

Nicole Alicia Gorney (SBN 340478)
ngorney@vidaslegal.org
VIDAS
418 B Street, First Floor
Santa Rosa, CA 95401

ATTORNEY FOR PETITIONER

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

JASON CHRISTOPHER JIMENEZ MOLINA

PETITIONER,

VS.

SERGIO ALBARRAN, 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.: 3:25-cv-08427-TLT

HONORABLE TRINA L. THOMPSON

**FIRST AMENDED PETITION FOR
WRIT OF HABEAS CORPUS**

INTRODUCTION

Petitioner Jason Christopher Jimenez Molina entered the United States on or around December 24, 2022 with his wife and children to seek asylum from their native Ecuador. Shortly after entering the United States, the family was apprehended and detained by immigration officials. Petitioner was detained for approximately three days until he was released with instructions to report to the ICE office in San Francisco upon the family's arrival to Northern California.

After arriving in Santa Rosa, California, Petitioner reported in-person to the ICE office in San Francisco as instructed. Upon reporting to ICE in early 2023, DHS gave him a Notice to Appear (NTA) for removal proceedings in immigration court, pursuant to Section 240 of the Immigration and Nationality Act (INA) (section 240 proceedings). The NTA charged Petitioner with removability pursuant to 8 U.S.C. § 1182(a)(6)(A)(i) as "an alien present in the United States without being admitted or paroled." DHS did not require Petitioner to post a bond. Attached hereto as Exhibit E is a true and correct copy of the Notice to Appear.

On date August 16, 2023, Petitioner filed an asylum application on behalf of him and his family. The asylum matter is still pending and has been continued until November 15, 2028. Declaration of Nicole A. Gorney ("Gorney Decl.") at ¶ 16. Attached hereto as Exhibit F is a true and correct copy of the family's asylum application as filed.

In September of 2025, after years of compliance of attending all immigration court hearings and with ICE's multiple check-in requirements and procedures, Petitioner missed a single photo check-in. He received a call from ICE officials to present at the ICE office in San Francisco on October 2, 2025. Declaration of Francesca Borin ("Borin Decl.") at 3.

Petitioner was arrested and detained by ICE on October 2, 2025. Petitioner's detention violates the Immigration and Nationality Act and Petitioner's due process rights. Petitioner was granted a temporary restraining order and ordered released. Petitioner now seeks a preliminary

1 injunction enjoining Respondents from re-arresting him unless and until he is afforded a hearing
2 before a neutral adjudicator on whether a change in custody is justified by clear and convincing
3 evidence that he is a danger to the community or a flight risk.

4 JURISDICTION AND VENUE

5 The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question),
6 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 22-01-02 (Declaratory Judgment Act), 28 U.S.C.
7 § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), the
8 Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§701-706 (Administrative
9 Procedure Act).

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

12 This Court may grant relief under the habeas corpus statutes, 28 U.S.C. §2241 et seq., the
13 Declaratory Judgment Act, 28 U.S.C. §2201 et seq., and the All Writs Act, 28 U.S.C. §1651.

15 PARTIES

16 Petitioner is a thirty-four-year-old man from Ecuador. He has a pending application for
17 asylum in the United States. Prior to his arrest, and currently, Petitioner was a resident of
18 Sonoma County, California. He was in the custody of and under the direct control of
19 Respondents and their agents.

20 Respondent Sergio Albarran, is the Acting Field Office Director of the San Francisco ICE
21 Field Office. In this capacity, he is responsible for the administration of immigration laws and the
22 execution of immigration enforcement and detention policy within ICE's San Francisco Area of
23 Responsibility, including the arrest and detention of Petitioner. Respondent Albarran maintains
24 an office and regularly conducts business in this district. Respondent Albarran is sued in his
25 official capacity.
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Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States; routinely transacts business in this District; and is legally responsible for pursuing any effort to detain and remove the Petitioner. Respondent Lyons is sued in his official capacity.

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

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.

EXHAUSTION

Petitioner amends this habeas petition while the government is opposing his habeas petition and arguing for his re-detention. The doctrine of exhaustion of administrative remedies should not apply for the reasons below.

Prudential exhaustion does not require Petitioner to be forced to endure the very harm they are seeking to avoid by making initial bond requests to IJs and appealing the IJ denials to the BIA and waiting many months for a decision from the BIA. “[T]here are a number of exceptions to the general rule requiring exhaustion, covering situations such as where administrative remedies are inadequate or not efficacious, . . . [or] irreparable injury will result . .

1 .” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation omitted). In addition, a court
2 may waive an exhaustion requirement when “requiring resort to the administrative remedy may
3 occasion undue prejudice to subsequent assertion of a court action.” *McCarthy v. Madigan*, 503
4 U.S. 140, 146–47 (1992), superseded by statute on other grounds as stated in *Booth v. Churner*,
5 532 U.S. 731, 739–41 (2001). “Such prejudice may result . . . from an unreasonable or indefinite
6 time frame for administrative action.” *Id.* at 147 (citing cases). Here, the exceptions regarding
7 irreparable injury and agency delay apply and warrant waiving any prudential exhaustion
8 requirement.
9

10 Here, Petitioner’s challenge to his detention is based on the lack of due process.
11 Respondents have not presented clear and convincing evidence that Petitioner is a flight risk or a
12 danger to the community before a neutral adjudicator. A hearing to which Petitioner is
13 constitutionally entitled to before any such detention.
14

15 Even if the factors above weighed in favor of exhaustion, this court should waive the
16 requirement because Petitioner’s administrative remedies are inadequate and not efficacious,
17 pursuit of those remedies would be futile, and irreparable injury will occur. *Hernandez v.*
18 *Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (stating that exhaustion should be waived if these
19 results will occur).
20

21 Most importantly, Petitioner will suffer irreparable injury if he has to wait for the bond
22 and administrative appeal process to play out. A district court recently cited evidence “showing
23 an average processing time of 204 days for bond appeals in 2024” and that “200 bond appeal
24 cases took a year or longer to resolve.” *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1253 (W.D.
25 Wash. 2025) (internal quotation marks omitted). Many detainees’ claims are mooted during the
26 time it takes for the BIA to resolve an appeal. *Id.* “[D]istrict courts in this circuit have routinely
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1 waived prudential exhaustion requirements for noncitizens like [Petitioner] facing prolonged
2 detention while awaiting administrative appeals.” *Id.* at 1253-54.

3 The Ninth Circuit has recognized “the irreparable harms imposed on anyone subject to
4 immigration detention.” *Hernandez*, 872 F.3d at 995 (citing “subpar medical and psychiatric care
5 in ICE detention facilities, the economic burdens imposed on detainees and their families as a
6 result of detention, and the collateral harm to children of detainees whose parents are detained”).
7 “Irreparable harm may be established where a petitioner will be incarcerated or detained pending
8 the exhaustion of administrative remedies.” *Gomes v. Hyde*, 2025 WL 1869299, at *4 (D. Mass.
9 July 7, 2025).

10 For all these reasons, Petitioner should not be required to exhaust administrative
11 remedies.

12 **LEGAL BACKGROUND**

13 ***A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Detention.***

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

22 These protections extend to noncitizens facing detention, as “[i]n our society liberty is the
23 norm, and detention prior to trial or without trial is the carefully limited exception.” *United*
24 *States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom from imprisonment—from
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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.

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).

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

FACTUAL ALLEGATIONS

COUNT ONE: Petitioner’s Detention is a Violation of the Fifth Amendment

The Petitioner is constitutionally entitled to a hearing before a neutral decisionmaker at which the government must justify his proposed detention with clear and convincing evidence that Petitioner is a flight risk or a danger to the community before being arrested and detained.

While detained, Petitioner had been placed in imminent danger of permanent and irreversible injury because of his prolonged detention.

ICE’s decision to arrest and detain Petitioner was not based on any evidence or individual analysis that Petitioner is a danger to the community or a flight risk but based on their new policy to drastically increase immigration arrests to a target of at least 3,000 per day.

For these reasons, Petitioner’s detention without a predeprivation hearing before a neutral decisionmaker violates the Due Process clause of the Fifth Amendment.

COUNT ONE

Violation of Fifth Amendment Right to Procedural Due Process

The allegations in the above paragraphs are realleged and incorporated herein.

1 The Due Process Clause of the Fifth Amendment prohibits the government from
2
3 detaining immigrants without due process of law. *Hernandez*, 872 F.3d at 990. “In the context of
4 immigration detention, it is well-settled that due process requires adequate procedural protections
5 to ensure that the government’s asserted justification for physical confinement outweighs the
6 individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* (internal
7 quotation marks and citation omitted).

8 In this case, Petitioner was arrested on October 2, 2025 at an ICE check-in appointment.
9 Petitioner was given a warrant that stated the probable cause to believe that he was removable
10 from the United States was based upon “the pendency of ongoing removal proceedings against
11 the subject”. See exhibit C, warrant for arrest. Petitioner was not provided with a predeprivation
12 hearing before a neutral decisionmaker. His detention under these circumstances deprived
13 Petitioner of procedural due process.
14

15 The three-factor test of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), governs
16 procedural due process claims. See *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206-07 (9th Cir.
17 2022) (assuming without deciding that *Mathews* applies to a challenge to immigration detention
18 and noting that other circuits have applied *Mathews* to such challenges); *Ramirez Clavijo v.*
19 *Kaiser*, 2025 WL 2419263, at *5 (N.D. Cal. Aug. 21, 2025) (noting that district courts in this
20 circuit “regularly apply *Mathews* to due process challenges in [the] immigration context”). The
21 *Mathews* three-factor test balances the private interest at stake, the risk of erroneous deprivation,
22 and the governmental interest. 424 U.S. at 335.
23

24 Petitioner faced a potentially long period of detention and separation from his family
25 because of the backlog of removal proceedings before the immigration courts.
26

27 The risk of erroneous deprivation is obvious here; Petitioner has complied with years of
28 attending immigration court hearings and ICE appointments, and was being deprived of his

1 liberty without any due process. The government has not shown that Petitioner is a flight risk or
2 a danger to the community. Therefore, subjecting Petitioner to detention erroneously deprives
3 him of his liberty. See *Ramirez Clavijo*, 2025 WL 2419263, at *6; see also *Lopez Benitez*, 2025
4 WL 2371588, at *12 (holding that the absence of evidence that petitioner was a flight risk or
5 danger to the community established a high risk of erroneous deprivation of his liberty interest).

6 Turning to the third factor, the government generally has a strong interest in the
7 enforcement of immigration law. *Rodriguez Diaz*, 53 F.4th at 1209. However, Petitioner has lived
8 in the United States since 2022, he has a job and family ties here. The Petitioner is actively
9 pursuing an asylum claim with the immigration court. The government has no particular need to
10 detain him. See *Hernandez*, 872 F.3d at 994 (“[T]he government has no legitimate interest in
11 detaining individuals who have been determined not to be a danger to the community and whose
12 appearance at future proceedings can be reasonably ensured by a lesser bond or alternative
13 conditions.”); *Lopez Benitez*, 2025 WL 2371588, at *12 (holding that the government clearly
14 failed to show a significant interest in the petitioner’s detention where there was no evidence that
15 petitioner was a flight risk or danger to the community).
16

17 On balance, the three *Matthews* factors show that Petitioner was entitled to a hearing
18 before any deprivation of his liberty.
19

20 There is no special justification to detain Petitioner where he is in imminent danger of
21 permanent and irreversible injury. Accordingly, prolonged detention violates substantive due
22 process as applied to Petitioner.

23 Immigration detention is constitutionally permissible only when it furthers the
24 government’s legitimate goals of ensuring the noncitizen’s appearance during removal
25 proceedings and preventing danger to the community. See *id.*
26

27 Since being paroled into the United States, Petitioner has attended seven immigration
28 court hearings. Gorney Decl. at ¶ 16. He has also complied with ICE reporting since early 2023,

as required. Respondents' continued detention of Petitioner would therefore be unjustified and unlawful.

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 directives.

PRAYER FOR RELIEF

For the reasons stated above, Petitioner respectfully requests that this Court:

1. Declare that Petitioner's detention violated the Fifth Amendment to the United States Constitution;
2. Enjoin Respondents from re-arresting Petitioner unless and until he is afforded a hearing before a neutral adjudicator on whether a change in custody is justified by clear and convincing evidence that he is a danger to the community or a flight risk;
3. Enjoin Respondents from deporting Petitioner pending these proceedings;
4. 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
5. Grant such further relief as the Court deems just and proper.

Date: October 28, 2025

Respectfully Submitted,

/s/ Nicole Alicia Gorney

Nicole Alicia Gorney
VIDAS Legal
418 B Street, First Floor
Santa Rosa, CA 95401
Telephone: (707) 523-1740
Email: ngorney@vidaslegal.org

Pro Bono Attorney for Petitioner