

1 Nikolas De Bremaeker (FL Bar 98372)
2 PRO HAC VICE
3 ndebremaeker@centrolegal.org
4 CENTRO LEGAL DE LA RAZA
3400 E. 12th Street
Oakland, CA 94601
Telephone: (510) 269-1255

5 Alyosha Maggin (SBN 359420)
6 amaggin@centrolegal.org
7 CENTRO LEGAL DE LA RAZA
8 3400 East 12th Street
9 Oakland, CA 94601
10 (510) 994-0749

11 *Attorneys for Petitioners*

12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 GERARDO ROMAN VALENCIA ZAPATA,
16 DAVID RAFAEL COLON SOLANO,
17 KEYMARIS ALVAREZ MIRANDA,
18 GABRIELA ALONDRA VARGAS
19 PLASENCIA

20 Petitioners,

21 v.

22 POLLY KAISER, Acting Field Office Director
23 of the San Francisco Immigration and Customs
24 Enforcement Office; TODD LYONS, Acting
25 Director of United States Immigration and
26 Customs Enforcement; KRISTI NOEM,
27 Secretary of the United States Department of
28 Homeland Security, PAMELA BONDI,
Attorney General of the United States, acting in
their official capacities,

Respondents.

CASE NO. 3:25-cv
07492

**PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

1
2 1. Petitioners are four individuals who were all arrested by Department of Homeland
3 Security (“DHS”) agents today, September 4, 2025, at their immigration court hearings in San
4 Francisco. Petitioners went to immigration court for what should have been routine preliminary
5 immigration hearings before an immigration judge. During their hearings, however, the
6 government orally moved to dismiss their cases. The government did so for the purpose of placing
7 them in so-called “expedited removal” proceedings. Minutes after Petitioners exited the
8 courtroom, DHS agents arrested them before they could leave the courthouse.

9 2. These arrests are part of a new, nationwide DHS strategy of sweeping up people
10 who attend their immigration court hearings, detaining them, and seeking to re-route them to fast-
11 track deportations. Since mid-May, DHS has implemented a coordinated practice of leveraging
12 immigration detention to strip people like Petitioners of their substantive and procedural rights and
13 pressure them into deportation. Immigration detention is civil, and thus is permissible for only two
14 reasons: to ensure a noncitizen’s appearance at immigration hearings and to prevent danger to the
15 community. But DHS did not arrest and detain Petitioners—who demonstrably pose no risk of
16 absconding from immigration proceedings or danger to the community—for either of these
17 reasons. Instead, as part of its broader enforcement campaign, DHS detained Petitioners to strip
18 them of their procedural rights, force them to forfeit their applications for relief, and pressure them
19 into fast-track removal.

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

27 4. The Constitution protects Petitioners—and every other person present in this
28 country—from arbitrary deprivations of his liberty, and guarantees him due process of law. The

1 government's power over immigration is broad, but as the Supreme Court has declared, it "is
2 subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001).
3 "Freedom from bodily restraint has always been at the core of the liberty protected by the Due
4 Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

5 5. Petitioners respectfully seek a writ of habeas corpus ordering the government to
6 immediately release them from their ongoing, unlawful detention, and prohibiting their re-arrest
7 without a hearing to contest that re-arrest before a neutral decisionmaker. In addition, to preserve
8 this Court's jurisdiction, Petitioners also request that this Court order the government not to
9 transfer them outside of the District or deport them for the duration of this proceeding.

10 JURISDICTION AND VENUE

11 6. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal
12 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),
13 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension
14 Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706
15 (Administrative Procedure Act).

16 7. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
17 U.S.C. § 1391(b)(2) and (e)(1) because Petitioners are physically detained within this district.

18 8. Petitioners are properly joined in this action because they jointly assert a right to
19 release or a bond hearing and raise at least one "question of law or fact common to all plaintiffs,"
20 namely their detention violates the Fifth Amendment to the United States Constitution.

21 PARTIES

22 9. Petitioner Gerardo Roman Valencia Zapata is a man from Venezuela. He has a
23 pending application for asylum, withholding of removal, and protection under the Convention
24 Against Torture. He is presently in civil immigration detention at 630 Sansome Street in San
25 Francisco.

26 10. Petitioner David Rafael Colon Solano is a man from Colombia. He has a pending
27 application for asylum, withholding of removal, and protection under the Convention Against
28 Torture. He is presently in civil immigration detention at 630 Sansome Street in San Francisco.

1 11. Petitioner Keymaris Alvarez Miranda is a woman from Venezuela. She has a
2 pending application for asylum, withholding of removal, and protection under the Convention
3 Against Torture. She is presently in civil immigration detention at 630 Sansome Street in San
4 Francisco

5 12. Petitioner Gabriela Alondra Vargas Plasencia is a woman from Peru. She has a
6 pending application for asylum, withholding of removal, and protection under the Convention
7 Against Torture. She is presently in civil immigration detention at 630 Sansome Street in San
8 Francisco.

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

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

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

25 16. Respondent Pamela Bondi is the Attorney General of the United States and the most
26 senior official at the Department of Justice. In that capacity and through her agents, she is
27 responsible for overseeing the implementation and enforcement of the federal immigration laws.
28 The Attorney General delegates this responsibility to the Executive Office for Immigration

1 Review, which administers the immigration courts and the BIA. Respondent Bondi is sued in her
2 official capacity.

3 EXHAUSTION

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

11 LEGAL BACKGROUND

12 *A. The Constitution Protects Noncitizens Like Petitioners from Arbitrary Arrest and* 13 *Detention.*

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

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

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

27 21. Substantive due process thus requires that all forms of civil detention—including
28 immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See Jackson v.*

1 *Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible
 2 non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at
 3 immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–
 4 92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

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

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

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

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

26 FACTUAL ALLEGATIONS

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

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

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

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

16 29. In 2019, at the direction of President Trump, DHS published a Federal Register
17 Notice authorizing the application of expedited removal to certain noncitizens arrested anywhere
18 in the country who could not affirmatively show that they had been continuously present for two
19 years. *See* Designating Aliens for Expedited Removal, 84 Fed. Reg. 35409 (July 23, 2019). The
20 District Court for the District of Columbia entered a preliminary injunction preventing the rule
21 from taking effect, which the D.C. Circuit later vacated. *Make the Rd. New York v. McAleenan*,
22 405 F. Supp. 3d 1, 11 (D.D.C. 2019), *vacated sub nom. Make the Rd. New York v. Wolf*, 962 F.3d
23 612, 618 (D.C. Cir. 2020).

24 30. In 2021, President Biden directed the DHS Secretary to review the rule expanding
25 expedited removal and consider whether it comported with legal and constitutional requirements,
26 including due process. In 2022, DHS rescinded the rule. *See* Rescission of the Notice of July 23,
27 2019, Designating Aliens for Expedited Removal, 87 Fed. Reg. 16022 (Mar. 21, 2022).

28 31. While the 2019 expansion was in effect, the government applied expedited removal

1 to persons inside the country in an exceedingly small number of cases. Thus, from 1997 to 2025,
2 with limited exceptions, immigration authorities generally did not apply expedited removal to
3 noncitizens apprehended far from the border, or individuals anywhere in the United States
4 (including near the border) who had been residing in the country for more than fourteen days.

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

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

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

24 35. Under the administration’s expanded approach to expedited removal, hundreds of
25 thousands of noncitizens who have lived in the country for years are at imminent risk of summary
26

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

1 removal without any hearing, meaningful process, access to counsel, or judicial review—
 2 regardless of the strength of their ties to the United States.

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

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

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

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

23 39. Despite these instructions, some IJs have still asked DHS to re-file the motion as a
 24 written motion and continued proceedings to allow individuals to file their response. A smaller

25 ² Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic*
 26 *in Trump’s Deportation Push*, Wash. Post, May 23, 2025,
 27 <https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>;
 28 *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>.

group of IJs have expressly denied the motion to dismiss on the record or in a written order.

40. The next step of DHS's new campaign takes place outside the courtroom. ICE officers, in consultation with DHS attorneys and officials, station themselves in courthouse waiting rooms, hallways, and elevator banks. When an individual exits their immigration hearings, 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. On information and belief, they typically do not have an arrest warrant.

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

42. 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

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

44. DHS's aggressive tactics at immigration courts appear to be motivated by the

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

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

Administration's imposition of a new daily quota of 3,000 ICE arrests.⁵ In part as a result of this campaign, ICE's arrests of noncitizens with no criminal record have increased more than 800% since before January.⁶

45. 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

46. In fact, DHS officials previously permitted ICE officers to conduct "civil immigration enforcement action . . . in or near a courthouse" only in highly 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."⁸ The new policy includes no such limiting language.⁹

47. The government's new campaign is also a significant shift from previous DHS practice of re-detaining noncitizens only after a material change in circumstances. *See Saravia v.*

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>.

⁸ A true and correct copy of DHS' April 27, 2021 *Civil Immigration Enforcement Actions in or Near Courthouses* memorandum from Tae Johnson and Troy Miller is attached hereto as Exhibit 1.

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

1 *Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v.*
2 *Sessions*, 905 F.3d 1137 (9th Cir. 2018) (describing prior practice).

3 ***C. Petitioners are Unlawfully Arrested and Detained Pursuant to DHS's New Policy.***

4 **Gerardo Roman Valencia Zapata**

5 51. Mr. Valencia Zapata fled Venezuela and arrived in the United States in December
6 2023. He was apprehended by immigration officials at the border. They determined he posed
7 little if any flight or danger to the community and released him into the community to wait for
8 his immigration court date. He thereafter moved to California. In May 2024, he applied for
9 asylum, withholding of removal, and protection under the Convention Against Torture. Upon
10 information and belief, he complied with all of his ICE and immigration court obligations and
11 has no criminal history anywhere in the world.

12 **David Rafael Colon Solano**

13 52. Mr. Colon Solano fled Colombia and arrived in the United States in November
14 2023. He was apprehended by immigration officials at the border. They determined he posed
15 little if any flight or danger to the community and released him into the community to wait for
16 his immigration court date. He thereafter moved to California. In November 2024, he applied for
17 asylum, withholding of removal, and protection under the Convention Against Torture. Upon
18 information and belief, he complied with all of his ICE and immigration court obligations and
19 has no criminal history anywhere in the world.

20 **Keymaris Alvarez Miranda**

21 53. Ms. Alvarez Miranda fled Venezuela and arrived in the United States in December
22 2023. She was apprehended by immigration officials at the border. They determined she posed
23 little if any flight or danger to the community and released him into the community to wait for
24 his immigration court date. She thereafter moved to California. In November 2024, she applied
25 for asylum, withholding of removal, and protection under the Convention Against Torture. Upon
26 information and belief, she complied with all of his ICE and immigration court obligations and
27 has no criminal history anywhere in the world.

28 **Gabriela Alondra Vargas Plasencia**

1 54. Ms. Vargas Plasencia fled Peru and arrived in the United States in May 2024. She
2 was apprehended by immigration officials at the border. They determined she posed little if any
3 flight or danger to the community and released him into the community to wait for his
4 immigration court date. He thereafter moved to California. In July 2024, she applied for asylum,
5 withholding of removal, and protection under the Convention Against Torture. Upon information
6 and belief, she complied with all of his ICE and immigration court obligations and has no
7 criminal history anywhere in the world.

8 55. On September 4, 2025, Petitioners appeared in-person at San Francisco
9 Immigration Court for master calendar hearings before Immigration Judge O'Brien. The
10 government made a motion to dismiss in each case. The Immigration Judge did not rule on the
11 motions at those hearings. He gave Petitioners time to respond and reset their hearings for a future
12 date.

13 56. Upon leaving the courtroom, ICE agents immediately arrested Petitioners and
14 took them into custody at 630 Sansome, where they currently remain.

15 57. Because Petitioners have never been determined to be a flight risk or danger to
16 the community, their ongoing detention is not related to either of the permissible justifications
17 for civil immigration litigation. Their detention does not further any legitimate government
18 interest.

19 ***D. As a Result of Their Arrest and Detention, Petitioners are Suffering Ongoing and***
20 ***Irreparable Harm.***

21 59. Petitioners are being deprived of their liberty without any permissible justification. The
22 government previously released them on their own recognizance because they did not pose
23 sufficient risk of flight or danger to the community to warrant detention.

24 60. None of that has changed. Upon information and belief, Petitioners have no criminal
25 record, and there is no basis to believe that they pose any public-safety risk. Nor are
26 Petitioners, who were arrested *while appearing in court for their immigration cases*,
27 conceivably a flight risk. To the contrary, Petitioners complied with their ICE and
28 immigration court obligations.

1 ///

2 **CLAIMS FOR RELIEF**

3 **FIRST CLAIM FOR RELIEF**

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

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

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

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

12 63. Immigration detention is constitutionally permissible only when it furthers the
13 government’s legitimate goals of ensuring the noncitizen’s appearance during removal
14 proceedings and preventing danger to the community. *See id.*

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

18 65. Moreover, Petitioners’ detention is punitive as it bears no “reasonable relation” to
19 any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly
20 “nonpunitive in purpose and effect”). Here, the purpose of Petitioners’ detention appears to be “not
21 to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for
22 other reasons”—namely, to meet newly-imposed DHS quotas and transfer immigration court
23 venue away from an IJ who refused to facilitate DHS’s new expedited removal scheme. *Demore*,
24 538 U.S. at 532–33 (Kennedy, J., concurring).

25 **SECOND CLAIM FOR RELIEF**

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

27 **(Procedural Due Process—Detention)**

28 66. Petitioners repeat and re-allege the allegations contained in the preceding

1 paragraphs of this Petition as if fully set forth herein.

2 67. As part of the liberty protected by the Due Process Clause, Petitioners have a
3 weighty liberty interest in avoiding re-incarceration after their release. *See Young v. Harper*, 520
4 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*,
5 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a
6 noncitizen has a protected liberty interest in remaining out of custody following an IJ’s bond
7 determination).

8 68. Accordingly, “[i]n the context of immigration detention, it is well-settled that due
9 process requires adequate procedural protections to ensure that the government’s asserted
10 justification for physical confinement outweighs the individual’s constitutionally protected
11 interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinerman*, 494
12 U.S. at 127 (Generally, “the Constitution requires some kind of a hearing *before* the State
13 deprives a person of liberty or property.”). In the immigration context, for such hearings to
14 comply with due process, the government must bear the burden to demonstrate, by clear and
15 convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh*
16 *v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785,
17 786 (9th Cir. 2024).

18 69. Petitioners’ re-detention without a pre-deprivation hearing violated due process.
19 Long after deciding to release Petitioners from custody on their own recognizance, Respondents
20 re-detained Petitioners with no notice, no explanation of the justification of their re-detention,
21 and no opportunity to contest their re-detention before a neutral adjudicator before being taken
22 into custody.

23 70. Petitioners have a profound personal interest in their liberty. Because they
24 received no procedural protections, the risk of erroneous deprivation is high. And the government
25 has no legitimate interest in detaining Petitioners without a hearing; bond hearings are conducted
26 as a matter of course in immigration proceedings, and nothing in Petitioners’ records suggested
27 that they would abscond or endanger the community before a bond hearing could be carried out.
28 *See, e.g., Jorge M.F. v. Wilkinson*, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v.*

1 *Jennings*, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) (“the government’s concern that
2 delay in scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of
3 petitioner’s strong family ties and his continued employment during the pandemic as an essential
4 agricultural worker”).

5 **PRAYER FOR RELIEF**

6 Petitioner respectfully requests that this Court:

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

21
22 Date: September 4, 2025

Respectfully Submitted,

23 /s/ Nikolas De Bremaeker
24 Nikolas De Bremaeker (FL Bar 98372)
25 PPRO HAC VICE
CENTRO LEGAL DE LA RAZA

26 /s/ Alyosha Maggin
27 Alyosha Maggin (SBN 359420)
CENTRO LEGAL DE LA RAZA

28 *Attorneys for Petitioner*

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