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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

9 JENIFER OROZCO ACOSTA

10 Petitioner,

11 | V.

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

Respondents.

CASE NO. _____

**PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

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

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

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

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

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

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

10 **JURISDICTION AND VENUE**

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

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

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

21 **PARTIES**

22 9. Petitioner Jenifer Orozco Acosto is a woman from Colombia. She has a pending
23 application for asylum, withholding of removal, and protection under the Convention Against
24 Torture. She is presently in civil immigration detention at 630 Sansome Street in San Francisco.

25 10. Respondent Sergio Albarran is the Field Office Director of the San Francisco
26 Immigration and Customs Enforcement Office. He is responsible for the administration of
27 immigration laws and the execution of immigration enforcement and detention policy within ICE's
28 San Francisco Area of Responsibility, including the detention of Petitioner. He maintains an office

1 and regularly conducts business in this district. He is sued in his official capacity.

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

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

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

EXHAUSTION

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

LEGAL BACKGROUND

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

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

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

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

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

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

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

1 (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

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

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

14 FACTUAL ALLEGATIONS

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

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

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

26 25. In 2004, the government authorized the application of expedited removal to
 27 individuals who entered by means other than sea, but only if they were apprehended within 100
 28

1 miles of a land border and were unable to demonstrate that they had been continuously physically
2 present in the United States for 14 days. *See Designating Aliens for Expedited Removal*, 69 Fed.
3 Reg. 48877 (Aug. 11, 2004).

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

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

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

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

28 *Id.*

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

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

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

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

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

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

26 ² Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic*
 27 *in Trump’s Deportation Push*, Wash. Post, May 23, 2025,
<https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>;
 28 see also Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE is Seeking to Ramp Up*
Deportations Through Courthouse Arrests, N.Y. Times, May 30, 2025,
<https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>.

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

8 35. Even though individuals are supposed to have ten days to respond to a motion to
9 dismiss, some IJs have granted the government’s oral motion on the spot and immediately
10 dismissed the case. This is consistent with recent instructions from the Department of Justice to
11 immigration judges stating that she may allow the government to move to dismiss cases orally, in
12 court, without a written motion, and to decide that motion without allowing the noncitizen an
13 opportunity to file a response.

14 36. Despite these instructions, some IJs have still asked DHS to re-file the motion as a
15 written motion and continued proceedings to allow individuals to file her response. A smaller
16 group of IJs have expressly denied the motion to dismiss on the record or in a written order.

17 37. The next step of DHS’s new campaign takes place outside the courtroom. ICE
18 officers, in consultation with DHS attorneys and officials, station themselves in courthouse waiting
19 rooms, hallways, and elevator banks. When an individual exits her immigration hearings, ICE
20 officers—typically masked and in plainclothes—immediately arrest the person and detain them.
21 ICE officers execute these arrests regardless of how the IJ rules on the government’s motion to
22 dismiss. On information and belief, they typically do not have an arrest warrant.

23 38. Once the person has been transferred to a detention facility, the government places
24 the individual in expedited removal. In cases in which the IJ did not dismiss the person’s removal
25 proceedings, DHS attorneys unilaterally transfer venue of the case to a “detained” immigration
26 court, where she renew her motions to dismiss—again with the goal of putting the person in
27 expedited removal.

28 39. DHS is aggressively pursuing this arrest and detention campaign at courthouses

1 throughout the country. In New York City, for example, “ICE agents have apprehended so many
 2 people showing up for routine appointments this month that the facilities” are “overcrowded,” with
 3 “[h]undreds of migrants . . . sle[eping] on the floor or sitting upright, sometimes for days.”³

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

7 41. DHS’s aggressive tactics at immigration courts appear to be motivated by the
 8 Administration’s imposition of a new daily quota of 3,000 ICE arrests.⁵ In part as a result of this
 9 campaign, ICE’s arrests of noncitizens with no criminal record have increased more than 800%
 10 since before January.⁶

11 42. The new courthouse arrest and detention campaign is a sharp break from DHS’s
 12 previous practices, when immigration officers avoided arrests at courthouses given the concern
 13 that such enforcement actions would deter people from appearing for her proceedings and
 14 complying with court orders.⁷

15 43. In fact, DHS officials previously permitted ICE officers to conduct “civil

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

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

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 21 ⁵ Ted Hesson & Kristina Cooke, *ICE’s Tactics Draw Criticism as it Triples Daily Arrest Targets*,
 22 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://wwwaxios.com/2025/06/12/ice-courthouse-arrests-trump>.

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 23 ⁶ José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under Trump*, The Guardian, June 14, 2025, <https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures>.

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 24 ⁷ Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE Is Seeking to Ramp Up Deportations Through Courthouse Arrests*, N.Y. Times, May 30, 2025, <https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>.

1 immigration enforcement action . . . in or near a courthouse" only in highly limited
2 circumstances, such as when "it involves a national security threat," or "there is an imminent risk
3 of death, violence, or physical harm." These limitations were necessary, DHS explained, because
4 "[e]xecuting civil immigration enforcement actions in or near a courthouse may chill individuals'
5 access to courthouses, and, as a result, impair the fair administration of justice."⁸ The new policy
6 includes no such limiting language.⁹

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

11 ***C. Petitioner are Unlawfully Arrested and Detained Pursuant to DHS's New Policy.***

12 **Mrs. Orozco Acosto**

13 45. Mrs. Orozco Acosto fled Colombia and arrived in the United States in December
14 2023. She was apprehended by immigration officials at the border. They determined she posed
15 little if any flight risk or danger to the community and released her into the community under 8
16 USC § 1226a to wait for her immigration court date. In September 2024, she timely applied for
17 asylum, withholding of removal, and protection under the Convention Against Torture. She has
18 complied with all of her ICE and immigration court obligations and has no criminal history
19 anywhere in the world.

20 46. On November 6, 2025, Petitioner appeared in-person at San Francisco
21 Immigration Court for master calendar hearings before an immigration judge. The government
22 made an oral motion to dismiss her case. The Immigration Judge did not rule on the motion.
23 Instead, he gave Petitioner time to respond and reset her hearings for a future date.

24 47. Because Petitioner has never been determined to be a flight risk or danger to the
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26 ⁸ DHS, April 27, 2021, *Civil Immigration Enforcement Actions in or Near Courthouses*
27 memorandum, Tae Johnson and Troy Miller.

28 ⁹ ICE, January 21, 2025, *Interim Guidance: Civil Immigration Enforcement Actions in or near*
Courthouses memorandum from Caleb Vitello; ICE, May 27, 2025 *Civil Immigration*
Enforcement Actions In or Near Courthouses, memorandum, Todd M. Lyons.

1 community, her ongoing detention is not related to either of the permissible justifications for civil
2 immigration litigation. Her detention does not further any legitimate government interest.

3

4 ***D. As a Result of Her Arrest and Detention, Petitioner are Suffering Ongoing and
Irreparable Harm.***

5 48. Petitioner are being deprived of her liberty without any permissible justification.
6 The government previously released her on her own recognizance because she did
7 not pose sufficient risk of flight or danger to the community to warrant detention.
8 49. None of that has changed. Upon information and belief, Petitioner have no criminal
9 record, and there is no basis to believe that she poses any public-safety risk. Nor
10 are Petitioner, who was arrested *while appearing in court for her immigration*
11 *cases*, conceivably a flight risk. To the contrary, Petitioner complied with her ICE
12 and immigration court obligations.

13 ///

14 **CLAIMS FOR RELIEF**

15 **FIRST CLAIM FOR RELIEF**

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

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

18 50. Petitioner repeat and re-allege the allegations contained in the preceding paragraphs
19 of this Petition as if fully set forth herein.

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

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

27 53. Petitioner are not flight risks or dangers to the community. Respondents’ detention

1 of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner are being detained in
 2 violation of the Due Process Clause of the Fifth Amendment.

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

10 SECOND CLAIM FOR RELIEF

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

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

13 55. Petitioner repeat and re-allege the allegations contained in the preceding paragraphs
 14 of this Petition as if fully set forth herein.

15 56. As part of the liberty protected by the Due Process Clause, Petitioner have a
 16 weighty liberty interest in avoiding re-incarceration after her release. *See Young v. Harper*, 520
 17 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*,
 18 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a
 19 noncitizen has a protected liberty interest in remaining out of custody following an IJ's bond
 20 determination).

21 57. Accordingly, "[i]n the context of immigration detention, it is well-settled that due
 22 process requires adequate procedural protections to ensure that the government's asserted
 23 justification for physical confinement outweighs the individual's constitutionally protected
 24 interest in avoiding physical restraint." *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinermon*, 494
 25 U.S. at 127 (Generally, "the Constitution requires some kind of a hearing *before* the State
 26 deprives a person of liberty or property."). In the immigration context, for such hearings to
 27 comply with due process, the government must bear the burden to demonstrate, by clear and
 28 convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh*

1 *v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785,
 2 786 (9th Cir. 2024).

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

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

18 **PRAYER FOR RELIEF**

19 Petitioner respectfully request that this Court:

20 1. Assume jurisdiction over this matter;

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

23 3. Declare that Petitioner' arrest and detention violate the Due Process Clause of the
 24 Fifth Amendment.

25 4. Enjoin Respondents from transferring Petitioner outside this District or deporting
 26 Petitioner pending these proceedings;

27 5. Enjoin Respondents from re-detaining Petitioner unless her re-detention is ordered
 28 at a custody hearing before a neutral arbiter in which the government bears the

1 burden of proving, by clear and convincing evidence, that Petitioner are a flight risk
2 or danger to the community;

3 6. Award Petitioner her costs and reasonable attorneys' fees in this action as provided
4 for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
5 7. Grant such further relief as the Court deems just and proper.

6
7 Date: November 6, 2025

Respectfully Submitted,

8 */s/ Talia Housman*
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