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*\*Application for Admission Forthcoming*

*Attorneys for Petitioner*

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

FABIAN ALEXANDER ALVARENGA  
MATUTE,

Petitioner,

v.

MINGA WOFFORD, Mesa Verde ICE  
Processing Center Facility Administrator;  
JOHNNY J. BAILEY, Acting Field Office  
Director of the San Francisco Immigration and  
Customs Enforcement Office; TODD LYONS,  
Acting Director of United States Immigration  
and Customs Enforcement; KRISTI NOEM,  
Secretary of the United States Department of  
Homeland Security, PAMELA BONDI,  
Attorney General of the United States, acting in  
their official capacities,

Respondents.

CASE NO. \_\_\_\_\_

**PETITION FOR WRIT OF HABEAS  
CORPUS**

**INTRODUCTION**

1  
2 1. Petitioner Fabian Alexander Alvarenga Matute (“Mr. Alvarenga Matute” or  
3 “Petitioner”) is a 40-year-old asylum seeker from Honduras. His most recent entry to the United  
4 States was on or about September 4, 2024 through CBP One, where he was granted parole and  
5 placed on the Alternatives to Detention (“ATD”) program. He filed for asylum on June 18, 2025,  
6 within the one-year deadline. He was issued a Notice to Appear and had a Master Calendar  
7 Hearing scheduled for October 28, 2026 with IJ Nava at the Concord Immigration Court.

8 2. Petitioner is in active removal proceedings and has completed all of his scheduled  
9 ICE check-ins. Initially, Petitioner was given a wrist tracking device, but eventually ICE decided  
10 to allow him to check in using a phone app and removed Petitioner’s wrist tracking device. As  
11 such, Petitioner has been checking in with ICE through the phone app and diligently checking his  
12 check-in dates. During his most recent check-in on August 11, 2025, while trying to upload his  
13 photo to the app, there was a glitch in the app or internet reception issues.

14 3. Petitioner then received a notice to appear for an ICE check-in in person at 630  
15 Sansome Street in San Francisco on September 9, 2025. Petitioner dutifully reported in person and  
16 was then handcuffed and detained by ICE agents at the ICE office during his check-in. ICE then  
17 transferred him to the Mesa Verde ICE Processing Center, where he is currently located.

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



1 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension  
2 Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706  
3 (Administrative Procedure Act).

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

6 **PARTIES**

7 11. Petitioner is a 40-year-old asylum seeker from Honduras. His most recent entry  
8 to the United States was on or about September 4, 2024 through CBP One, where he was granted  
9 parole and placed on ATD program. He filed for asylum on June 18, 2025, within the one-year  
10 deadline. He was issued a Notice to Appear and his next Master Calendar Hearing was originally  
11 scheduled for October 28, 2026 with IJ Nava at the Concord Immigration Court. He is presently  
12 in civil immigration detention at the Mesa Verde ICE Processing Center.

13 12. Respondent Minga Wofford is the Facility Administrator of Mesa Verde ICE  
14 Processing Center, A private, for-profit detention facility owned and operated by the GEO Group,  
15 Inc., that contracts with ICE to detain individuals suspected of civil immigration violations.  
16 Respondent Wofford is Petitioner's immediate custodian. Respondent Wofford is sued in her  
17 official capacity.

18 13. Respondent Johnny J. Bailey is the Acting Field Office Director of the San  
19 Francisco ICE Field Office. In this capacity, he is responsible for the administration of immigration  
20 laws and the execution of immigration enforcement and detention policy within ICE's San  
21 Francisco Area of Responsibility, including the detention of Petitioner. Respondent Bailey  
22 maintains an office and regularly conducts business in this district. Respondent Bailey is sued in  
23 his official capacity.

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

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

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

#### 12 EXHAUSTION

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

#### 20 LEGAL BACKGROUND

##### 21 *A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and* 22 *Detention.*

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

27 19. *First*, “[t]he touchstone of due process is protection of the individual against  
28 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the

1 exercise of power without any reasonable justification in the service of a legitimate government  
2 objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

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

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

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

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

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

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2 **FACTUAL ALLEGATIONS**

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

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

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

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

19 28. In 2019, at the direction of President Trump, DHS published a Federal Register  
20 Notice authorizing the application of expedited removal to certain noncitizens arrested anywhere  
21 in the country who could not affirmatively show that they had been continuously present for two  
22 years. *See* Designating Aliens for Expedited Removal, 84 Fed. Reg. 35409 (July 23, 2019). The  
23 District Court for the District of Columbia entered a preliminary injunction preventing the rule  
24 from taking effect, which the D.C. Circuit later vacated. *Make the Rd. New York v. McAleenan*,  
25 405 F. Supp. 3d 1, 11 (D.D.C. 2019), *vacated sub nom. Make the Rd. New York v. Wolf*, 962 F.3d  
26 612, 618 (D.C. Cir. 2020).

27 29. In 2021, President Biden directed the DHS Secretary to review the rule expanding  
28 expedited removal and consider whether it comported with legal and constitutional requirements,

1 including due process. In 2022, DHS rescinded the rule. *See* Rescission of the Notice of July 23,  
2 2019, Designating Aliens for Expedited Removal, 87 Fed. Reg. 16022 (Mar. 21, 2022).

3 30. While the 2019 expansion was in effect, the government applied expedited removal  
4 to persons inside the country in an exceedingly small number of cases. Thus, from 1997 to 2025,  
5 with limited exceptions, immigration authorities generally did not apply expedited removal to  
6 noncitizens apprehended far from the border, or individuals anywhere in the United States  
7 (including near the border) who had been residing in the country for more than fourteen days.

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

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

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

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28 <sup>1</sup> Benjamine C. Huffman, *Guidance Regarding How to Exercise Enforcement Discretion*, Dep’t

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

5 ***B. To Deport More People, DHS Undertakes New Campaign of Arrests at the Courthouse***  
6 ***and ICE office.***

7 35. Since mid-May 2025, the Department has initiated an aggressive new enforcement  
8 campaign targeting people who are in regular removal proceedings in immigration court, many of  
9 whom have pending applications for asylum or other relief. This “coordinated operation” is “aimed  
10 at dramatically accelerating deportations” by arresting people at the courthouse or ICE office to  
11 place them in detained removal proceedings<sup>2</sup>. The Department’s detentions during this  
12 operation—on those who are attending their immigration court hearings or ICE check-ins, as  
13 required—have the effect of punishing those who comply with the Department’s own restrictions.

14 36. Once the person has been transferred to a detention facility, the government places  
15 the individual in detained removal proceedings. The Department is aggressively pursuing this  
16 arrest and detention campaign at courthouses and ICE offices throughout the country. In New York  
17 City, for example, “ICE agents have apprehended so many people showing up for routine  
18 appointments this month that the facilities” are “overcrowded,” with “[h]undreds of migrants . . .  
19 sle[eping] on the floor or sitting upright, sometimes for days.”<sup>3</sup>

20 37. The same is true in San Francisco, where data shows ICE arrests have doubled since  
21 last year.<sup>4</sup> This increase has resulted in overcrowding at the San Francisco ICE offices, where

22 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)  
23 [and-parole-guidance.pdf](https://www.dhs.gov/sites/default/files/2025-01/25_0123_er-and-parole-guidance.pdf).

24 <sup>2</sup> Arelis R. Hernández & Maria Sacchetti, *Immigrant arrests at courthouses signal new tactic in*  
25 *Trump’s deportation push*, Washington Post, May 23, 2025,  
26 <https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>.

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

<sup>4</sup> Kelly Waldron & Frankie Solinsky Duryea, *2123 lives: insides the stats and stories of those*  
arrested by ICE from the S.F. area, July 30, 2025, [https://missionlocal.org/2025/07/ice-data-](https://missionlocal.org/2025/07/ice-data-immigrants-arrested-sf/)  
[immigrants-arrested-sf/](https://missionlocal.org/2025/07/ice-data-immigrants-arrested-sf/).

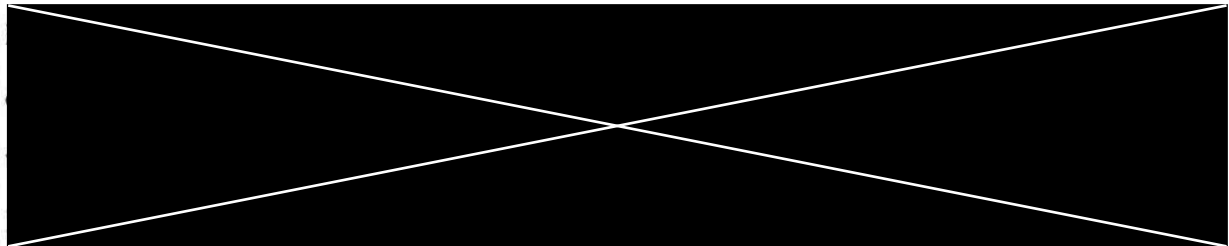
1 detainees have reported they were “not given food and had to sleep on the floor.”<sup>5</sup>

2 38. The Department’s aggressive tactics appear to be motivated by the  
3 Administration’s imposition of a new daily quota of 3,000 ICE arrests.<sup>6</sup> In part as a result of this  
4 campaign, ICE’s arrests of noncitizens with no criminal record have increased more than 800%  
5 since before January.<sup>7</sup>

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

10 **C. Petitioner is Unlawfully Arrested and Detained Pursuant to DHS’s New Policy.**

11 40. Petitioner is a forty-year old man from Honduras who fled his home country due to  
12 death threats from gang members. He has endured threats and violence throughout his life,  
13 including being kidnapped, beaten, and almost killed by gang members when he was younger.



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18 41. Petitioner entered the United States on September 4, 2024 at San Ysidro, California.  
19 He was released on parole through CBP1 at that time. In granting him release without requiring  
20 that he pay bond, DHS determined that he posed little if any risk of flight or danger to the  
21

22 \_\_\_\_\_  
23 <sup>5</sup> George Kelly, Tomoki Chien, and Michael McLaughlin, *ICE detains mothers and children in*  
*SF, officials say*, June 5, 2025, [https://sfstandard.com/2025/06/05/san-francisco-ice-arrests-](https://sfstandard.com/2025/06/05/san-francisco-ice-arrests-mothers-children/)  
[mothers-children/](https://sfstandard.com/2025/06/05/san-francisco-ice-arrests-mothers-children/).

24 <sup>6</sup> Ted Hesson & Kristina Cooke, *ICE’s Tactics Draw Criticism as it Triples Daily Arrest Targets*,  
25 Reuters, June 10, 2025, [https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-](https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/)  
[daily-arrest-targets-2025-06-10/](https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/); Alayna Alvarez & Brittany Gibson, *ICE Ramps Up*  
26 *Immigration Arrests in Courthouses Across the U.S.*, Axios, June 12, 2025,  
<https://www.axios.com/2025/06/12/ice-courthouse-arrests-trump>.

27 <sup>7</sup> José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under*  
28 *Trump*, The Guardian, June 14, 2025, [https://www.theguardian.com/us-news/2025/jun/14/ice-](https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures)  
[arrests-migrants-trump-figures](https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures).

1 community.

2 42. On June 18, 2025, within his first year of entering in the United States, Petitioner  
3 applied for asylum, withholding of removal, and relief under the Convention Against Torture. This  
4 application remains pending.

5 43. Ever since Petitioner entered the country, he has complied with court and  
6 supervision requirements. He completed all his ICE check-ins, both in person and via phone app.

7 44. When DHS released him, initially he was given a tracker in the form of a watch.  
8 Later that year they removed the watch, as he was not considered a flight risk, and they told him  
9 to check in using the app. Petitioner has been following this instruction regularly. However, when  
10 recently attempting to comply, he was having technical difficulties checking in because the app  
11 was not working properly when he tried to upload the required photograph. Once he completed his  
12 check-in on the app, he was instructed to appear at the ICE office in person.

13 45. On September 9, 2025 Petitioner appeared at 630 Sansome Street, San Francisco,  
14 California, for the required check-in. Upon arriving, he was placed in handcuffs and arrested and  
15 was taken to another floor of the building. An attorney spoke with ICE Deportation Officer E.  
16 Ortiz Martínez (DO E05959), who alleged that the Petitioner was arrested because of three check-  
17 in violations, which involved checking-in but doing so after the time period allotted. This officer  
18 also stated that generally this is not enough for a detention, but there is currently a lot of pressure  
19 to detain individuals coming from above.

20 46. Petitioner had a Master Calendar hearing scheduled in the Concord Immigration  
21 Court on October 28, 2026, which appears to have been taken off calendar since his detention.  
22 After processing him at the ICE office in San Francisco, California, DHS transferred him to Mesa  
23 Verde ICE Processing Center in Bakersfield, California.

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

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

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

6 49. None of that has changed. Petitioner is not public-safety risk, nor is he conceivably  
7 a flight risk as he was arrested *while appearing at a check-in for his immigration case*. To the  
8 contrary, Petitioner has complied with ICE check-in requirements to the best of his ability and  
9 appeared in person as he was requested to do.

10 50. Petitioner has suffered various traumas in both Honduras and Mexico, including  
11 being the victim of violence and kidnappings. He has endured psychiatric crises, which gang  
12 members took advantage of and targeted him further. Being detained and having his liberty denied  
13 could trigger further psychiatric issues, building upon what he has already endured. Further,  
14 Petitioner's wife suffers from fibromyalgia, which causes severe pain, and psoriasis, and she  
15 requires his assistance for her care. She takes medication for both of these conditions. His detention  
16 will negatively impact her health condition, as well as his psychiatric well-being. Petitioner's case  
17 would also be negatively affected by his detention as it would impede his access to counsel and  
18 available evidence supporting his claims.

19 ///

20 **CLAIMS FOR RELIEF**

21 **FIRST CLAIM FOR RELIEF**

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

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

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

26 52. The Due Process Clause of the Fifth Amendment protects all "person[s]" from  
27 deprivation of liberty "without due process of law." U.S. Const. amend. V. "Freedom from  
28 imprisonment—from government custody, detention, or other forms of physical restraint—lies at

1 the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

2 53. Immigration detention is constitutionally permissible only when it furthers the  
3 government’s legitimate goals of ensuring the noncitizen’s appearance during removal  
4 proceedings and preventing danger to the community. *See id.*

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

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

15 **SECOND CLAIM FOR RELIEF**

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

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

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

20 57. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty  
21 liberty interest in avoiding re-incarceration after his release. *See Young v. Harper*, 520 U.S. 143,  
22 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S.  
23 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a  
24 protected liberty interest in remaining out of custody following an IJ’s bond determination).

25 58. Accordingly, “[i]n the context of immigration detention, it is well-settled that due  
26 process requires adequate procedural protections to ensure that the government’s asserted  
27 justification for physical confinement outweighs the individual’s constitutionally protected  
28 interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinermon*, 494

1 U.S. at 127 (Generally, “the Constitution requires some kind of a hearing *before* the State  
2 deprives a person of liberty or property.”). In the immigration context, for such hearings to  
3 comply with due process, the government must bear the burden to demonstrate, by clear and  
4 convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh*  
5 *v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785,  
6 786 (9th Cir. 2024).

7 59. Petitioner’s detention without a pre-deprivation hearing violated due process.  
8 After deciding to parole Petitioner and place him in the ATD program, Respondents detained  
9 Petitioner with no notice, no formal explanation of the justification of his detention, and no  
10 opportunity to contest his detention before a neutral adjudicator before being taken into custody.

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

21 **PRAYER FOR RELIEF**

22 Petitioner respectfully requests that this Court:

- 23 1. Assume jurisdiction over this matter;
- 24 2. Issue a writ of habeas corpus ordering Respondents to immediately release  
25 Petitioner from custody;
- 26 3. Declare that Petitioner’s arrest and detention violate the Due Process Clause of the  
27 Fifth Amendment;

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4. Enjoin Respondents from transferring Petitioner outside this District or deporting Petitioner pending these proceedings;
5. Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community;
6. Award Petitioner his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
7. Grant such further relief as the Court deems just and proper.

Date: September 15, 2025

Respectfully Submitted,  
  
/s/ Victoria Hartanto  
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