UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ARYUNIERTH SAMDLHERL GIL PIRONA, Petitioner, v. KRISTI NOEM, Secretary, U.S. Department of Homeland Security; Robert LYNCH, Field Office Director, Detroit Field Office, Immigration and Customs Enforcement; KEVIN RAYCRAFT, Detroit Enforcement and Removal Operations, Immigration and Customs Enforcement, Respondents.	Case No. 1:25-cv-1571 Hon.

PETITIONER'S BRIEF
IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner Aryunierth Samdlherl Gil Pirona, an asylum seeker and citizen of Venezuela, came to the United States on March 20, 2024. In the time he has lived in the United States, Petitioner has done all he can to integrate into his community and comply with the immigration laws of this country. But on June 13, 2025, Petitioner was summarily and unlawfully arrested without notice or cause in an immigration raid outside his workplace.

Petitioner's case presents an important and urgent question: What process is required to arrest and detain an asylum seeker who was already inspected and paroled into the United States, has not been arrested for any criminal offense, has timely filed his application for relief, and has dutifully appeared for his immigration court hearings? Respondents would have it be virtually none. But the Constitution does not allow such unreasonable arrests and unjustified detention.

Had immigration authorities arrested Petitioner at any point before this summer, the government would have provided him with a bond hearing, as it has to millions of detained noncitizens since at least the 1990s. But because of a newly announced policy flipping the prevailing understanding of the immigration statutes on its head, the government is now forcing U.S. residents like Petitioner to remain in detention for the many months, or years, it will take for their immigration case to conclude—all while being separated from family, friends, and community. The government's drastic reinterpretation of our immigration laws violates Petitioner's statutory and constitutional rights. Petitioner now urgently seeks a writ of habeas corpus to secure his prompt release.

ARGUMENT

I. Petitioner's detention violates his right to substantive due process because Petitioner is neither a flight risk nor a danger to his community.

Petitioner's detention violates his substantive due process rights. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Noncitizens unquestionably have a substantive liberty interest to be free from detention. *See id.* Because "liberty is the norm, and detention prior to trial or without trial is the carefully limited exception," the government may imprison people as a preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *U.S. v. Salerno*, 481 U.S. 739, 755 (1987)). Immigration detention is civil and must "bear[] a reasonable relation to the purpose for which the individual [is] [detained]" so that it remains "nonpunitive in purpose and effect." *Zadvydas*, 533 U.S. at 690 (cleaned up); *see also Schall v. Martin*, 467 U.S. 253, 264 (1984) (finding detention must be a proportional—not excessive—response to a legitimate state objective).

Courts have identified only two legitimate purposes for immigration detention: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690; *Velasco Lopez v. Decker*, 978 F.3d 842, 853-54 (2d. Cir. 2020); *Faure v. Decker*, No. 15-CV-5128, 2015 WL 6143801, at *3 (S.D.N.Y. Oct. 19, 2015) (ordering release or a bond hearing where there was "no evidence" that the habeas petitioner "poses a danger to the public or would flee during the pendency of the removal proceedings"). Neither purpose is served by Petitioner's detention.

Petitioner is not a flight risk. The government already determined so when it decided to release him on parole. *See* 8 C.F.R. § 212.5(b); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) ("Release reflects a determination by the government that the noncitizen is not a danger to the

community or a flight risk."). Since his release, Petitioner has followed all the procedures and requirements of the immigration system, including attending his immigration hearings. In that time, he has also deepened his ties to the United States, integrating into his community in the Dallas, Texas area and living with a family member. Nor is Petitioner a threat to the community. The government knows this. Petitioner has no criminal history, and he has never been arrested in the United States.

The government is not detaining Petitioner to serve its legitimate interests in protecting against danger or flight risk. Instead, the government is detaining Petitioner, along with countless others swept up in raids, for the understandable but patently illegitimate reason that he was easy to locate based on his work. But "while [DHS] might want to enforce this country's immigration laws efficiently, it cannot do that at the expense of fairness and due process." *Ceesay v. Kurzdorfer*, No. 25-CV-267, 2025 WL 1284720, at *1 (W.D.N.Y. May 2, 2025). Because the basis of Petitioner's detention bears no "reasonable relation" to the government's interests in preventing flight and danger, *Jackson v. Indiana*, 406 U.S. 715, 738 (1972), the Court should order his release.

In the alternative, the Court should order a bond hearing to ensure Petitioner's detention bears a reasonable relation to the government's interests. In *Padilla v. U.S. Immigr. & Customs Enf't*, a district court found that a class of detained asylum-seekers had sufficiently alleged that their detention without bond hearings violated their substantive due process rights. 704 F. Supp. 3d 1163, 1172-73 (W.D. Wash. 2023). The court found that the government could not point to public safety concerns or flight risks that might justify mandatory detention of the plaintiffs. *Id.* at 1173. Like the plaintiffs in *Padilla*, Petitioner's detention cannot be justified by a legitimate government interest.

II. Petitioner's arrest and detention without the opportunity to seek release from a neutral decisionmaker violates his right to procedural due process.

Petitioner's summary arrest and detention without the government making an affirmative showing of changed circumstances also violates Petitioner's procedural due process rights. Even "[w]hen government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner." *Salerno*, 481 U.S. at 746. "The Supreme Court long ago held that the Fifth Amendment entitles noncitizens to due process in removal proceedings." *Black v. Decker*, 103 F.4th 133, 143 (2d Cir. 2024). "To satisfy procedural due process, non-punitive detention must be accompanied by a prompt individualized hearing before a neutral decisionmaker to ensure the detention serves the government's legitimate goals." *Padilla*, 704 F. Supp. 3d at 1174 (collecting cases).

The three-factor test articulated by the Supreme Court in *Mathews v. Eldridge*, 424 U.S. 319 (1976), provides the relevant framework "to determine what process is due to noncitizens in removal proceedings," *Black*, 103 F.4th at 147 (collecting cases), and confirms Petitioner's entitlement to a hearing. That test weighs (1) the nature of "the private interest" being deprived; (2) "the risk of erroneous deprivation" and (3) the "fiscal and administrative burdens" posed by providing additional process. *Mathews*, 424 U.S. at 334-35. All three *Mathews* factors favor Petitioner.

The first *Mathews* factor weighs heavily in Petitioner's favor. Petitioner invokes "the most elemental of liberty interests—the interest in being free from physical detention by one's own government." *Hamdi v. Rumsfeld,* 542 U.S. 507, 529 (2004). The deprivation Petitioner is experiencing was not the result of a criminal adjudication, nor is it the result of any flight risk or danger. Petitioner intends to seek asylum. The prospect of prolonged detention while he seeks immigration relief only increases the infringement of his liberty interest. *See Padilla*, 704 F. Supp.

3d at 1173 (finding that noncitizens found to have a credible fear of persecution "face a median time of five to six months for adjudication of their claim by an immigration judge, nearly a year for cases appealed to the BIA, and still longer for judicial review").

As for the second *Mathews* factor, the erroneous deprivation of Petitioner's liberty is the direct result of the insufficient safeguards and procedures used to initiate and continue his detention. The government is detaining petitioner without the opportunity to seek release before a neutral adjudicator. This lack of "procedural protections . . . markedly increase[s] the risk of an erroneous deprivation of Petitioner['s] private liberty interests." *Black*, 103 F.4th at 152. When evaluating the second *Mathews* prong, "[t]he only interest to be considered . . . is that of the detained individuals—not the government." *Id.*

To protect against the risk of erroneous deprivation, the government must provide a custody hearing in which the government must justify his detention based on a showing of changed circumstances. *See Saravia*, 280 F. Supp. 3d at 1176 ("Release reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk."). The government already decided Petitioner did not present a flight risk or danger sufficient to detain him pending immigration proceedings. *See* 8 C.F.R. § 212.5 (provision under which the petitioner was granted humanitarian parole). Petitioner was arrested by federal immigration officials when he presented at the border for his CBPOne appointment. At the border, he was taken into custody by immigration officials, searched, fingerprinted, photographed, and interviewed. Based on CBP's finding that he could be removed because he "was not in possession of valid travel documents," Exhibit A to Petition, the government had statutory authority to detain him pending removal, 8 U.S.C. § 1225(b). Instead, the officials decided to grant him humanitarian parole based on their individualized determination that he presented neither a security nor a flight risk. 8 C.F.R. §

212.5(b). *See Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796 ("Because DHS chose to place Mata Velasquez in section 240 proceedings instead of pursuing expedited removal in the first instance—even though it was not required to do that—the government vested Mata Velasquez with the rights that Congress guaranteed non-citizens in those proceedings."). Petitioner was released to go live with a family member in the Dallas area. In order to re-detain him, due process requires that he receive a prompt hearing in which the government must show a material change in circumstances specific to Petitioner. In this hearing, Petitioner must have the opportunity to rebut the government's showing, and a neutral decision maker must have the ability to order a return to the status quo. *See, e.g., Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921 (N.D. Cal. July 24, 2025); *Lopez v. Sessions*, No. 18-CV-4189, 2018 WL 2932726 (S.D.N.Y. June 12, 2018); *Saravia v. Sessions*, 905 F.3d 1137, 1139-42 (9th Cir. 2018); *U.S. ex rel. Paktorovics v. Murff*, 260 F.2d 610 (2d Cir. 1958) ("a hearing is required prior to the revocation of parole when this section is applied to persons situated in the United States"); *Fernandez Lopez v. Wofford*, No. 1:25-cv-01226-KES-SKO, 2025 WL 2959319, at *6 (E.D. Cal. Oct. 17, 2025).

The third *Mathews* prong—the public interest—also weighs in Petitioner's favor. Here, the additional process sought would do nothing to undercut the government's interests in preventing flight and danger. Nor do the limited administrative burdens weigh against the process sought. IJs routinely perform the type of custody hearing sought here. *See Saravia*, 280 F. Supp. 3d at 1197 (noting agency practice implementing *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (B.I.A. 1981) which requires "a showing of changed circumstances both where the prior bond determination was made by an [IJ] and where the previous release decision was made by a DHS officer"); 8 C.F.R. § 1003.19(e). Thus, it would place "minimal" administrative and fiscal burdens on the immigration

system, and any burdens would "likely be outweighed by costs saved by reducing unnecessary detention." *Black*, 103 F.4th at 154-55.

Because all three factors weigh heavily in Petitioner's favor, this Court should find that he is entitled to a prompt hearing where the government has the burden of showing changed circumstances with respect to his risk of flight or any alleged danger.

III. Petitioner's arrest without changed or exigent circumstances violated his Fourth Amendment rights.

It is unreasonable under the Fourth Amendment to rearrest a person who has been released from custody based on the same charge that supported a prior arrest. The Fourth Amendment protects the right of the people to be secure in their persons against unreasonable seizures. U.S. Const. amend. IV. "It is axiomatic that seizures have purposes. When those purposes are spent, further seizure is unreasonable." *Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020). Any seizure must be supported by probable cause. When the purpose of a seizure is accomplished, "[f]urther seizure requires a court order or new cause" as "the original probable cause determination is no justification." *Id.*; *see also Arizona v. Johnson*, 555 U.S. 323, 333 (2009) (stating that a lawful roadside seizure is supported by probable cause for the duration of the stop and terminates when the police no longer need to control the scene).

This requirement that further seizure requires a court order or new probable cause "guards against precipitate rearrest." *Carlson v. Landon*, 342 U.S. 524, 546 (1952). "Arrest ensures that a suspect appears to answer charges and does not continue a crime, and it safeguards evidence and enables officers to conduct an in-custody investigation." *Virginia v. Moore*, 553 U.S. 164, 173 (2008). When an arrestee is released on bond, the purpose of their prior arrest has been accomplished. *Williams*, 967 F.3d at 635; *Carlson*, 342 U.S. at 546 ("[T]he rule in criminal cases is that a warrant once executed is exhausted"). As a result, any probable cause justifying the prior

arrest is extinguished, and they cannot be rearrested absent changed circumstances. *See Carlson*, 342 U.S. at 546–47; *U.S. v. Holmes*, 452 F.2d 249, 260–61 (7th Cir. 1971); *U.S. v. Swims Under*, 990 F.2d 1265 (9th Cir. 1993).

This inability to justify arrest based on a prior arrest's probable cause is equally true in immigration proceedings. The Board of Immigration Appeals ("BIA") and DHS have long required a showing of changed circumstances to alter prior bond and release determinations. Again and again, courts have recognized noncitizens, including asylum seekers like Petitioner, cannot be rearrested unless the government proffers evidence of changed circumstances to justify their rearrest. *See Lopez*, 2018 WL 2932726, at *14 (S.D.N.Y. June 12, 2018) ("Such administrative warrants raise serious due process and Fourth Amendment questions when used in this way."); *Martinez v. McAleenan*, 385 F. Supp. 3d 349, 367 (S.D.N.Y. June 14, 2019) (citation omitted); *Saravia*, 280 F. Supp. 3d at 1196 (citation omitted) ("Absent some compelling justification, the repeated seizure of a person on the same probable cause cannot, by any standard, be regarded as reasonable under the Fourth Amendment.").

Here, Petitioner was arrested by CBP officials, charged as removable, and released after they determined he did not present a flight risk or danger. He was rearrested after he filed Form I-589 with the Immigration Court and was instructed to return for an individual hearing. When he was rearrested, his arrest was effectuated pursuant to the same charge of removability without any evidence that changed circumstances justified revocation of his parole. No probable cause justifies his rearrest. He should be released from detention, and Respondents should be enjoined from seeking his detention absent a changed circumstances hearing.

IV. Respondents are unlawfully detaining Petitioner without bond pursuant to the mandatory detention provision at 8 U.S.C. § 1225(b).

The structure, text, and legislative history of the INA make clear that Section 1225 applies only to the inspection of recent arrivals at or near the U.S. border, and was never meant to encompass people like Petitioner who have been residing in the interior of the country for an extended period of time. Instead, Section 1226 was intended to provide the proper process for detaining those latter individuals and entitles them to bond hearings.

Section 1225's plain text shows that it is focused on inspecting people who are arriving or have just entered the United States. *See generally* 8 U.S.C. § 1225(a)–(b), (d). That section sets out procedures for "inspection[s]" of people "arriving in the United States," 8 U.S.C. § 1225(a)(3), (b)(1), (b)(2), (d); repeatedly refers to "examining immigration officer[s]," *id.* § 1225(b)(2)(A), (b)(4); and discusses "stowaways, "crewm[e]n," and noncitizens "arriving from contiguous territory." *Id.* § 1225(a)(2), (b)(2)(B), (b)(2)(C). Even the title of § 1225 refers to the "inspection" of "inadmissible *arriving*" noncitizens (emphasis added), and the title of subsection 1225(b)(2) likewise refers to "inspection." *See Dubin v. United States*, 599 U.S. 110, 120–21 (2023) ("This Court has long considered that the title of a statute and the heading of a section are tools available for the resolution of a doubt about the meaning of a statute . . . especially . . . [where] it reinforces what the text's nouns and verbs independently suggest.") (cleaned up); *Merit Mgmt. Grp., LP v. FIT Consulting, Inc.*, 583 U.S. 366, 380 (2018) (similar). Thus, by its own text, § 1225, read as a whole, makes clear that it is intended to apply to recent arrivals at or near the U.S. border. Petitioner arrived at the border over a year and half ago and has been living in the United States since.

On the other hand, Section 1226(a) is a separate detention authority that applies broadly to any noncitizen arrested "on a warrant . . . pending a decision on whether [they are] to be removed from the United States." 8 U.S.C. § 1226(a). Section 1226(a) applies to those "already in the

country" who are detained "pending the outcome of removal proceedings." *Jennings*, 583 U.S. at 289. On its face, the provision plainly applies to Petitioner, who was arrested while already in the U.S. and is now detained "pending a decision on" his ongoing Section 240 proceedings and removal. Thus, § 1226(a), and not § 1225(b)(2)(A), is the proper detention authority for Petitioner and entitles him to a bond hearing.

CONCLUSION

For the foregoing reasons, Petitioner respectfully urges this Court to grant the relief requested in Petitioner's habeas corpus petition and order Respondents to immediately release him from custody.

Date: November 25, 2025

Respectfully submitted,

s/ *Lisandra Fernandez-Silber*
Lisandra Fernandez-Silber
(P84380)
FERNANDEZ-SILBER PLLC
200 South 1st Street
Ann Arbor, MI 48104
(734) 215-5098
lisandra@fernandezsilber.com

s/ *Alexandra Lopez*
Alexandra Lopez
(Illinois Bar No. 6306808)
CUNNINGHAM LOPEZ LLP
W. Madison Street, Suite 611
Chicago, IL
(312) 419-9611
arl@cunninghamlopez.com

Counsel for Petitioner