

1 Kate Lewis (CA 327952)  
klewis@clsepa.org  
2 Community Legal Services in East Palo Alto  
1861 Bay Road  
3 East Palo Alto, CA 94303  
(650) 422-2889  
4

5 *Attorney for Petitioner*

6 **UNITED STATES DISTRICT COURT**  
7 **NORTHERN DISTRICT OF CALIFORNIA**  
8 **SAN FRANCISCO DIVISION**

9 LEIVA FLORES, Lesbia Jesenia

10 Petitioner,

11 v.

12 SERGIO ALBARRAN, Field Office Director of  
the San Francisco Immigration and Customs  
13 Enforcement Office; TODD LYONS, Acting  
Director of United States Immigration and  
14 Customs Enforcement; KRISTI NOEM,  
Secretary of the United States Department of  
15 Homeland Security, PAMELA BONDI,  
Attorney General of the United States, acting in  
16 their official capacities,

17 Respondents.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CASE NO. 3:25-cv-09302

**PETITION FOR WRIT OF HABEAS  
CORPUS**

**INTRODUCTION**

1. Petitioner Lesbia Jesenia Leiva Flores is a 35-year-old asylum seeker from Nicaragua who is deaf and uses a hearing aid. She was arrested at a routine check-in with the Department of Homeland Security (DHS) on October 28, 2025.

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

3. Petitioner entered the United States in July 2021 and was paroled into the United States. DHS instructed her to attend ICE check-ins on an annual or, sometimes, semiannual basis, which she did regularly at least six times. On April 28, 2025, she reported for an ICE check-in and was told to report again on October 28, 2025. On that date, she reported again and was detained.

4. In the meanwhile, Petitioner, who was not placed in removal proceedings, affirmatively applied for asylum before the United States Citizenship and Immigration Service ("USCIS") Asylum Office. On June 12, 2025, USCIS issued a "Notice of Dismissal of Form I-589" indicating that it was dismissing her asylum application because she had been placed in expedited removal. The letter stated that the "asylum office cannot process your Form I-589 [asylum application] at this time."

5. On August 1, 2025, a federal judge blocked the expansion of expedited removal to those, like Petitioner, who had previously been paroled into the United States. *Coalition for Humane Immigrant Rights ("CHIRLA") v. Noem*, No. 25-cv-872 (D.D.C. filed Aug. 1, 2025).

1 Thus, the dismissal of Petitioner's asylum application, supposedly based on her having been placed  
2 in expedited removal, was unlawful.

3 6. The Constitution protects Petitioner—and every other person present in this  
4 country—from arbitrary deprivations of his liberty, and guarantees them due process of law. The  
5 government's power over immigration is broad, but as the Supreme Court has declared, it "is  
6 subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001).  
7 "Freedom from bodily restraint has always been at the core of the liberty protected by the Due  
8 Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

9 7. Petitioner respectfully seeks a writ of habeas corpus ordering the government to  
10 immediately release her from her ongoing, unlawful detention, and prohibiting her re-arrest  
11 without a hearing to contest that re-arrest before a neutral decisionmaker. In addition, to preserve  
12 this Court's jurisdiction, Petitioner also requests that this Court order the government not to  
13 transfer her outside of the District or deport her for the duration of this proceeding.

#### 14 JURISDICTION AND VENUE

15 8. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal  
16 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),  
17 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension  
18 Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706  
19 (Administrative Procedure Act).

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

#### 22 PARTIES

23 10. Petitioner Lesbia Jesenia Leiva Flores is a woman from Nicaragua. She previously  
24 filed a Form I-589, Application for Asylum, at USCIS, which USCIS unlawfully dismissed. *See*  
25 *CHIRLA v. Noem*, No. 25-872 (JMC) (D.D.C. filed Aug. 1, 2025). She is presently in civil  
26 immigration detention at 630 Sansome Street in San Francisco.

27 11. Respondent Sergio Albarran is the Field Office Director of the San Francisco  
28 Immigration and Customs Enforcement Office. He is responsible for the administration of

immigration laws and the execution of immigration enforcement and detention policy within ICE's San Francisco Area of Responsibility, including the detention of Petitioner. He maintains an office and regularly conducts business in this district. He is sued in his official capacity.

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

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

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

### EXHAUSTION

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



## LEGAL BACKGROUND

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

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

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

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

19. 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).

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

21. Generally, “the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). This is so

even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d at 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

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

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

### **FACTUAL ALLEGATIONS**

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

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

25. In 2002, the government for the first time invoked its authority to apply expedited removal to persons already inside the country, but only for a narrow group of people who arrived by sea, were not admitted or paroled, and were apprehended within two years of entry. *See* Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the

1 Immigration and Nationality Act, 67 Fed. Reg. 68924 (Nov. 13, 2002).

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

7 27. In 2019, at the direction of President Trump, DHS published a Federal Register  
8 Notice authorizing the application of expedited removal to certain noncitizens arrested anywhere  
9 in the country who could not affirmatively show that they had been continuously present for two  
10 years. *See* Designating Aliens for Expedited Removal, 84 Fed. Reg. 35409 (July 23, 2019). The  
11 District Court for the District of Columbia entered a preliminary injunction preventing the rule  
12 from taking effect, which the D.C. Circuit later vacated. *Make the Rd. New York v. McAleenan*,  
13 405 F. Supp. 3d 1, 11 (D.D.C. 2019), *vacated sub nom. Make the Rd. New York v. Wolf*, 962 F.3d  
14 612, 618 (D.C. Cir. 2020).

15 28. In 2021, President Biden directed the DHS Secretary to review the rule expanding  
16 expedited removal and consider whether it comported with legal and constitutional requirements,  
17 including due process. In 2022, DHS rescinded the rule. *See* Rescission of the Notice of July 23,  
18 2019, Designating Aliens for Expedited Removal, 87 Fed. Reg. 16022 (Mar. 21, 2022).

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

24 30. This state of affairs changed drastically on January 20, 2025, the day that President  
25 Trump took office for his second term. That day, President Trump signed Executive Order 14159,  
26 “Protecting the American People Against Invasion,” the purpose of which was “to faithfully  
27 execute the immigration laws against all inadmissible and removable aliens, particularly those  
28 aliens who threaten the safety or security of the American people.” Exec. Order No. 14,159, 90



1 C.F.R. § 8443 (Jan. 20, 2025). The order directed the Secretary of Homeland Security to take  
 2 various actions “to ensure the efficient and expedited removal of aliens from the United States.”  
 3 *Id.*

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

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

15 33. Under the administration’s expanded approach to expedited removal, hundreds of  
 16 thousands of noncitizens who have lived in the country for years are at imminent risk of summary  
 17 removal without any hearing, meaningful process, access to counsel, or judicial review—  
 18 regardless of the strength of their ties to the United States.

19 ***B. To Place More People in Expedited Removal, DHS Undertakes New Campaign of***  
 20 ***Courthouse and ICE Check-In Arrests.***

21 34. Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign  
 22 targeting people who are in regular removal proceedings in immigration court or routine ICE  
 23 check-ins. This “coordinated operation” is “aimed at dramatically accelerating deportations” by  
 24 arresting people at the courthouse and placing them into expedited removal.<sup>2</sup>

25 \_\_\_\_\_  
 26 <sup>1</sup> Benjamine C. Huffman, *Guidance Regarding How to Exercise Enforcement Discretion*, Dep’t  
 of Homeland Sec. (Jan. 23, 2025), [https://www.dhs.gov/sites/default/files/2025-01/25\\_0123\\_er-](https://www.dhs.gov/sites/default/files/2025-01/25_0123_er-and-parole-guidance.pdf)  
 and-parole-guidance.pdf.

27 <sup>2</sup> Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic*  
 28 *in Trump’s Deportation Push*, Wash. Post, May 23, 2025,



35. Once the person has been transferred to a detention facility, the government places the individual in expedited removal. The Department is aggressively pursuing this arrest and detention campaign at courthouses and ISAP offices 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.”<sup>3</sup>

36. 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.”<sup>4</sup>

37. The same is true in San Francisco, where data shows ICE arrests have doubled since last year.<sup>5</sup> This increase has resulted in overcrowding at the San Francisco ICE offices, where detainees have reported they were “not given food and had to sleep on the floor.”<sup>6</sup>

38. DHS’s aggressive tactics appear to be motivated by the Administration’s imposition of a new daily quota of 3,000 ICE arrests.<sup>7</sup> In part as a result of this campaign, ICE’s

<https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>; see also Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE is Seeking to Ramp Up Deportations Through Courthouse Arrests*, N.Y. Times, May 30, 2025, <https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>.

<sup>3</sup> 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>.

<sup>4</sup> 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>.

<sup>5</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-immigrants-arrested-sf/>.

<sup>6</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-mothers-children/>.

<sup>7</sup> 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>.

1 arrests of noncitizens with no criminal record have increased more than 800% since before  
2 January.<sup>8</sup>

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

7 ***C. Petitioner Is Unlawfully Arrested and Detained Pursuant to DHS's New Policy.***

8 51. Lesbia Jesenia Leiva-Flores fled Nicaragua and arrived in the United States in  
9 July 2021. She is deaf and uses a hearing aid. She was apprehended by immigration officials at  
10 the border. Determining she posed little if any flight risk or danger to the community, DHS issued  
11 her a parole document pursuant to INA § 212(d)(5)(A) and released her into the community. She  
12 was never placed into removal proceedings. She subsequently filed for asylum before USCIS.  
13 She has consistently attended her ICE appointments and has no criminal history anywhere in the  
14 world.

15  
16 ***D. As a Result of Her Arrest and Detention, Petitioner Is Suffering Ongoing and Irreparable Harm.***

17 68. Petitioner is being deprived of her liberty without any permissible justification. The  
18 government previously released her on her own recognizance and issued her parole because she  
19 did not pose sufficient risk of flight or danger to the community to warrant detention.

20 69. None of that has changed. Upon information and belief, Petitioner has no criminal record,  
21 and there is no basis to believe that she poses any public-safety risk. Nor is Petitioner, who were  
22 arrested *while appearing at her scheduled ICE check-in*, conceivably a flight risk. To the  
23 contrary, Petitioner has consistently complied with her ICE check-in requirements.

24 ///

25 **CLAIMS FOR RELIEF**

26  
27 <sup>8</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-arrests-migrants-trump-figures>.

**FIRST CLAIM FOR RELIEF**

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

**(Substantive Due Process—Detention)**

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

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

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

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

74. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation” to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s detention appears to be “not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons”—namely, to meet newly-imposed DHS quotas. *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

**SECOND CLAIM FOR RELIEF**

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

**(Procedural Due Process—Detention)**

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

76. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty liberty interest in avoiding re-incarceration after her release. *See Young v. Harper*, 520 U.S. 143,



1 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S.  
2 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a  
3 protected liberty interest in remaining out of custody following an IJ’s bond determination).

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

14 78. Petitioner’s re-detention without a pre-deprivation hearing violated due process.  
15 Long after deciding to release Petitioner from custody on her own recognizance, Respondents re-  
16 detained her with no notice, no explanation of the justification of their re-detention, and no  
17 opportunity to contest her re-detention before a neutral adjudicator before being taken into  
18 custody.

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



**PRAYER FOR RELIEF**

Petitioner respectfully requests that this Court:

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

Date: October 29, 2025

Respectfully Submitted,

/s/ Kate Lewis

Kate Lewis (CA 327952)  
Community Legal Services in East Palo Alto  
1861 Bay Road  
East Palo Alto, CA 94303  
(650) 422-2889  
*Attorney for Petitioner*