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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

Angie Loren RODRIGUEZ RODRIGUEZ,

Petitioner-Plaintiff,

v.

Polly KAISER, Acting Field Office Director of the San Francisco Immigration and Customs Enforcement Office; Todd LYONS, Acting Director of United States Immigration and Customs Enforcement; Kristi NOEM, Secretary of the United States Department of Homeland Security; Pamela BONDI, Attorney General of the United States, acting in their official capacities; Minga WOFFORD, Mesa Verde ICE Processing Center Facility Administrator,

Respondents-Defendants.

Case No.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT

INTRODUCTION

1. "*Perdí mi bebé.*" (I lost my baby) Continuing its repeatedly enjoined arrest practices, Immigration and Customs Enforcement ("ICE") arrested a woman who the agency knew to be pregnant and incarcerated her without adequate food or medical care hundred of miles away from her family. At the time of this petition/complaint's filing, the mother is still bleeding. And her eyes have not dried.

2. The mother's name is Angie Loren Rodriguez Rodriguez ("Angie" or "Petitioner"). Violence in Colombia forced Angie to run. Chasing safety and a legal pathway to obtain asylum, Angie entered the United States in 2022. She spent less than a day in immigration custody near the border, because immigration authorities found she presented neither a danger nor flight risk. On that basis, Angie was released on her own recognizance into the interior of the United States, where she could pursue asylum in immigration court.

3. Angie diligently appeared for her court hearings and ICE appointments, and she has no criminal record in any country. Yet without notice or any neutral evaluation of the supposed justifications, Immigration and Customs Enforcement ("ICE") trapped and arrested her at her scheduled check-in at its San Francisco Field Office on July 23, 2025.

4. By re-arresting and detaining Angie, ICE unlawfully revoked the release that Angie has relied upon since December 2022, without any neutral evaluation of the supposed justifications for that revocation. In recent days, courts in this Circuit have ordered ICE to release individuals that it arrested like Angie, who were previously granted parole or some other form of release from immigration custody, and to not re-arrest them without first providing a pre-detention bond hearing. *See, e.g.*, *Castellon v. Kaiser*, No. 1:25-CV-00968 JLT EPG, 2025 WL 2373425 (E.D. Cal. Aug. 14, 2025) (granting preliminary injunction); *Singh v. Andrews*, 2025 WL 1918679, *10 (E.D. Cal. July 11, 2025) (same); *Clavijo v. Kaiser*, 2025 WL 2419263, *25 (N.D. Cal. Aug. 21, 2025) (same); *Paz Hernandez v. Kaiser*, No. 1:25-cv-00986 (same) (E.D. Cal. Aug. 21, 2025); *Prieto Salazar v. Kaiser*, 1:25-CV-01017 (E.D. Cal. Aug. 26, 2025) (same); *Ruiz Otero v. Kaiser*, No. 25-cv-06536, 2025 WL 2453969 (N.D. Cal. Aug. 3, 2025) (granting *ex parte* TRO); *Garro Pinchi v. Noem*, 2025 WL 1853763, *4 (N.D. Cal. July 4, 2025) (same), *converted to preliminary injunction at* __ F. Supp. 3d __, 2025 WL 2084921 (N.D. Cal. July 24, 2025); *Jaraba*

Oliveros v. Kaiser, No. 25-cv-07117, 2025 WL 2430495 (N.D. Cal. Aug. 22, 2025) (same); *Salcedo Aceros v. Kaiser*, No. 1:25-cv-06924 (N.D. Cal. Aug. 16, 2025) (same); *Jimenez Garcia v. Kaiser*, No. 25-cv-06916 (N.D. Cal. Aug. 17, 2025) (same); *Hernandez Nieves v. Kaiser*, No. 25-cv-06921 (N.D. Cal. Aug. 17, 2025) (same); *Pineda Campos v. Kaiser*, No. 25-cv-06920 (N.D. Cal. Aug. 15, 2025) (same); *Valera Chuquillanqui v. Kaiser*, No. 3:25-cv-06320 (N.D. Cal. July 29, 2025) (same); *Pablo Sequen v. Kaiser*, No. 5:25-cv-06487 (N.D. Cal. Aug. 1, 2025) (same).

5. Petitioner respectfully seeks a writ of habeas corpus ordering Respondents to immediately release her from ongoing, unlawful detention, and prohibiting her re-arrest without a hearing to contest that re-arrest before a neutral decision-maker. Petitioner desperately needs to be under medical supervision and inside the caring embrace of her husband and mother.

6. In a forthcoming request for TRO, Petitioner respectfully asks that her request for release pending the disposition of this case be considered along with the TRO request filed Friday afternoon and pending before the Court in *Leon Espinoza, et al., v. Kaiser, et al.*, No. 1:25-cv-1101-JLT-SKO (E.D. Cal. Aug. 29, 2025). Petitioner's counsel first notified the United States Attorney's Office for the Eastern District of Angie's situation late on Friday afternoon but conveyed that the petition would not be filed until today.

7. In addition, to preserve this Court's jurisdiction, Petitioner also requests that this Court order Respondents not to transfer Petitioner outside of the District, or deport her, for the duration of this proceeding.

JURISDICTION AND VENUE

8. 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).

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

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).

PARTIES

10. Petitioner-Plaintiff Angie Lorena Rodriguez Rodriguez ("Angie" or "Petitioner") is an asylum seeker from Colombia with no criminal history, who, until her re-arrest on July 23, 2025, had been free for over two years after her release on her own recognizance at the southern border. She is currently in civil immigration detention at Mesa Verde ICE Processing Center in Bakersfield, California ("Mesa Verde").

11. 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 Petitioner's detention. Respondent Kaiser is sued in her official capacity.

12. 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 Petitioner. Respondent Lyons is sued in his official capacity.

13. 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 Petitioner. Respondent Noem is sued in her official capacity.

14. 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.

15. Respondent Minga Wofford is the Facility Administrator (and *de facto* warden) of Mesa Verde. She oversees operations at Mesa Verde, where Petitioner is detained. She is an employee of The GEO Group, Inc. ("GEO"), a private prison company that contracts with ICE to operate Mesa Verde.

EXHAUSTION

16. There is no requirement to exhaust, because no other forum exists in which Petitioner can raise the claims herein. There is no statutory exhaustion requirement prior to challenging the constitutionality of an arrest or detention or challenging a policy under the Administrative Procedure Act. Prudential exhaustion is not required here because it would be futile, and Petitioner will "suffer irreparable harm if unable to secure immediate judicial consideration of [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.

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

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

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

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

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

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

22. Generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *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); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

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

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

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

25. The Due Process Clause of the Fifth Amendment prohibits governmental deprivation of life, liberty, or property without due process of law. U.S. Const. amend. V. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *see also 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.

26. *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).

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FACTUAL ALLEGATIONS

A. DHS Dramatically Expands the Scope of Expedited Removal.

33. 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).

34. 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).

35. 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).

36. 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).

37. 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).

38. While the 2019 expansion was in effect, the government applied expedited removal to persons inside the country in an exceedingly 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.

39. 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.*

40. 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).

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

42. 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.

43. 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.

44. 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.[2]

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

[2] Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in Trump's Deportation Push*, Wash. Post, May 23, 2025,

45. 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 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.

46. 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.

47. 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.

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

49. 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

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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.

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

attending their routine immigration hearings.[4]

50. DHS's aggressive tactics at immigration courts appear to be motivated by what certain members of the Administration have described as a new daily quota of 3,000 ICE arrests.[5] Overall, ICE's arrests of noncitizens with no criminal record have increased more than 800% since January 2025.[6]

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

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

53. First, a new ICE policy abandoned, without any plausible explanation, restrictions ICE had previously adopted in order 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

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

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

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

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

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

54. 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.

55. 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. Petitioner was Unlawfully Re-Arrested and Re-Detained Pursuant to New DHS Policies.

56. Petitioner fled Colombia after facing violent persecution. She entered the United States on or about December 27, 2022. She turned herself in to Border Patrol officers near the

southern border and was subsequently detained by immigration officials.

57. On or about the next day, immigration authorities released Angie on her own recognizance and served her with a Notice to Appear in immigration court. In releasing her, DHS determined that Petitioner did not present a 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.")

58. Petitioner went to live in San Jose, California with family, including her mother, who she loves dearly. She also found a partner in San Jose, and they aspired to build a family together.

59. Petitioner was called to have in person check-ins at ICE's San Francisco Field Office after her release from custody near the border. She attended these check-ins without fail to her knowledge. She also had preliminary master calendar hearings before the San Francisco Immigration Court, which she attended without fail.

60. Despite Petitioner's compliance with her requirements to appear before immigration officials and having no criminal record, she was re-arrested on July 23, 2025 at a routine ICE check-in. At the same time as the arrest, ICE agents took from Petitioner's possession the folder of documents that she had related to her immigration case, and none of them have been returned to her thus far.

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

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

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

63. Nothing has materially changed since Petitioner's release from immigration custody in 2022. She has no criminal record, and there is no basis to assert that she poses any

public safety risk. Additionally, she was arrested *while appearing at an ICE check in*, circumstances that demonstrate she is not conceivably a flight risk.

64. On information and belief, Petitioner has not been placed into expedited removal procedures. No immigration judge has granted DHS' motion to dismiss her immigration court proceedings, and she has a master calendar hearing scheduled for October 22, 2025 in San Francisco Immigration Court.

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

66. When Petitioner was first jailed at Mesa Verde, medical staff took a urine sample from her. Mesa Verde staff told her nothing about the results of that urine sample.

67. A couple of weeks later, Petitioner began to feel pain in her belly and pelvic region. She asked for an urgent medical visit, where she again provided a urine sample. Mesa Verde staff informed Petitioner that she was pregnant. Petitioner was initially thrilled about the news – this was to be her first baby, and she was excited to tell her partner.

68. But as the days dragged on, Petitioner became anxious and overwhelmed about her pregnancy.

69. The food at Mesa Verde is limited in calories and quality. The smell and appearance of the food often evoked physical revulsion and nausea in Petitioner such that she was unable to eat. When she was able to stomach the meals, the miserly portions left Petitioner with an unignorable hunger. Outside of the Mesa Verde cafeteria, commissary is the only food source, but the options are highly processed items such as packaged ramen noodles, chips, and candy. Petitioner was left unable to adequately nourish herself to support the pregnancy.

70. Beyond the lack of food, Petitioner also lacked medical care and pre-natal education. This was to be Petitioner's first baby. The Mesa Verde medical staff did little for Petitioner beyond confirming that she was pregnant. Petitioner often felt panicked that she did not know if everything was normal with her pregnancy. Whereas if she were free, she would be joyfully reading about pregnancy care and calling loved ones to ask about their experiences and advice, she had no one at Mesa Verde to help her understand her health needs or her developing emryo's needs.

71. Alone and hundreds of miles away from her family, Petitioner had no access to

community support to help her in the pregnancy. She desperately missed her mother and partner. She felt alone and scared. She tossed and turned at night, unable to sleep. Petitioner would have disturbing nightmares that would wake her in a puddle of sweat.

72. This state of distress endured for weeks.

73. Then on August 31, Petitioner began to pass quantities of brown fluid that alarmed her. She alerted medical staff at Mesa Verde. She was taken to an off-site hospital, where she was examined. The doctor told her that the fetus was okay but informed her and the Mesa Verde guards escorting her that she should return in 48 hours for follow up tests.

74. The next day, on September 1, Petitioner again woke up to pain and large amounts of brown fluid excreting from her body. She was panicked. Mesa Verde staff again took her to the hospital, where the medical team warned that Petitioner's pregnancy was compromised. Petitioner bloodwork and urine samples caused the medical team concern. And when they performed an ultrasound, they could not find detect the fetus's presence. The doctor gave three possible reasons for this result: (1) the pregnancy was at too early a stage for ultrasound detection, (2) Petitioner had suffered a miscarriage, or (3) Petitioner was carrying an ectopic pregnancy. Under any circumstance, the doctor warned that Petitioner's state was grave, and that continued care was essential to prevent Petitioner's death and/or miscarriage.

75. This morning, on September 2, Petitioner awoke to even more blood and brown fluid. Medical examination confirmed that the pregnancy was lost.

76. As of the time of this filing, Petitioner can hardly speak about what has just happened without gasping for air and sobbing. She is currently in medical segregation in a cold room alone.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of Substantive Due Process

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

78. 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.

79. 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.*

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

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

SECOND CLAIM FOR RELIEF

Violation of Procedural Due Process

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

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

84. 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).

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

86. Petitioner has a profound personal interest in her liberty. Because she received no procedural protections, the risk of erroneous deprivation is high, and the government has no legitimate interest in detaining her without a hearing. Bond hearings are conducted as a matter of course in immigration proceedings, and nothing in Petitioner's record suggests that she 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

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

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

89. 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.").

90. 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).

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

92. DHS re-arrested Petitioner, based on nothing more than the 2022 civil charge of violating immigration law. Petitioner had not engaged in any conduct in the intervening time that made her a flight risk or danger to the community. No material changes in circumstances justified Petitioner's re-arrest.

93. Petitioner's re-arrest and detention by Respondents after she had already appeared in court on her civil immigration charge 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 Petitioner from custody;
3. Declare that Petitioner's arrest and detention violates the Due Process Clause of the Fifth Amendment;
4. Declare that Petitioner's arrest and detention violates the Fourth Amendment;
5. Enjoin Respondents from transferring Petitioner outside this District or deporting Petitioner pending these proceedings;
6. Enjoin Respondents from re-detaining Petitioner unless her re-detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear and convincing evidence, that she is a flight risk or danger to the community;
7. Award Petitioner her costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
8. Grant such further relief as the Court deems just and proper.

Date: September 2, 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 Petitioner because I am her attorney in the instant habeas petition. As her attorney, I hereby verify that the factual statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: September 2, 2025

Respectfully Submitted,

/s/ Victoria Petty

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