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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

JULIO LLANES TELLEZ,

Case No.: 25-08982

**Petitioner / Plaintiff,**

VS.

**VERIFIED PETITION FOR WRIT OF  
HABEAS CORPUS**

ORESTES CRUZ, 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 / Defendants

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1 **INTRODUCTION**

2 1. Petitioner-Plaintiff Julio Llanes Tellez (“Mr. Tellez”) is an asylum applicant from  
3 Nicaragua fleeing political persecution and torture in Nicaragua for supporting peaceful protests  
4 against the Sandinista government of Nicaragua.  
5

6 2. Mr. Tellez is an agricultural worker and has lived in the United States since  
7 February 11, 2022, prior to his re-detention he resided in Hollister California. ICE placed an  
8 Order of Supervision on February 11, 2022 and directed him to report to the San Francisco ERO  
9 office at 630 Sansome Street at regular intervals, which he has consistently done for over three  
10 years, at his last check-in with ICE on October 16, 2025 he was detained, upon information and  
11 belief no arrest warrant was issued. *See Declaration of Julio J. Ramos (Ramos. Dec.) Ex. A*  
12 (*Order of Supervision, 02/11/2022*) listing 630 Sansome St. reporting, signature, and conditions);  
13 *see also* Ramos. Dec. Ex. B (*OSUP continuation/personal report record, 02/11/2022*). To be  
14 released on conditional parole/ own recognizance, there must be a finding that the immigrant  
15 does not pose a risk of flight or danger to the community. *Ortega-Cervantes v. Gonzales*, 501  
16 F.3d 1111, 1115 (9th Cir. 2007).  
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18 3. Mr. Tellez timely filed his Asylum application with the San Francisco  
19 Immigration Court on November 30, 2022 and it remains pending. *See Ramos. Dec. Ex. C.*  
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21 4. Mr. Tellez’s has a valid work authorization permit. *See Ramos. Dec. Ex. D* and  
22 has paid his taxes. *Ramos. Dec. Ex. E.*  
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24 5. Notwithstanding his record of compliance, ICE seized Mr. Tellez without prior  
25 notice nor warrant at a scheduled check-in on 10/17/2025 in San Francisco California. In *Y-Z-H-*  
26 *L v Bostock*, 2025 WL 1898025, at \*10-12 (D. Or. July 9, 2025)—the court explained the parole  
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process in immigration cases and noted that before parole may be revoked, the parolee must be given written notice of the impending revocation, which must include a cogent description of the reasons therefore.

6. Because he has not been given pre-detention notice nor a prompt, individualized custody determination, Mr. Tellez has been denied due process as applied to him under the law. Mr. Tellez therefore petitions this Court under 28 U.S.C. § 2241 and the Suspension Clause for: (1) a declaration that his executive detention is unlawful; (2) an order for a prompt custody determination and/or (3) immediate release.

7. Mr. Tellez plead guilty to a VC231152(b) misdemeanor in San Benito Superior Court on 8/20/2024 and has fulfilled all court-imposed requirements, he has no other criminal history.

## **JURISDICTION AND VENUE**

8. Subject-matter jurisdiction. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), and 28 U.S.C. § 2241 (habeas corpus), as reinforced by Article I, § 9, cl. 2 (the Suspension Clause), the Fourth and Fifth Amendments, and the Administrative Procedure Act, 5 U.S.C. §§ 701–706. In addition, because Respondents may purport to detain Petitioner incident to expedited-removal processing, this Petition also seeks the limited habeas review authorized by 8 U.S.C. § 1252(e)(2)—including § 1252(e)(2)(B) (“Unlawful Executive Detention”—while preserving Petitioner’s independent constitutional and statutory claims cognizable under § 2241. He challenges the legality of his present civil immigration detention and—not the validity of any final order of removal. The REAL ID Act does not strip habeas jurisdiction over detention-only

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1 claims. *See Nadarajah v. Gonzales*, 443 F.3d 1069, 1075–76 (9th Cir. 2006) (district courts  
2 retain § 2241 jurisdiction over challenges to immigration detention); *Zadvydas v. Davis*, 533  
3 U.S. 678, 687–88 (2001) (§ 2241 provides jurisdiction to review the legality of executive  
4 detention); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018) (addressing statutory authority  
5 for civil detention, recognizing district-court jurisdiction). The Suspension Clause, U.S. Const.  
6 art. I, § 9, cl. 2, independently protects access to the writ for unlawful executive detention.  
7

8 9. Mr. Tellez is currently in physical ICE custody at 630 Sansome Street in the City  
9 and County of San Francisco. Venue lies in the district of confinement. *See Rumsfeld v. Padilla*,  
10 542 U.S. 426, 434–47 (2004); (“the proper forum is the district of confinement”). In the  
11 alternative, should the Court deem additional or different respondents necessary (e.g., field-  
12 office officials whose actions in San Francisco precipitated the detention), venue is also proper  
13 where “a defendant in the action resides” and “a substantial part of the events or omissions  
14 giving rise to the claim occurred,” 28 U.S.C. § 1391(e)(1).  
15

16 10. Mr. Tellez’s detention creates an ongoing Article III controversy that § 2241 can  
17 redress through immediate release or a constitutionally adequate custody hearing. *See Zadvydas*,  
18 533 U.S. at 687–88; *Nadarajah*, 443 F.3d at 1075–76.  
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20 11. If the Court concludes that a different ICE official or venue is technically  
21 required, the appropriate remedy is substitution under Fed. R. Civ. P. 25(d) and, if necessary,  
22 transfer under 28 U.S.C. §§ 1406(a) or 1631, rather than dismissal—so the Court can promptly  
23 address the legality of Mr. Tellez’s ongoing confinement.  
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25 **PARTIES**  
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1       12. Petitioner Tellez is a national of Nicaragua who is currently in ICE custody at 630  
2 Sansome Street in the City and County of San Francisco. He is therefore detained within the  
3 Northern District of California.

4       13. Respondent Sergio Albarran serves as the Acting Field Office Director for the San  
5 Francisco ICE Field Office and is the physical custodian of the Petitioner. In this role, she  
6 administers immigration laws and oversees enforcement and detention policy within ICE's San  
7 Francisco Area of Responsibility, including matters relating to the Petitioner's detention.  
8 Respondent Kaiser maintains an office and regularly conducts official business within this  
9 district. She is named in this action in her official capacity.

10      14. Respondent Todd M. Lyons is the Acting Director of ICE and the Senior Official  
11 Performing the Duties of the Director. He is charged with administering and enforcing the  
12 immigration laws of the United States, routinely conducts business within this District, and bears  
13 legal responsibility for all efforts related to the detention and removal of the Petitioner.  
14 Respondent Lyons is sued in his official capacity.

15      15. Respondent Kristi Noem is the Secretary of Homeland Security, holding ultimate  
16 authority over the Department of Homeland Security. In this role and through her agents,  
17 Respondent Noem exercises broad authority and responsibility for the operation and enforcement  
18 of immigration laws, conducts business within this District, and is legally responsible for actions  
19 concerning the detention and removal of the Petitioner. Respondent Noem is sued in her official  
20 capacity.

21      16. Respondent Pamela Bondi is the Attorney General of the United States and the  
22 highest-ranking official within the Department of Justice. Through her position and agents, she  
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1 holds oversight responsibility for the implementation and enforcement of federal immigration  
2 laws. This responsibility is delegated to the Executive Office for Immigration Review, which  
3 manages the immigration courts and the Board of Immigration Appeals. Respondent Bondi is  
4 named in her official capacity.  
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#### EXHAUSTION

7 17. Habeas review under 28 U.S.C. § 2241 is proper here because Petitioner  
8 challenges the lawfulness of his present civil detention, not the validity of any removal order.  
9 The statutory exhaustion provision in 8 U.S.C. § 1252(d)(1) applies to petitions for review filed  
10 in the courts of appeals—not to district-court habeas challenges to executive detention. *See, e.g.,*  
11 *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001) (permitting § 2241 custody challenges);  
12 *Jennings v. Rodriguez*, 138 S. Ct. 830, 840–42 (2018) (channeling provisions do not foreclose  
14 detention challenges in district court).

15 18. No adequate administrative remedy exists to test the legality of Mr. Tellez'  
16 re-detention or to obtain the pre-deprivation hearing he seeks. Under the post-order framework (8  
17 U.S.C. § 1231 and 8 C.F.R. §§ 241.4–241.13), custody determinations are made internally by  
18 ICE; there is no immigration judge bond jurisdiction and no administrative appeal that can award  
19 the relief requested (immediate release or, at minimum, a neutral hearing before detention). Any  
20 later post-order custody review is discretionary, after-the-fact, and cannot cure the present  
21 constitutional violation. Requiring Mr. Tellez—who was seized at a routine check-in after years  
22 of compliance—to await a paper review while in custody would defeat the point of the claim.  
23  
25 *See McCarthy v. Madigan*, 503 U.S. 140, 147–49 (1992) (exhaustion not required where  
26 remedies are inadequate, futile, or where irreparable injury would result).

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19. Under similar circumstances presented here; Courts in this District have recently granted TRO/PI relief for individuals re-detained after long periods on supervision, recognizing that there is no meaningful administrative avenue to adjudicate the due-process requirement of a pre-deprivation hearing and ordering release or a hearing with appropriate burdens. *Chavez v. Kaiser*, 2025 U.S. Dist. LEXIS 203250, 2025 LX 438408, 2025 WL 2909526. Administrative exhaustion would be futile without the Court's intervention, due to the BIA's decision in *Hurtado*, 29 I. & N. Dec. 216, 228 (BIA 2025) *Roman v. Noem*, 2025 U.S. Dist. LEXIS 186389, \*14, 2025 LX 480697, 2025 WL 2710211.

20. To the extent the Government argues that Mr. Tellez could request a stay of removal or make informal pleas to the Field Office, those are purely discretionary measures that do not provide a channel to adjudicate the constitutional and statutory limits on detention and are therefore not required to be exhausted. *See McCarthy*, 503 U.S. at 147–49.

21. This claim is ripe. Petitioners are presently detained at 630 Sansome Street. The injury is ongoing and not speculative; the absence of any pre-deprivation process is complete, and continued custody inflicts irreparable harm on Petitioner and his family.

## LEGAL BACKGROUND

#### **A. Habeas review of immigration custody.**

22. Federal courts retain authority under 28 U.S.C. § 2241 to review the legality of executive detention, including immigration custody that is independent of, or collateral to, any challenge to a removal order. The Supreme Court has repeatedly confirmed that habeas extends to challenges to “the fact or duration” of detention and to conditions governing release. *See*

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1 immediate custodian is proper respondent); *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001)  
2 (§ 2241 lies to review post-order immigration detention); *Clark v. Martinez*, 543 U.S. 371, 377–  
3 78 (2005) (same). The jurisdiction-channeling provisions of 8 U.S.C. § 1252 do not eliminate  
4 habeas review for detention claims that do not ask the court to adjudicate the validity of a final  
5 removal order. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018) (addressing detention  
6 authority under §§ 1225/1226; detainees may bring statutory and constitutional challenges to  
7 custody); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (same). Accordingly, this Court may  
8 assess whether Mr. Tellez’ re-detention and ongoing custody violate the Constitution, the INA,  
9 or DHS’s own regulations.

12 **B. The statutory framework: pre-order (§ 1226) and post-order (§ 1231) custody, and  
13 supervised release.**

14 23. Congress authorized immigration arrest and custody during the pendency of  
15 removal proceedings under 8 U.S.C. § 1226 and after a final order under 8 U.S.C. § 1231. For  
16 individuals subject to a final order, DHS’s authority is constrained by a 90-day “removal period”  
17 and implementing regulations that require custody reviews and, where appropriate, release on an  
18 Order of Supervision (“OSUP”). *See* 8 C.F.R. §§ 241.4 (post-order custody reviews), 241.5  
19 (orders of supervision), 241.13 (procedures when removal is not reasonably foreseeable). These  
20 rules recognize a constitutionally protected “conditional liberty” when DHS elects to supervise  
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1 rather than confine, and they require reasoned decision-making before re-detaining a supervised  
2 noncitizen.<sup>1</sup>

3 **C. Constitutional due process limits on (re)detention and the need for procedures.**

4 24. The Fifth Amendment applies to noncitizens in immigration custody and prohibits  
5 arbitrary deprivations of liberty. *Zadvydas*, 533 U.S. at 693–94. When the government seeks to  
6 deprive a person of conditional liberty previously granted (e.g., re-detaining someone on OSUP  
7 at a routine check-in), due process requires notice of the asserted basis and a meaningful  
8 opportunity to be heard, evaluated under the *Mathews v. Eldridge* balancing test, 424 U.S. 319,  
9 334–35 (1976).

10 25. The Supreme Court’s parole- and probation-revocation cases—*Morrissey v.*  
11 *Brewer*, 408 U.S. 471 (1972), and *Gagnon v. Scarpelli*, 411 U.S. 778 (1973)—illustrate the  
12 baseline procedural protections before conditional liberty is revoked: advance notice, disclosure  
13 of evidence, an opportunity to present reasons and evidence, and a neutral decisionmaker. In the  
14 immigration context, the Ninth Circuit likewise requires individualized custody determinations  
15 that account for less restrictive alternatives and ability to pay when liberty is at stake. See  
16 *Hernandez v. Sessions*, 872 F.3d 976, 990–92 (9th Cir. 2017); *Singh v. Holder*, 638 F.3d 1196,  
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1 “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. Such an officer may also, in the exercise of discretion, release an alien in  
deportation proceedings pursuant to the authority in section 242 of the Act (as designated prior to  
April 1, 1997), except as otherwise provided by law. “ 8 CFR 1236.1.

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1 1203–04 (9th Cir. 2011). Although those decisions addressed § 1226 custody, their due-process  
2 analysis applies a fortiori when DHS abruptly revokes supervision and jails a long-present,  
3 compliant supervisee without prior notice or hearing.

4 26. Even after the 90-day removal period, the government may not detain indefinitely  
5 without a significant likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533  
6 U.S. at 701. After approximately six months, continued detention must be justified with evidence  
7 that removal will be reasonably foreseeable; otherwise release under supervision is required. *Id.*;  
8 *Clark*, 543 U.S. at 378–79. Those constraints reinforce why DHS’s own regulations (8 C.F.R.  
9 §§ 241.4, 241.13) require periodic review and reasoned decision-making tailored to the  
10 individual.

11 27. Where DHS invokes expedited removal at the border (8 U.S.C. § 1225(b)(1)), the  
12 statute and regulations require an immediate referral for a credible-fear interview if the  
13 individual indicates a fear or intent to seek asylum; DHS may not proceed to summary removal  
14 until the credible-fear process (including review by an immigration judge if negative) is  
15 complete. 8 U.S.C. § 1225(b)(1)(A)(ii), (B); 8 C.F.R. §§ 235.3(b)(4), 208.30, 208.31. The Ninth  
16 Circuit has recognized that protection-only processes (credible fear/withholding-only) must run  
17 their course before removal may lawfully occur. *See Ortiz-Alfaro v. Holder*, 694 F.3d 955, 958–  
18 60 (9th Cir. 2012) (where an alien pursues reasonable fear and withholding of removal  
19 proceedings following the reinstatement of a prior removal order, the reinstated removal order  
20 does not become final until the reasonable fear of persecution and withholding of removal  
21 proceedings are complete).

22 **D. All Writs Act and equitable power to preserve jurisdiction.**

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28. District courts may issue temporary restraining orders and preliminary injunctions to prevent irreparable harm and to preserve their prospective jurisdiction over claims. *See* 28 U.S.C. § 1651(a) (All Writs Act); Fed. R. Civ. P. 65; *Winter v. NRDC*, 555 U.S. 7, 20–24 (2008) (likelihood of success, irreparable harm, balance of equities, and public interest); *Nken v. Holder*, 556 U.S. 418, 434–35 (2009) (stay/removal context tracks *Winter* factors).

29. When DHS releases a person on supervision under 8 C.F.R. § 241.5, the agency imposes reporting conditions and creates a settled expectation of conditional liberty. Detention at a routine check-in, absent prior notice, disclosure, and an opportunity to respond, offends both the *Mathews* framework and the procedural norms recognized for revoking conditional liberty (*Morrissey, Gagnon*)—particularly where the individual has remained compliant for years and DHS previously determined supervision appropriate. A single DUI conviction does not place Petitioner in a category of designations that require detention.

30. Under controlling precedent and DHS's own rules, this Court has jurisdiction to review Petitioner's re-detention; the Constitution forbids revoking his conditional liberty without fair procedures; DHS may not short-circuit protection processes or rely on unserved or incomplete paperwork to justify custodial arrest; and the Court may enter interim relief under Rule 65 and the All Writs Act to preserve jurisdiction and prevent irreparable harm while the merits are adjudicated of a federal question implicating the 5<sup>th</sup> Amendment substantive and procedural due process rights.

## FURTHER ALLEGATIONS

## DHS Dramatically Expands the Scope of Detention

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

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

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

20       34.    On August 1, 2025, the U.S. District Court for the District of Columbia in *Coal.*  
21 *for Humane Immigrant Rights v. Noem* (D.D.C. Aug. 1, 2025, No. 25-cv-872 (JMC)) 2025  
22 U.S.Dist.LEXIS 148615) stayed government policies seeking to put individuals who entered on  
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1 parole at a port of entry in expedited removal proceedings. The court found that the INA does not  
2 authorize expedited removal for people who were paroled at a port of entry even after their  
3 parole has been terminated.  
4

### CLAIMS FOR RELIEF

#### **FIRST CLAIM FOR RELIEF**

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

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

9 35. Petitioner repeats and re-alleges the allegations contained in the preceding  
10 paragraphs of this Petition as if fully set forth herein. The Due Process Clause of the Fifth  
11 Amendment protects all “person[s]” from deprivation of liberty “without due process of law.”  
12 U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or  
13 other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause  
14 protects.” *Zadvydas*, 533 U.S. at 690. 69. Immigration detention is constitutionally permissible  
15 only when it furthers the government’s legitimate goals of ensuring the noncitizen’s appearance  
16 during removal proceedings and preventing danger to the community. *See id.* 70. Petitioner is  
17 not a flight risk or danger to the community. Respondents’ detention of Petitioner is therefore  
18 unjustified and unlawful. Accordingly, Petitioner is being detained in violation of the Due  
19 Process Clause of the Fifth Amendment.  
20

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

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## SECOND CLAIM FOR RELIEF

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### Violation of the Fifth Amendment to the United States Constitution

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#### (Procedural Due Process—Detention)

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8 37. Petitioner repeats and re-alleges the allegations contained in the preceding  
9 paragraphs of this Petition as if fully set forth herein. As part of the liberty protected by the Due  
10 Process Clause, Petitioner has a strong liberty interest in avoiding re-incarceration after his release.  
11  
12 *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82  
13 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at  
14 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody  
15 following an IJ’s bond determination).

16

17 38. Accordingly, “[i]n the context of immigration detention, it is well-settled that due  
18 process requires adequate procedural protections to ensure that the government’s asserted  
19 justification for physical confinement outweighs the individual’s constitutionally protected interest  
20 in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinermon*, 494 U.S. at  
21 127 (Generally, “the Constitution requires some kind of a hearing before the State deprives a  
22 person of liberty or property.”). In the immigration context, for such hearings to comply with due  
23 process, the government must bear the burden to demonstrate, by clear and convincing evidence,  
24 that the noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d  
25 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

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1 Petitioner's re-detention without a pre-deprivation hearing violated due process. Over 3 years after  
2 deciding to release Petitioner from custody on his own recognizance, Respondents re-detained  
3 Petitioner with no notice, no explanation of the justification of his re detention, and no opportunity  
4 to contest the re-detention before a neutral adjudicator before being taken into custody.  
5

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

18 **Violation of the Fourth Amendment to the United States Constitution**

19 **(Unlawful Arrest)**

20 40. Petitioner repeats and re-alleges the allegations contained in the preceding  
21 paragraphs of this Petition as if fully set forth herein. The Fourth Amendment protects the right  
22 of persons present in the United States to be free from unreasonable seizures by government  
23 officials. As a corollary to that right, the Fourth Amendment prohibits government officials from  
24 conducting repeated arrests on the same probable cause. It is axiomatic that seizures have  
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1 purposes. When those purposes are spent, further seizure is unreasonable. . . . [T]he primary  
2 purpose of an arrest is to ensure the arrestee appears to answer charges. . . . Once the arrestee  
3 appears before the court, the purpose of the initial seizure has been accomplished. Further seizure  
4 requires a court order or new cause; the original probable cause determination is no justification.  
5 *Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020) (cleaned up); *see also United States v.*  
6 *Kordosky*, No. 88-CR-52-C, 1988 WL 238041, at \*7 n.14 (W.D. Wis. Sept. 12, 1988) (“Absent  
7 some compelling justification, the repeated seizure of a person on the same probable cause  
8 cannot, by any standard, be regarded as reasonable under the Fourth Amendment.”).  
9

10 41. In the immigration context, this prohibition means that a person who immigration  
11 authorities released from initial custody cannot be re-arrested “solely on the ground that he is  
12 subject to removal proceedings” and without some new, intervening cause. *Saravia v. Sessions*,  
13 280 F. Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff’d sub nom., Saravia for A.H. v. Sessions*, 905  
14 F.3d 1137 (9th Cir. 2018). Courts have long recognized that permitting such rearrests could  
15 result in “harassment by continual rearrests.” *United States v. Holmes*, 452 F.2d 249, 261 (7th  
16 Cir. 1971).

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19 **FOURTH CLAIM FOR RELIEF**

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21 **Violation of the Administrative Procedure Act**

22 42. Petitioner repeats and re-alleges the allegations contained in the preceding  
23 paragraphs of this Petition as if fully set forth herein. The Administrative Procedure Act prohibits  
24 federal action that is “in excess of statutory jurisdiction, authority or limitations, or short of  
25 statutory right,” 5 U.S.C. § 706(2)(C), and “arbitrary, capricious, an abuse of discretion, or  
26 otherwise not in accordance with law,” *id.* § 706(2)(A). The government’s policy targeting people  
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1 attending their immigration check-ins for arrest violates all notions of fair play. The government  
2 has provided no reasoned or adequate explanation for the policy, which is a dramatic shift from  
3 recent and longstanding agency policy and practice. Additionally, in adopting the policy, the  
4 government failed to adequately consider all relevant factors and crucial aspects of the issue. The  
5 policy will deter individuals from appearing as parties and witnesses at immigration and other  
6 judicial proceedings, preventing the adjudication of meritorious claims, impeding the  
7 administration of justice, and hindering cooperation with law enforcement. Petitioner's arrest and  
8 detention pursuant to the government's policy is a final agency action that violates the  
9 Administrative Procedure Act. See 5 U.S.C. § 706(2).

11 **FIFTH CLAIM FOR RELIEF**

13 **Violation of the Administrative Procedure Act, 5 U.S.C. §§ 702, 706**

14 **(Dismissal/Expedited Removal)**

15 43. Petitioner repeats and re-alleges the allegations contained in the preceding  
16 paragraphs of this Petition as if fully set forth herein. 100. 8 U.S.C. § 1225(b)(1) covers the  
17 “[i]nspection of aliens arriving in the United States and certain other aliens who have not been  
18 admitted or paroled.” 8 U.S.C. § 1225(b)(1). Section 1225(b)(1)(A)(iii)(II) further clarifies that  
20 “[a]n alien described in this clause is an alien who is not described in subparagraph (F), who has  
21 not … been physically present in the United States continuously for the 2-year period.” 8 U.S.C.  
22 § 1225(b)(1)(A)(iii)(II). Because Petitioner has been in the United States for more than two years,  
23 8 U.S.C. § 1225(b)(1) cannot be applied to him. Placing Petitioner in expedited removal  
25 proceedings would be contrary to the Fifth Amendment's guarantee of due process in violation of  
26 5 U.S.C. § 706(2)(A)-(B).

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## SIXTH CLAIM FOR RELIEF

## Violation of the Fifth Amendment to the United States Constitution

## (Procedural Due Process—Dismissal/Expedited Removal)

44. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein. Petitioner has a liberty interest in protection from deportation. *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (a noncitizen's interest in deportation proceedings "is, without question, a weighty one" because "she stands to lose the right 'to stay and live and work in this land of freedom'") (*quoting Bridges v. Wixon*, 326 U.S. 135, 154 (1945)); *Orantes-Hernandez v. Smith*, 541 F. Supp. 351, 377 n.32 (C.D. Cal. 1982) ("It is well-settled that the right to a deportation hearing is of constitutional scope because deportation 'involves issues basic to human liberty and happiness and, in the present upheavals in lands to which aliens may be returned perhaps to life itself.'") (*quoting Wong Yang Sung v. McGrath*, 339 U.S. 33, 50 (1950)). Accordingly, "[a] person who faces deportation is entitled under our constitution to a full and fair deportation hearing," *Hartooni v. I.N.S.*, 21 F.3d 336, 339–40 (9th Cir. 1994), because "without such a hearing, there would be no constitutional authority for deportation." *Wong Yang Sung*, 339 U.S. at 49. Depriving Petitioner of his liberty interest is unconstitutional under the Fifth Amendment unless it is "accompanied by sufficient procedural protections." See *Johnson v. Ryan*, 55D F.4th 1167, 1179–80 (9th Cir. 2022) (*citing Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)). 107.

## PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;

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1           2. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner  
2 from custody;

3           3. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth  
4 Amendment, the Fourth Amendment, the First Amendment, and the Administrative Procedure  
5 Act;

6           4. Declare that failure to conduct a bond hearing within 7 days violates the Due Process  
7 Clause of the Fifth Amendment;

8           5. Enjoin Respondents from transferring Petitioner outside this District or deporting  
9 Petitioner pending these proceedings;

10           6. Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered at a  
11 custody hearing before a neutral arbiter in which the government bears the burden of proving, by  
12 clear and convincing evidence, that Petitioner is a flight risk or danger to the community;

13           7. Order that Respondents may not place Petitioner in expedited removal proceedings or  
14 remove Petitioner except based on a final, executable removal order issued through Section 240  
15 removal proceedings;

16           8. Award Petitioner his costs and reasonable attorneys' fees in this action as provided for  
17 by the Equal Access to Justice Act and 28 U.S.C. § 2412; and

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

20           Date: October 17, 2025

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26           VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

1 Respectfully Submitted,

2 /s/ Julio J. Ramos

3 *Attorneys for Petitioner*

4 **VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

5 I represent Petitioner, Julio Llanez Tellez, and submit this verification on his behalf. I  
6 hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas  
7 Corpus are true and correct to the best of my knowledge.

8 /s/ Julio J. Ramos

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