

33. While the 2019 expansion was in effect, DHS applied expedited removal to persons inside the country in a small number of cases. Thus, from 1997 to 2025, with limited exceptions, immigration authorities generally did not apply expedited removal to 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.

34. 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 (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.*

35. 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).

36. 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."[2]

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

38. Under the administration's expanded approach to expedited removal, hundreds of thousands of noncitizens who have lived in the country for significant periods of time 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 Subject More People to Expedited Removal, DHS Undertakes New Campaign of Courthouse Arrests and Detention.

39. Since mid-May 2025, DHS 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 and placing them into expedited removal.[3]

40. The first step of this enforcement operation typically takes place inside the immigration court. When people arrive in court for their master calendar hearings, DHS attorneys orally file a motion to dismiss the proceedings—without any notice to the affected individual, in

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[2] 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.

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

violation of the EOIR Practice Manual. *See* EOIR Practice Manual 3.1(1)(A) (requiring motions to be filed at least 15 days in advance of Master Calendar Hearings). Although DHS regulations do not permit dismissal absent a showing that the "[c]ircumstances of the case have changed," 8 C.F.R. § 239.2(a)(7), (c), DHS attorneys do not conduct any case-specific analysis of changed circumstances before filing these motions to dismiss.

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

42. Once the person has been transferred to a detention facility, the government moves to place 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.

43. 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."[4]

44. 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.[5]

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[4] 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.

[5] 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/.

45. 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.[6] Overall, ICE's arrests of noncitizens with no criminal record have increased more than 800% since January 2025.[7]

46. 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.[8]

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

48. 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 to conduct "civil immigration enforcement action . . . in or near a courthouse," permitting courthouse arrests only in limited circumstances, such as when "it involves a national security threat," or "there is an imminent risk of death, violence, or physical harm." These limitations were necessary, DHS explained, because "[e]xecuting civil immigration enforcement actions in or near a courthouse may chill individuals' access to courthouses, and, as a result, impair the fair administration of justice." The new policy includes no such limiting language. Instead, the new policy broadly authorizes arrests at immigration courthouses ("ICE Courthouse Arrest Policy").

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[6] 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.

[7] 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.

[8] 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.

See Todd M. Lyons, Acting ICE Director, Policy Number 11072.4, Civil Immigration Enforcement Actions In or Near Courthouses (May 27, 2025).

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

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

C. Petitioners Were Unlawfully Re-Arrested and Re-Detained Pursuant to New DHS Policies.

Petitioner-Plaintiff Marianela Leon Espinoza

51. In 2022, Marianela left her home in Peru due to threats to her life and physical abuse. She entered the United States sometime in early July 2022. As soon as she encountered Border Patrol officers, she submitted to them peaceably.

52. Border Patrol agents detained her at a facility near Tucson, Arizona for about fifteen days. Marianela was never given a removal order or told that she was subject to removal.

53. Border Patrol agents then informed Marianela that she would be released and issued her a Notice to Appear in immigration court. In granting her release, DHS determined that she posed no risk of flight or danger to the community. *See* 8 C.F.R. § 1236.1(c)(8) ("Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien not described in section 236(c)(1) of the Act, under the conditions at section 236(a)(2) and (3) of the Act; provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.").

54. The agents also told Marianela that she could proceed with her asylum application in immigration court and told her to notify the court if she ever changed addresses.

55. Marianela then traveled to San Francisco, California to live with family and start her asylum case.

56. Mariela also diligently applied for employment authorization with the United States Citizenship and Immigration Services ("USCIS") so that she could legally work. USCIS issued her an employment authorization card on or about February 15, 2024. Marianela began working almost immediately at a local restaurant. She then moved to Oakland to be closer to work.

57. At the same time as she was working and proceeding with her immigration case, Marianela fell in love with a man in the Bay Area, and they conceived a child. The news of her pregnancy brought Marianela and her partner immeasurable joy, but that joy was followed by tragedy when Marianela suffered a miscarriage.

58. About three months ago, Marianela became pregnant again. Her medical team advised her that this pregnancy would be monitored and cared for as high-risk due to her prior miscarriage. She was advised to maintain a particular diet, take supplements, and limit stress and physical activity.

59. On July 18, 2025, Marianela appeared as she always had for her scheduled hearing before the San Francisco Immigration Court. The hearing was confusing for Marianela, and she struggled to understand exactly what was going on. However, once the IJ concluded the hearing and she exited the courtroom, the situation became terrifyingly clear. There were ICE agents in the hallway waiting for her. They called her name, and with a clenching feeling in her heart, she

allowed them to arrest her. The agents told her that her case had been "closed."

60. After detaining her for some time at the ICE offices in San Francisco, ICE transferred Marianela to Mesa Verde, where she remains detained.

61. Marianela's immigration court proceedings remain ongoing, and she has an "individual" hearing to consider the merits of her asylum claim scheduled for October 20, 2025.

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

Petitioner-Plaintiff Mayra Mendez

63. Mayra is a 44-year-old mother of four children who fled gender-based violence in Belize. She entered the United States on or about January 9, 2024. After arriving in the United States, she was briefly detained by immigration agents for less than twenty-four hours.

64. Immigration agents released Mayra on her own recognizance to proceed with her asylum application. DHS did not fit Mayra with an ankle monitor, nor was she required to pay a bond. In granting her release, DHS determined that she posed no risk of flight or danger to the community. *See* 8 C.F.R. § 1236.1(c)(8) ("Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien not described in section 236(c)(1) of the Act, under the conditions at section 236(a)(2) and (3) of the Act; provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.").

65. After her release, Mayra went to live in Redwood City, California with family. There, she took care of elderly people who needed daytime support.

66. On September 25, 2024, Petitioner applied for asylum, withholding of removal, and relief under the Convention Against Torture. Mayra attended her first immigration court hearing at the San Francisco Immigration Court on or about January 31, 2025.

67. On August 1, 2025, Petitioner again did what the government told her to do: she appeared at San Francisco Immigration Court for a hearing before Immigration Judge ("IJ") Park. DHS made an oral motion to dismiss without having provided any prior notice to Mayra. The

purpose of this motion was to place Mayra in expedited removal. IJ Park did not rule on the motion at that hearing. Instead, the IJ gave Mayra additional time to respond and set a hearing for the merits on her asylum application for February 24, 2028.

68. Immediately after the hearing, Mayra exited the courtroom only to see ICE agents waiting in the hallway. The ICE agents approached her, asked her to confirm her name, and then arrested Mayra. The ICE agents transported Petitioner to a short-term holding area inside the ICE San Francisco Field Office located at 630 Sansome St San Francisco, CA 94111.

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

70. Mayra now has a "master calendar" hearing on September 22, 2025.

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

Petitioner-Plaintiff Lorgia Bolainez Diaz

72. Lorgia fled her country of origin, Nicaragua, to seek asylum in the United States in early 2024. She entered the United States on or about March 19, 2024 and was detained for approximately ten days in a Texas Border Patrol detention center.

73. While detained in Texas, Lorgia was designated for expedited removal and issued a removal order. She expressed a fear of removal to Nicaragua and was afforded a credible fear interview ("CFI") as required by statute. *See* 8 U.S.C. 1225(b)(1)(A)(ii). During her CFI, Lorgia was confused because the asylum officer was only asking her questions about Mexico, not Nicaragua.

74. Due to the CFI's defectiveness, an IJ in Texas vacated the erroneous removal order that DHS had imposed on Lorgia and directed DHS to place her in immigration court proceedings.

75. On or about March 29, 2024, immigration agents released Lorgia and issued her a Notice to Appear in Immigration Court. In granting her release, DHS determined that she posed little if any risk of flight or danger to the community. *See* 8 C.F.R. § 1236.1(c)(8) ("Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien not described in section 236(c)(1) of the Act, under the conditions at section 236(a)(2) and (3) of the

Act; provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding."). The agents fitted Lorgia with an ankle monitor, which ICE then removed shortly after her release.

76. Lorgia went to live in Fresno, CA, where she resided with her partner.

77. Lorgia timely applied for asylum and DHS took her "biometrics" during a scheduled appointment. Before she was detained, Lorgia had not yet been scheduled for an immigration court hearing to her knowledge. Since entering the country, Lorgia has fully complied with supervision requirements and diligently attended all ICE check-ins. She has no criminal history.

78. On August 6, 2025, Lorgia reported to the ICE office in Fresno for her routine check-in with the agency, as she had done before. However, unlike previous check-ins, Lorgia was then re-arrested by ICE agents.

79. ICE transferred Lorgia to Mesa Verde, where she is currently detained.

80. Lorgia has a master calendar hearing scheduled on September 2, 2025.

Petitioner-Plaintiff Yury Vasquez Perez

81. Yury left Guatemala due to seek safety in the United States. She entered the United States on or about January 29, 2024. Upon information and belief, she was detained for about three days in Texas at a Border Patrol facility. To her knowledge, Yury was not served with a removal order.

82. On or about February 1, 2024, DHS released Yury on her own recognizance. In granting her release, DHS determined that she posed little if any risk of flight or danger to the community. *See* 8 C.F.R. § 1236.1(c)(8) ("Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien not described in section 236(c)(1) of the Act, under the conditions at section 236(a)(2) and (3) of the Act; provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.").

83. Yury was reporting to the ISAP office in Eugene, Oregon regularly as required. Since entering the country, Yury has fully complied with supervision requirements and diligently

attended all ICE check-ins. She has no criminal history.

84. On June 3, 2025, Yury was re-arrested by ICE agents at the ICE Field Office in Eugene, Oregon while reporting for her in-person ICE check-in.

85. ICE transferred Yury to Mesa Verde, where she is currently detained.

86. Yury has had two hearings in immigration court while at Mesa Verde. Her next hearing is scheduled for September 11, 2025.

Petitioner-Plaintiff Ammy Vargas Baquedano

87. Ammy left her home in Nicaragua because life became intolerably dangerous for her. She fled to the United States and arrived in the country on or about April 12, 2022. DHS did not issue her an expedited removal order. Instead, two days later on or about April 14, 2022, issued Ammy a Notice to Appear in immigration court. DHS released her own her own recognizance. DHS also enrolled Ammy in an "Alternatives to Detention" program which subjected her to certain monitoring requirements.

88. In granting her release, DHS determined that she posed little if any risk of flight or danger to the community. *See* 8 C.F.R. § 1236.1(c)(8) ("Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien not described in section 236(c)(1) of the Act, under the conditions at section 236(a)(2) and (3) of the Act; provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.").

89. After her release from custody near the border, Ammy set out to create stability in herself in California. She moved in with family members and started a romantic relationship.

90. Nearly two years after she arrived in the United States, Ammy became pregnant and had a baby. She received prenatal and postnatal care with local medical providers, and she proudly elected to breastfeed her baby.

91. To the best of her knowledge, Ammy complied with all monitoring requirements and appeared as mandated to all check-ins with ICE and immigration court proceedings. She has no criminal history.

92. On or about June 30, 2025, Ammy attended her master calendar hearing at San Francisco Immigration Court as required. Though Ammy did not know she would be detained for

sure, she had heard that ICE was re-detaining people at their immigration hearings. Despite suspecting the likelihood of her detention, Ammy appeared because she wanted to comply with the law. During the hearing, the DHS attorney made an unnoticed motion to dismiss the case to place Ammy in expedited removal. The IJ did not grant the motion, and instead, re-calendared the case for another hearing, in part, to allow Ammy for time to find a lawyer that would help her respond to the motion to dismiss. Regardless, when Ammy exited the courtroom, ICE agents were there waiting for her. She was immediately arrested.

93. ICE transferred Ammy to Mesa Verde, where she is currently detained.

94. Ammy has had at least one hearing in immigration court while she has been detained. Her next Master Calendar Hearing is scheduled for September 8, 2025.

Petitioner-Plaintiff Mariela Ramos

95. Mariela Ramos fled Guatemala to protect herself and her son from violence directed at them. Believing the United States to be a place of safe refuge, they arrived on or about November 22, 2024. They turned themselves over to Border Patrol agents and were detained at a facility near the border.

96. Mariela cannot read or write in any language, so she is not certain about the meaning of any documents that were provided to her at border facility. She does not remember anyone telling her that she might be deported or subject to expedited removal.

97. What she does recall is that about one day after she arrived at the facility, on or about November 23, 2024, she was released with her son. She was fitted with an ankle monitor that she wore for about two months. Then at a scheduled check-in, ICE removed the ankle monitor and replaced it with a watch that she wore on her wrists. Mariela was told that every morning at 9:00 a.m. PST, she was to photograph herself with the wristwatch. To her knowledge, she never failed to comply with the photograph appearance requirement. She was also issued a Notice to Appear before the Concord Immigration Court.

98. After her release, Mariela and her son went to live with a family friend in Richmond, California.

99. On or about July 27, 2025, Mariela was at her residence, the same address that she had provided to DHS. Some time that day, officers arrived and knocked at the door. They said they

had come for "Mariela Ramos." Mariela took a deep breath before opening the front door and surrendering to the officers. To this day, she has no idea why she was arrested.

100. Following her arrest, ICE detained Mariela at Mesa Verde, where she remains to this day.

101. After her detention, Mariela had a Master Calendar Hearing before an IJ assigned to the detained docket. She was so terrified and understood so little that she could not speak during the hearing. She saw that the IJ was asking her questions, but she did not know what the questions were nor how to answer them.

102. Mariela remains in immigration court proceedings. Her next hearing is scheduled for September 9, 2025.

D. As a Result of Their Re-Arrest and Re-Detention, Petitioners are Suffering Irreparable Harm.

103. All six Petitioners are being deprived of her liberty without any permissible justification. The government previously released them on her own recognizance because they did not pose sufficient risk of flight or danger to the community to warrant detention. *See* 8 C.F.R. § 1236.1(c)(8). Nothing has materially changed since their release from immigration custody. None of the six Petitioners has a criminal record, and there is no basis to assert that they pose any public safety risk. Moreover, the circumstances of all the arrests demonstrate that they are not flight risks – they showed up for immigration court hearings, ICE check ins, and registered their addresses as required.

104. On information and belief, Petitioners have not been placed into expedited removal procedures. Their immigration court proceedings remained pending. Yet from detention, all Petitioners have challenges either finding counsel or gathering evidence to support their asylum claims. At least four of the Petitioners are not currently represented by an attorney in asylum proceedings and they lack the financial resources necessary to retain private immigration counsel. Now that they are detained, Petitioners cannot freely contact attorneys or nonprofit organizations. They also lack access to internet to research attorneys and organizations that they would ordinarily be able to contact.

105. All six Petitioners are suffering from the isolation from their families, partners, and

loved ones from whom they used to seek basic emotional support. None of the Petitioners lived in Bakersfield prior to their detention, so they have no one who can visit them. They feel alone.

106. Any contact that Petitioners make from inside of Mesa Verde costs money. Domestic phone calls cost at least $0.07 per minute, and international calls cost at least $0.35 per minute. To make calls to family or legal services organizations, Petitioners must place money onto their "books" at Mesa Verde and, unless the recipient phone lines have been pre-designated as attorney-client privileged, their phone calls are monitored and recorded.

107. Petitioners have all also suffered from inadequate food, both in quality and quantity. There is limited access to fresh fruit and vegetables in Mesa Verde. The food offered by the facility is processed, and for Petitioners, often inedible. Petitioners' only other access to food is through Mesa Verde's commissary, which offers products like ramen noodles, chips, and candy.

108. The medical care offered to Petitioners at Mesa Verde is also inadequate. Most of the Petitioners were receiving some form of medical care prior to their re-arrest. Now that they are detained, that care has ceased to exist, and they have no prospects of securing any meaningful follow-up. Worse still, the California Department of Justice ("Cal DOJ") recently found that at Mesa Verde, "does not acquire and review offsite care and medical records in a timely manner to ensure adequate treatment." Cal. Dept. of Justice, Office of the Attorney General, Immigration Detention in California (Apr. 2025), at pp. 80, https://oag.ca.gov/system/files/media/immigration-detention-2025.pdf. Cal DOJ also found that "[d]etainees experience prolonged wait times for some out-of-facility care for health care issues." *Id.*

109. In addition to their common experiences, Petitioners each have individual and unique harms that they are suffering.

110. To start, Marianela is over two months into a high-risk pregnancy. The only medical attention that she has been provided at Mesa Verde is a summary visit with a clinician where she was given vitamins and folic acid. Beyond that, she has not received any prenatal care, nor has she been examined. She is consuming the same diet in quantity and quality as everyone else, and the food makes her vomit. Even when she does manage to stomach the meals, she often feels so hungry that she feels faint. Worse, she is under immense stress inside of a freezing cold carceral center, where she cannot access basic materials to make herself comfortable and calm. Marianela cannot

sleep more than a couple of hours at a time because of the noise and the fluorescent lights that are always on. Marianela was warned that stress can lead to another miscarriage, so she is also terrified daily that she will lose her baby because of the stress that she is enduring inside of detention.

111. Mayra was in a car accident in July 2025. She suffered serious injuries to her leg. Before she was detained, she received regular medical treatment for her injuries. She also wore a leg brace every day as part of her medical treatment but unfortunately did not have it on the day of her hearing and currently still does not have it. Her leg injury is also aggravated by the cold, and she is in freezing cold conditions at Mesa Verde. She is also in the process of filing a lawsuit against the driver of the vehicle that hit her and cannot effectively participate in the litigation while she is in immigration detention. Every additional day Mayra spends in unlawful detention subjects her to further irreparable harm. Detention staff only give her ibuprofen, which Mayra does not like to take because it is ineffective for her pain. Mayra is attempting to soothe her pain with menthol purchased at commissary, which is not a sustainable long-term treatment for her injuries. Also, now that she is detained, Mayra cannot seek medical assistance from the providers who were previously treating her injuries and have detailed knowledge about her medical history and needs.

112. Lorgia was taken away from her partner and family in the United States, but she was also financially inhibited from speaking with her children, all of which still live in Guatemala. Before she was detained, Lorgia spoke on video calls with her children almost every day. Now, the cost of even an audio call is too expensive, so Lorgia has not heard her children's voices. In addition to the isolation, a physician at Mesa Verde recently diagnosed Lorgia with bipolar disorder, a term that Lorgia had not heard before, but the symptoms for which she was intimately familiar. Inside detention, Lorgia struggles to maintain mental stability, which she did not have a problem with before. Mesa Verde provides her with medication every day, but it makes her skull physically tremble. Lorgia also has asthma, which sometimes is difficult to control when under stress in detention, and she has periodic asthma attacks.

113. Yury's menstrual cycle has become unbearably painful while in detention. Before being detained, she bled approximately every 28 days for 3 days at a time without cramps. Since being detained, Yury's menstrual cycle has accelerated and intensified. She bleeds every 15 days, and she suffers from blood clots and cramps. Yury struggles to feel clean during her menstruation

with the limited clothing that she is afforded in Mesa Verde. Further, the ibuprofen that Mesa Verde offers does not dull the extreme pain from her cramping.

114. Ammy is enduring the psychological distress of missing her baby, who is less than 2 years old, in addition to the physical pain of her milk ducts having clogged from abrupt cessation of breastfeeding. Mesa Verde has provided Ammy with no medical care to address her breast pain. Ammy's cries all day, longing for the smell, touch, and weight of her baby in her arms. Ammy reports never having felt such sadness in her entire life.

115. Mariela is enduring almost complete isolation. Because she did not have any money to add to her phone account at Mesa Verde, she has had little opportunity to speak with her son or anyone else in her family or community. Mariela cannot understand the legal significance of anything that ICE agents or the immigration judge say to her, so she feels compelled to say nothing. In fact, at her last hearing, Mariela did not respond to a single question because she was so afraid and lost.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of Substantive Due Process

116. Petitioners repeat and re-allege the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

117. 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.

118. 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.*

119. Petitioners are not flight risks or dangers to the community. Respondents' detention of Petitioners is therefore unjustified and unlawful. Accordingly, Petitioners are being detained in violation of the Due Process Clause of the Fifth Amendment.

120. Moreover, Petitioners' 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 Petitioners' 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. *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

SECOND CLAIM FOR RELIEF

Violation of Procedural Due Process

121. Petitioners repeat and re-allege the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

122. As part of the liberty protected by the Due Process Clause, Petitioners have a weighty liberty interest in avoiding re-incarceration after their 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); *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).

123. 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); *Zinermon*, 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).

124. Petitioners' re-detention without a pre-deprivation hearing violated due process. Over a year after deciding to release Petitioners from custody, Respondents re-detained Petitioners with no notice, no explanation of the justification of the re-detention, and no opportunity to contest their re-detention before a neutral adjudicator before being taken into

custody.

125. Petitioners have a profound personal interest in their liberty. Because they received no procedural protections, the risk of erroneous deprivation is high, and the government has no legitimate interest in detaining them without a hearing. Bond hearings are conducted as a matter of course in immigration proceedings, and nothing in Petitioners' records suggest that they would abscond or endanger the community before a bond hearing could be carried out.

THIRD CLAIM FOR RELIEF

Violation of the Fourth Amendment to the United States Constitution

126. Petitioners repeat and re-allege the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

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

128. 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.").

129. 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).

130. DHS agents arrested each Petitioner after they entered the United States, charged them with a violation of civil immigration law, and released them on their own recognizance with a notice to appear in immigration court to pursue their asylum claims. Each Petitioner reported for ICE check-ins and/or appeared in immigration court as instructed, answered the charges, and diligently pursued an application for relief from removal.

131. DHS re-arrested Petitioners in recent months while they were complying with check-in and/or court appearance requirements, based on nothing more than the initial 2024 civil charge of violating immigration law for which they were answering. Petitioner Mayra's Immigration Judge did not grant DHS' motion to dismiss, so her case remains pending in immigration court. No Petitioner engaged in any conduct in the intervening time that made them a flight risk or danger to the community. No material changes in circumstances justified Petitioners' re-arrest.

132. Petitioners' re-arrest and detention by Respondents after they had already appeared in court and/or at their scheduled ICE check-in on their civil immigration charges and absent any material change in circumstances is thus an unreasonable seizure in violation of the Fourth Amendment.

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 Petitioners from custody;
3. Declare that Petitioners' arrest and detention violates the Due Process Clause of the Fifth Amendment;

4. Declare that Petitioners' arrest and detention violates the Fourth Amendment;

5. Enjoin Respondents from transferring Petitioners outside this District or deporting Petitioners pending these proceedings;

6. Enjoin Respondents from re-detaining Petitioners unless their 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 they are a flight risk or danger to the community;

7. Award Petitioners their 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

8. Grant such further relief as the Court deems just and proper.

Date: August 29, 2025

Respectfully Submitted,

/s/ Victoria Petty

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

I am submitting this verification on behalf of Petitioners because I am their attorney in the instant habeas petition. As their 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 29, 2025

Respectfully Submitted,

/s/ Victoria Petty

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