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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 Piotr Stanislaw Jablonski
11 Petitioner-Plaintiff,

12 v.

13 CHRISTOPHER J. LAROSE, Senior
14 Warden, Otay Mesa Detention Center;
15 PATRICK DIVVER, Field Office
16 Director, San Diego Field Office, U.S.
17 Immigration and Customs Enforcement;
18 TODD M. LYONS, Acting Director, U.S.
19 Immigration and Customs Enforcement,
20 U.S. Department of Homeland Security;
21 and KRISTI NOEM, Secretary, U.S.
22 Department of Homeland Security; PAMELA
23 JO BONDI, Attorney-General, U.S.
24 Department of Justice,

25 Defendant-Respondents.

Case No. 25CV3350 BAS SBC


Agency File No. 


PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. § 2241;
REQUEST FOR OSC AND FOR ORDER
DIRECTING SERVICE

DETAINED

26 **INTRODUCTION**

27 1. Petitioner Piotr Stanislaw Jablonski (“Mr. Jablonski”) is a 39-year-old Polish
28 national who last entered the United States in 2011. He has resided in southern California for
over 14 years now and has started a family in Riverside.

1 2. He is married to Julie Jablonski, a U.S. Citizen with whom he shares three young
2 children, all U.S. Citizens: 

3 
4
5 3. Petitioner is currently in removal proceedings after his case was re-calendared and
6 he is intending to pursue the relief of adjustment of status to become a permanent resident
7 through his marriage to a US citizen. He may also need to pursue applicable waivers for any
8 round of inadmissibility that may apply to him.

9
10 4. Petitioner was released from immigration custody more than 14 years ago. He was
11 abruptly re-detained by U.S. Immigration and Customs Enforcement (ICE) and jailed recently
12 for no legitimate reason. The Department of Homeland Security (DHS) determined that he was
13 neither a flight risk nor a danger to the community when it previously released him from its
14 custody on a \$15,000 bond. However, ICE officials re-detained him even though he did not
15 violate the terms of his bond and he complied with their requirement for him to check in with
16 ICE at its office in 880 Front Street.

17
18 5. The Petitioner has no criminal history of any kind. Nor do the Petitioner present
19 risks of flight that justify re-detention. Yet ICE continues to unlawfully detain him in prison-like
20 conditions, keeping him separated from his spouse, young children, and his community.

21
22 6. ICE provided Petitioner with no pre-deprivation hearing prior to his re-detention at
23 the ICE check-in to determine whether material changes in their circumstances warrant their re-
24 detention based on danger to the community or risk of flight, despite a growing consensus
25 among United States district courts that such a hearing is necessary in similar circumstances.

26
27 7. Petitioner's detention under these circumstances violates his right to substantive
28 and procedural Due Process, as it is not justified by a legitimate government purpose.

1 Additionally, under *Mathews v. Eldridge*, 424 U.S. 319 (1976), his fundamental liberty interest
2 far outweighs the government's interest in detaining him, and the risk of error is great where, as
3 here, there has been no pre-deprivation process to ensure his loss of liberty is justified. For
4 similar reasons, their detention also contravenes the Immigration and Nationality Act (INA) and
5 the Administrative Procedure Act (APA).
6

7 8. Petitioner's arrests occurred earlier this fall as part of a wave of ICE enforcement
8 at the federal building at 880 Front Street in downtown San Diego targeting individuals
9 appearing for immigration court and ICE check-in appointments.
10

11 9. After his arrests, ICE detained Petitioner at the basement of 880 Front Street for
12 more than twelve hours, during which time he was forced to endure deplorable conditions. ICE
13 deprived him of access to a private bathroom, nutritious food, or use of phones, and denied him
14 communication with the outside world, including his counsel. He was made to sleep on a black
15 floor mat and the temperature was set too low so he has to endure the very cold temperature for
16 hours.
17

18 10. After his detention in the federal building basement, ICE transferred Petitioner to
19 the Otay Mesa Detention Center in south San Diego where he has languished in detention for
20 weeks, with no recourse to seek release because the Respondents claim that recent changes to
21 decades-old agency policies and practices render the Petitioner ineligible to seek bond from an
22 immigration judge.
23

24 11. Petitioner, though the undersigned counsel, submitted a request for parole or
25 release from detention but ICE was not responsive. Petitioner, though the undersigned counsel,
26 then requested a bond hearing from the Immigration Court. At the bond hearing, ICE Counsel
27
28

1 argued that the Immigration Court has no jurisdiction and the Immigration Judge readily agreed
2 and ruled that it has no jurisdiction under the new policy.

3 12. Accordingly, Petitioner seeks release and challenge his detention as a violation of
4 the Due Process Clause of the Fifth Amendment, the INA and the APA.

5
6 13. The Petitioner respectfully requests that this Court issue the Writ of Habeas
7 Corpus commanding Respondents his release from custody, and enjoin Respondents from re-
8 detaining him without a pre-deprivation hearing before a neutral decision-maker at which the
9 Respondents must prove material changes in circumstances justify re-detention. Petitioner seeks
10 that relief under the federal habeas statute, 28 U.S.C. 2241, which is the proper vehicle for
11 challenging civil immigration detention. See *Doe v. Garland*, 109 F.4th 1188, 1194 (9th Cir.
12 2024) (noting that a noncitizen’s challenge to his present confinement falls within the “core of
13 habeas”).
14
15

16 CUSTODY

17
18 14. Petitioner is currently in physical custody of ICE at the Otay Mesa Detention
19 Center located in Otay Mesa, California. Petitioner is under the direct control and custody of
20 Respondents and Respondent’s agents.
21

22 JURISDICTION

23
24 15. This action arises under the United States Constitution and the Immigration and
25 Nationality Act of 1952, 8 U.S.C. § 1101 et seq. (“INA”).

26 16. This Court has jurisdiction over this petition for writ of habeas corpus under 28
27 U.S.C. § 2241 (habeas corpus, which provides that “[w]rits of habeas corpus may be granted
28 by . . . the district courts.” This Court also has jurisdiction under 28 U.S.C. § 1331 because
this is a “civil action arising under the . . . laws . . . of the United States.” (federal question).

1 Furthermore, this Court has jurisdiction under 28 U.S.C. § 1361 (mandamus); art. I, § 9, cl. 2
2 of the U.S. Constitution (“Suspension Clause”); U.S. Const. amend. V (the Due Process
3 Clause of the U.S. Constitution); and jurisdiction over declaratory judgment, brought pursuant
4 to 28 U.S.C. §§ 2201-02.

5 17. Petitioner is presently in custody under color of the authority of the United
6 States, and such custody is in violation of the Constitution, laws, or treaties of the United
7 States. See *Zadvydas v. Davis*, 533 U.S. 678 (2001). This Court may grant relief pursuant to
8 28 U.S.C. §§ 2201-02, 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

9
10 **VENUE**

11 18. Venue in this District is proper under 28 U.S.C. § 1391(e)(2) because the Officer
12 in Charge who makes custody decisions in Petitioner’s case is located within this judicial
13 district and Petitioner is detained within this judicial district. Moreover, venue is proper under
14 § 1391(b)(2) because a substantial part of the events giving rise to these claims occurred in
15 this District.

16 19. Moreover, Mr. Jablonski is detained in the Otay Mesa Detention Center, within
17 the San Diego Division, and Respondent LaRose is his immediate custodian. See 28 U.S.C. §§
18 2241(d), 1391(e).

19 **PARTIES**

20 20. Petitioner Piotr Stanislaw Jablonski is currently detained by Respondents at the
21 Otay Mesa Detention Center, an immigration detention facility in San Diego, California. He
22 has been in ICE custody since October 21, 2025.

23 21. Respondent Christopher J. LaRose (“LaRose”) is the Warden of the Otay Mesa
24 Detention Center facility, where Petitioner is currently detained. LaRose is responsible for the
25 day-to-day operations and confinement of noncitizens detained at that facility. He acts at the
26 direction of Respondents Divver, Lyons, and Noem. He is a legal custodian of the Petitioner
27 and is named in his official capacity.

1 33. Instead of conducting arrests in court hallways where visibility is high, ICE
2 implemented a procedure of requesting individuals to report to their offices on the second
3 floor of 880 Front Street, subsequently making arrests at that location, regardless of the status
4 of ongoing immigration court proceedings. Since approximately October 2025, ICE has been
5 sending letters instructing individuals to attend “check-ins” or “interviews” at these offices,
6 which are situated in the same building as the immigration hearings.
7

8 34. Some individuals receive letters at their immigration court hearings on the fourth
9 floor, instructing them to appear for a check-in on the second floor immediately after their
10 hearing ends that day. Others receive letters in the mail instructing them to appear on the day of
11 their upcoming court hearing. And some receive letters in the mail instructing them to appear
12 for check-ins at dates and times that are unrelated to any court hearings.
13

14 35. At those check-ins, ICE agents then routinely arrest individuals who have been
15 previously deemed fit for release from DHS custody without affording them a pre-deprivation
16 hearing to determine whether changed circumstances related to flight risk or danger justify their
17 re-detention.
18

19 36. Family members and others who have accompanied the individuals to the check-
20 ins only learn their loved ones are going to immigration jail after ICE has made the decision to
21 arrest them, and are left to confront the devastating and traumatic consequences.
22

23 37. After the arrests, ICE agents escort the individuals to the basement of the federal
24 building where they may remain detained for up to several days at a time under substandard
25 conditions—without consistent access to private bathrooms, nutritious food, phones to contact
26 their family or attorneys, a suitable place to sleep, or access to medical care, and in extremely
27 cold temperatures with fluorescent lights on at all hours.
28

1 38. Individuals report having to relieve themselves in toilets in front of numerous other
2 detained individuals; only receiving raw or frozen burritos to eat; and not being able to use
3 phones to call their lawyers. Individuals are given a thin mat to share with several others to
4 sleep and only an aluminum sheet to attempt to keep warm under extremely cold temperatures.
5 Due to insufficient floor space, some are forced to try to sleep overnight in chairs.
6

7 39. Individuals also face overcrowding; one man shared a small room estimated to
8 measure about eight by sixteen feet with about ten other men. One woman reportedly shared a
9 small room with about a dozen others.
10

11 40. ICE has turned away numerous Members of Congress who have tried multiple
12 times to inspect the basement of 880 Front Street after reports of overcrowding and substandard
13 conditions.
14

15 41. ICE then transfers individuals from the basement of 880 Front Street to other long-
16 term ICE detention facilities, including the Otay Mesa Detention Center and the Imperial
17 Regional Detention Facility in Imperial County, California.
18

19 42. Under Respondents' recently-adopted view of the law, most individuals arrested at
20 such check-ins, including the Petitioner, cannot seek release from detention from an
21 immigration judge. Their new view, which reverses decades-old practices and policies, is that
22 all people who entered the United States without inspection, no matter how long ago, are
23 ineligible for release on bond, and must be detained for the duration of their immigration cases.
24 *Matter of Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025).
25

26 43. Coupled with other policies, these changes render the vast majority of noncitizens
27 subject to ICE's current enforcement practices at 880 Front Street unable to seek bond from an
28

1 immigration judge. Thus, these individuals are now subject to indefinite detention as a result of
2 simply complying with ICE's request that they appear for a check-in.

3 44. During their detention in ICE custody, the individuals face myriad harms including
4 prolonged separation from their family members, including small children and babies; inability
5 to work to provide for their families; inability to properly pursue their asylum cases or other
6 forms of immigration relief; and lack of access to adequate medical care. Conditions in ICE
7 custody are prison-like: Respondents force individuals in their custody to wear color-coded
8 jumpsuits, dictate the availability of medical treatment, decree when meals are given and what
9 meals are provided, mandate when lights go on and off, forbid access to the internet, charge for
10 phone calls and any "extra" amenities, and guard them at all times with armed guards.

11 12 13 45. The individuals' family members also suffer. Spouses are left alone to care for
14 children, find a way to make ends meet, and process the trauma of being separated from their
15 loved ones. Children cannot understand why their parents are gone and have no assurance when,
16 or if, they will ever return.

17 18 46. The number of individuals with ongoing removal proceedings whom ICE has
19 arrested at check-ins and detained in San Diego despite having previously deemed them fit for
20 release is certainly in the dozens and likely exceeds 100. The number will only grow as it
21 continues to implement the policy unchecked.

22 23 47. The New York Times reported that in a two-week period in October 2025 alone,
24 more than 120 people were seen being detained after attending check-ins on the second floor of
25 880 Front Street in downtown San Diego. Other outlets reported that as of October 22, 2025
26 about 200 people were arrested after showing up for ICE check-ins at 880 Front Street.
27
28

1 **II. PETITIONER WAS UNLAWFULLY ARRESTED AND REMAINS DETAINED**
2 **DESPITE HIS PRIOR RELEASE FROM DHS AND COMPLIANCE OF BOND**
3 **REQUIREMENTS**

4 48. Petitioner, Mr. Jablonski is a national of Poland. He last entered the United States
5 on or about the last quarter of 2011.

6 49. Petitioner was apprehended by immigration agents after he entered illegally from
7 Canada in 2011 and was detained.

8 50. On November 21, 2011, the US Department of Homeland Security "DHS")
9 released Mr. Jablonski on a \$15,000 bond, since he does not pose a danger to the community
10 and the bond amount would offset any potential flight risk.

11 51. In 2016, Mr. Jablonski's removal proceedings were administratively closed as he
12 is not an enforcement priority and he became illegible for immigration relief after marrying
13 Julie Jablonski, a US Citizen.

14 52. Mr. Jablonski and his wife began their life together and have since expanded
15 their family to five members with the births of their three children: [REDACTED]

16 [REDACTED] Mr. Jablonski demonstrates commitment as both a spouse and father to
17 all three children, specially to 11-month old baby [REDACTED]

18 53. Mr. Jablonski's eldest child, [REDACTED] has been diagnosed with Attention Deficit
19 Hyperactivity Disorder (ADHD) and Autism Spectrum Disorder. Because of this, he and his
20 wife, has worked hard to ensure that their son's special needs are met.

21 54. They decided to settle at Riverside, California and bought a house there. They
22 have lived in that area for about 15 years now.

1 55. Mr. Jablonski is also a reliable provider for his family and a productive member of
2 his community. He is a mechanic by trade, and he opened a mobile auto repair and mechanic
3 shop and has helped a lot of car owners in Temecula and surrounding areas.

4 56. In the middle of 2025, the DHS, under the new Trump administration, started to
5 re-calendar cases that were administratively closed, including that of Mr. Jablonski. He received
6 a notice that a Master Hearing was set on October 21, 2025, at 1:00 PM at the San Diego
7 Immigration Court at fourth floor of the Federal building at 880 Front Street.

8 57. A few days before the Master Hearing, Mr. Jablonski got an ICE Call-In Letter
9 directing him to attend an "Interview" with ICE at its office on the second floor of the same
10 Federal building immediately after his hearing.

11 58. On October 21, 2025, Mr. Jablonski appeared in person in his Master Hearing, and
12 immediately after went to the ICE office for the ICE "interview."

13 59. ICE subsequently arrested and detained Mr. Jablonski, providing no reason for
14 the arrest other than government requirements. Mr. Jablonski pleaded with the ICE officers,
15 explaining that he had no criminal record, had previously been released on bond without
16 violating its terms, was the primary provider for his family, and had three very young children
17 needing constant care. However, the ICE officers ignored his explanations and concerns.

18 60. They held him for more than twelve hours in the basement of 880 Front Street
19 where he endured the freezing temperature, and of having to sleep on a black floor mat provided
20 by ICE. There was no private restroom that he could use, and he was denied to use a phone to
21 contact his family and his attorney for several hours. It was only after about six hours when he
22 was allowed to use the phone.

23 61. Mr. Jablonski was then transported to the Otay Mesa Detention Center.
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1 67. “[H]abeas corpus is, at its core, an equitable remedy,” *Schlup v Delo*, 513
2 U.S. 298, 319 (1995), that “[t]he court shall ... dispose of [] as law and justice require,” 28
3 U.S.C. § 2243. “[T]he court’s role was most extensive in cases of pretrial and noncriminal
4 detention.” *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). “[W]hen the judicial
5 power to issue habeas corpus properly is invoked the judicial officer must have adequate
6 authority to make a determination in light of the relevant law and facts and to formulate and
7 issue appropriate orders for relief, including, if necessary, an order directing the prisoner’s
8 release.” *Id.* at 787.
9
10

11 **I. SUBSTANTIVE DUE PROCESS CONSTRAINTS ON IMMIGRATION DETENTION**

12 68. The Due Process Clause of the Fifth Amendment protects all “person[s]” from
13 deprivation of liberty “without due process of law.” U.S. Const. amend. V.
14

15 69. While the immigration laws afford ICE discretion over its decisions to arrest,
16 detain, and revoke prior release decisions, those decisions are nonetheless constrained by the
17 laws Congress has enacted and the requirements of the Constitution, including the Due Process
18 Clause. *See generally Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Hernandez v. Sessions*, 872
19 F.3d 976, 981 (9th Cir. 2017).
20

21 70. This is because “[f]reedom from imprisonment—from government custody,
22 detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due
23 Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.
24

25 71. Immigration detention only comports with Due Process when it furthers the
26 government’s goals of “ensuring the appearance of [noncitizens] at future immigration
27 proceedings and preventing danger to the community.” *Id.* (internal citations omitted). ICE
28

1 detention violates substantive Due Process where it is not justified by flight risk or danger
2 concerns. *See id.*

3 72. For that reason, ostensibly “nonpunitive” ICE detention pursuant to a blanket
4 policy under which the agency claims authority to arrest and detain all noncitizens who it
5 alleges are not lawfully present in the United States, without regard for whether they are a flight
6 risk or danger, would violate the Due Process Clause. *See id.* So too would ICE detention for the
7 purposes of meeting quotas, punishment, deterring immigration, or encouraging voluntary
8 deportation. *R.I.L.-R v. Johnson*, 80 F. Supp. 3d 164, 188–89 (D.D.C. 2015) (observing that “[i]n
9 discussing civil commitment more broadly, the [Supreme] Court has declared such ‘general
10 deterrence’ justifications impermissible” and finding likely contrary to Due Process a deterrence
11 policy pursuant to which DHS detained “one particular individual” for purposes of “sending a
12 message of deterrence to other[s] who may be considering immigration” (citing *Kansas v.*
13 *Crane*, 534 U.S. 407, 412 (2002)).

14 73. All such detentions would be unlawful because they bear no reasonable relation to
15 a legitimate government purpose. *See id.*; *Demore v. Kim*, 538 U.S. 510, 532–33 (Kennedy, J.,
16 concurring); *Kansas v. Hendricks*, 521 U.S. 346, 361–62 (1997); *Bell v. Wolfish*, 441 U.S. 520,
17 539 (1979).

18 **II. PROCEDURAL DUE PROCESS CONSTRAINTS ON THE DETENTION OF** 19 **INDIVIDUALS WHO WERE PREVIOUSLY RELEASED**

20 74. Procedural Due Process ensures that no persons are deprived of their liberty absent
21 a fair process. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate procedural Due
22 Process by balancing (1) the private interest affected; (2) the risk of erroneous deprivation of
23 such interest; and (3) the government’s interest. *Id.* at 335.

1 75. “[T]he liberty [of a person released from government custody] is valuable and
2 must be seen as within the protection of the [Due Process Clause].” *Morrisey v. Brewer*, 408
3 U.S. 471, 482 (1972).

4 76. “[E]ven when ICE has the initial discretion to detain or release a noncitizen
5 pending removal proceedings, after that individual is released from custody she has a protected
6 liberty interest in remaining out of custody.” *Pinchi v. Noem*, 792 F. Supp 3d 1025, 1032 (N.D.
7 Cal. 2025) (citing *Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250, at *2 (N.D. Cal.
8 May 6, 2022); *Jorge M. F. v. Wilkinson*, No. 21-cv-01434, 2021 WL 783561, at *2 (N.D. Cal.
9 Mar. 1, 2021); *Ortiz Vargas v. Jennings*, No. 20-cv-5785, 2020 WL 5074312, at *3 (N D. Cal.
10 Aug. 23, 2020); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019)).

11 77. Courts in this district have joined a growing chorus of district courts that have
12 recognized that noncitizens have a significant liberty interest in both “continued freedom after
13 *release on own recognizance*,” *Alegria Palma v. Larose*, No. 25-cv-1942-BJC-MMP, ECF No.
14 14, at *6 (S.D. Cal. Aug. 11, 2025) (emphasis added), and in “freedom from imprisonment”
15 after “the government grants a [noncitizen] *parole* into the country,” *Sanchez v. LaRose*, No. 25-
16 CV-2396-JESMMP, 2025 WL 2770629, at *3 (S.D. Cal. Sept. 26, 2025) (emphasis added). *See*
17 *also Prieto-Cordova*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19,
18 2025); *Faizyan v. Casey*, No. 25-cv-02884-RBM-JLB, 2025 WL 3208844 (S.D. Cal. Nov. 17,
19 2025); *Ramazan M. v. Andrews*, No. 25-cv-01356-KES-SKO (HC), 2025 WL 3145562 (E.D.
20 Cal. Nov. 20, 2025); *Gomez Vilela v. Robbins*, No. 25-cv-01393-KES-HBK (HC), 2025 WL
21 3101334 (E.D. Cal. Nov. 6, 2025); *Pablo Sequen v Albarran*, No. 25-cv-06487-PCP, 2025 WL
22 2935630 (N.D. Cal. Oct. 15, 2025); *Hyppolite v. Noem*, No. 24-cv-4304 (NRM), 2025 WL
23 2829511 (E.D. N.Y. Oct. 6, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL
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1 2691828 (W.D. Tex. Sept. 22, 2025); *Ramirez Tesara v. Wamsley*, No. 25-cv-01723-MJPTLF,
2 2025 WL 2637663 (W.D. Wash. Sept. 12, 2025); *E.A. T.-B. v. Wamsley*, No. C25-1192-KKE,
3 2025 WL 2402130 (W.D. Wash. Aug. 19, 2025).

4
5 78. “Where, as here, [the petitioner] has not received any bond or custody ... hearing,
6 the risk of an erroneous deprivation [of liberty] is high because neither the government nor [the
7 petitioner] has had an opportunity to determine whether there is any valid basis for her
8 detention.” *Pinchi*, 792 F. Supp 3d at 1035 (citing *Singh v. Andrews*, No. 1:25-CV-00801, 2025
9 WL 1918679 (E.D. Cal. July 11, 2025)) (cleaned up). Indeed, where a petitioner “was
10 previously released following a determination that he posed no flight risk or danger to the
11 community, and absent any new evidence showing a material change in circumstances, the risk
12 of erroneous detention without a hearing is substantial.” *Alegria Palma*, No. 25-cv-1942-
13 BJCMMP at *6 (ordering petitioner’s immediate release where he was re-detained without pre-
14 deprivation hearing).

15
16
17 79. The requirement of an individualized determination is even stronger in cases of re-
18 detention because the prior “[r]elease reflects a determination by the government that the
19 noncitizen is not a danger to the community or a flight risk.” *Saravia v. Sessions*, 280 F. Supp.
20 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137
21 (9th Cir. 2018). “[T]o be lawful” the re-detention “must be based on evidence that the
22 circumstances relevant to that original release decision have changed.” *Saravia*, 280 F.Supp.
23 3d at 1196.

24
25 80. “To satisfy due process, those changed circumstances must represent
26 individualized legal justification for detention.” *Sanchez v. LaRose*, No. 25-CV-2396-JES-
27 MMP, 2025 WL 2770629, at *3 (S D. Cal. Sept. 26, 2025) (internal citations omitted).
28

1 81. The government can claim no interest in re-detention where there are no changed
2 circumstances going to flight risk or danger sufficient to warrant re-detention. *See Pinchi*, 792
3 F. Supp 3d at 1036 (“The government does not claim that any material circumstances have
4 changed that would warrant reassessment of Ms. Garro Pinchi’s risk of flight or
5 dangerousness, and it has articulated no other reason for her detention.”). Even if the
6 government asserted the existence of such changed circumstances, its interest in denying a
7 pre-deprivation hearing to prove that claim is negligible, particularly because custody
8 hearings are a routine practice for immigration courts. Compared to the “staggering” “costs to
9 the public of immigration detention,” *Hernandez*, 872 F.3d at 996, “[t]he effort and cost
10 required” of providing a hearing “is minimal.” *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1094
11 (E.D. Cal. 2025).

12 82. Thus, detention absent a pre-deprivation hearing establishing that changed
13 circumstances justify re-detention violates procedural Due Process.

14 **III. THE STATUTORY FRAMEWORK GOVERNING PETITIONER’S DETENTION**

15 83. The Petitioner is detained pursuant to 8 U.S.C. 1226(a), which provides, in
16 pertinent part, that

17 On a warrant issued by the Attorney General, a [noncitizen] may
18 be arrested and detained pending a decision on whether the
19 [noncitizen] is to be removed from the United States. Except as
20 provided in subsection (c) and pending such decision, the Attorney
21 General—

22 (1) may continue to detain the arrested [noncitizen]; and

23 (2) may release the [noncitizen] on—

24 (A) bond of at least \$1,500 with security approved
25 by, and containing conditions prescribed by, the
26 Attorney General; or

27 (B) conditional parole
28

1
2 84. Section 1226(a) governs the detention of noncitizens “inside the United States”
3 and “present in the country.” *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018).

4 85. Section 1225(b)(2), in contrast, authorizes the detention of applicants for
5 admission who are “seeking admission” but “not clearly and beyond a doubt entitled to be
6 admitted.” Unlike section 1226(a), section 1225(b)(2) provides that individuals who fall under
7 its authority “shall be detained” during the pendency of proceedings, though they too remain
8 eligible for release through the parole process. *Jennings*, 583 U.S. at 300 (holding that release
9 on “parole” under 8 U.S.C. 1182(d)(5)(A) remains available even for people held under
10 otherwise-mandatory detention pursuant to section 1225(b)).
11

12 86. The Petitioner was unquestionably detained in the interior of the country at his
13 ICE check-in appointment, more than 14 years after initially entering the United States; thus,
14 he was not “seeking admission” at the time of his re-detention, so his detention is governed by
15 section 1226(a). *See, e.g., Esquivel-Pina v. Larose*, No. 25-CV-2672 JLS (BLM), 2025 WL
16 2998361, at *5 (S.D. Cal. Oct. 24, 2025); *Garcia v. Noem*, No. 25-cv-02180-DMS-MMP,
17 2025 WL 2549431, at *6 (S.D. Cal. Sept. 3, 2025); *Mosqueda v. Noem*, No. 25-cv-2304, 2025
18 WL 2591530, at *5 (C.D. Cal. Sept. 8, 2025).
19
20

21 87. Immigration detention “has two regulatory goals: ensuring the appearance of
22 [noncitizens] at future immigration proceedings and preventing danger to the community.”
23 *Zadydas*, 533 U.S. at 678 (internal citations omitted); *see also* 8 U.S.C. 1226(a), (b); 8 C.F.R.
24 1236.1(c)(8).
25

26 88. Those previously released by DHS, like the Petitioner, have necessarily been
27 deemed neither a flight risk nor a danger. 8 C.F.R. 1236.1(c)(8) (authorizing release of
28 noncitizens under 1226(a) if they “would not pose a danger to property or persons,” and are

1 “likely to appear for any future proceeding”); 8 C.F.R. 212.5(b) (authorizing parole from
2 custody of noncitizens deemed “neither a security risk nor a risk of absconding”).

3 89. In cases of individuals previously released by DHS, re-detention under section
4 1226(a) requires an individualized determination of a material change in circumstances
5 relating to flight risk or danger. *See Ortega*, 415 F.Supp.3d at 968 (“DHS re-arrests
6 individuals only after a ‘material’ change in circumstances.” (citing *Saravia*, 280 F.Supp.3d at
7 1197)); *see also Matter of Sugay*, 171 I&N Dec. 637, 640 (B.I.A. 1981) (“[W]here a previous
8 bond determination has been made by an immigration judge, no change should be made by
9 [DHS] absent a change of circumstance.”).

10 90. Absent a material change in circumstances, the re-detention of noncitizens
11 previously released by DHS violates the INA because it does not serve the purpose of the
12 statute.
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16 **IV. THE ADMINISTRATIVE PROCEDURE ACT ON ARBITRARY CHANGES ON** 17 **ICE DETENTION POLICIES**

18 91. Under the Administrative Procedure Act (APA), courts may set aside agency
19 action that is contrary to law or constitutional right. 5 U.S.C. 706(2).

20 92. In order to be reviewable under the APA, the challenged action must constitute
21 final agency action, which includes “the whole or a part of an agency rule, order, license,
22 sanction, relief, or the equivalent or denial thereof, or failure to act.” 5 U.S.C. 551(13).

23 93. Petitioner’s detention occurred pursuant to reviewable agency action.
24 Specifically, ICE’s San Diego Field Office has adopted a policy pursuant to which it claims
25 authority to arrest and detain all noncitizens who it alleges are not lawfully present in the
26 United States, without regard for whether they are a flight risk or danger. Such a policy marks
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28

1 the “consummation” of the ICE’s decision-making process and is an action “by which rights
2 or obligations have been determined, or from which legal consequences will flow.” *Bennett v*
3 *Spear*, 520 U.S. 154, 178 (1997) (internal citations omitted).

4 94. “[A]gency action ... need not be in writing to be final and judicially reviewable . .
5 . [a]n unwritten policy can still satisfy the APA’s pragmatic final agency action requirement.”
6 *Al Otro Lado, Inc. v. McAleenan*, 394 F. Supp. 3d 1168, 1206–07 (S.D. Cal. 2019) (internal
7 citations omitted). “[A] contrary rule would allow an agency to shield its decisions from
8 judicial review simply by refusing to put those decisions in writing.” *Id.* at 1207 (internal
9 citations omitted).

10 95. Additionally, ICE’s decisions to re-detain the Petitioner constitute final agency
11 action because the re-detentions mark the “consummation” of the ICE’s decision-making
12 process on the question of Petitioner’s custody, and it is an action “by which rights or
13 obligations have been determined, or from which legal consequences will flow.” *Bennett*, 520
14 U.S. at 178 (internal citations omitted). Indeed, the “practical and legal effects of the agency
15 action” are that the Petitioner have been deprived of his liberty for over a month and with no
16 end in sight. *Or. Natural Desert Ass’n v U.S. Forest Service*, 465 F.3d 977, 982 (9th Cir.
17 2006).

18 96. Courts must “hold unlawful and set aside agency actions, findings and
19 conclusions” that are (a) arbitrary, capricious, an abuse of discretion, or otherwise not in
20 accordance with the law; (b) contrary to constitutional right, power, privilege or immunity; (c)
21 in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or (d)
22 without observance of procedures required by law. 5 U.S.C. 706(2).

1 97. Final agency action is arbitrary and capricious if the agency fails to “articulate a
2 satisfactory explanation for its action including a rational connection between the facts found
3 and the choice made.” *Motor Vehicle Mfrs. Ass’n of U.S. v State Farm Mut Auto. Ins. Co.*,
4 463 U.S. 29, 43 (1983) (internal citations omitted). Courts may not consider an agency’s “
5 impermissible post hoc rationalizations.” *DHS v. Regents of the Univ. of Cal.*, 591 U.S. 1, 21
6 (2020) (internal citations omitted).
7

8 98. Accordingly, ICE’s policy constitutes final agency action and for the reasons
9 discussed above, violates APA 706(2) as arbitrary and capricious and contrary to Due Process
10 and the INA.
11

12 99. Additionally, ICE’s decision to re-detain the Petitioner was arbitrary and
13 capricious in violation of the APA where the agency failed to contemporaneously—or ever—
14 articulate any flight-risk or danger-based justifications for those decisions.
15

16 **CLAIMS FOR RELIEF**

17 **COUNT ONE**

18 **VIOLATION OF THE FIFTH AMENDMENT DUE PROCESS CLAUSE**

19 **Substantive Due Process**

20 **(Against All Respondents)**

21 100. Petitioner realleges and incorporates by reference each and every allegation
22 contained above.

23 101. The Due Process Clause of the Fifth Amendment forbids the government from
24 depriving any person of liberty without due process of law. U.S. Const. amend. V. *See*
25 *generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas*, 533 U.S. 678; *Demore v. Kim*, 538
26 U.S. 510 (2003).
27
28

1 102. “The Due Process Clause applies to all ‘persons’ within the United States,
2 including [noncitizens], whether their presence here is lawful, unlawful, temporary, or
3 permanent.” *Zadvydas*, 533 U.S. at 693.

4 103. “Freedom from imprisonment—from government custody, detention, or other
5 forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Id.* at 690.

6 104. Immigration detention only comports with Due Process when it furthers the
7 government’s goals of “ensuring the appearance of [noncitizens] at future immigration
8 proceedings and preventing danger to the community.” *Id.* (cleaned up).

9 105. Immigration detention that does not serve the legitimate government purposes of
10 preventing flight or mitigating danger violates substantive Due Process. *Id.*

11 106. Immigration detention pursuant to a blanket policy under which ICE claims
12 authority to arrest and detain all noncitizens who it alleges are not lawfully present in the
13 United States, without regard for whether they are a flight risk or danger—whether for
14 deterrence, to satisfy a quota, or for other purposes that do not bear a reasonable relation to
15 preventing danger or flight risk—violates the Due Process Clause. *Id.*; *Demore*, 538 U.S. at
16 532–33 (Kennedy, J., concurring).

17 107. Petitioner’s detention violates the Due Process Clause because it is not rationally
18 related to any legitimate government purpose.

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23 **COUNT TWO**
24 **VIOLATION OF THE FIFTH AMENDMENT DUE PROCESS CLAUSE**
25 **Procedural Due Process**
26 **(Against All Respondents)**

27 108. Petitioner realleges and incorporates by reference each and every allegation
28 contained above.

1 109. “In the context of immigration detention, it is well-settled that due process
2 requires adequate procedural protections to ensure that the government’s asserted justification
3 for physical confinement outweighs the individual’s constitutionally protected interest in
4 avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up).
5

6 110. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate procedural Due
7 Process by balancing 1) the private interest affected; 2) the risk of erroneous deprivation of
8 such interest; and 3) the government’s interest. *Id.* at 335. Immigration detention always
9 implicates the liberty interest in “freedom from imprisonment.” *Zadvydas*, 533 U.S. at 690. In
10 addition, when the government releases someone, they retain a liberty interest in their on-going
11 release from government custody. *Morrissey*, 408 U.S. at 482; *Alegria Palma*, No. 25-cv- 1942-
12 BJC-MMP at *6; *Sanchez*, 2025 WL 2770629 at *3.
13

14 111. Where a detained individual does not receive any pre-deprivation hearing, “the
15 risk of an erroneous deprivation of liberty is high because neither the government nor [the
16 petitioner] has had an opportunity to determine whether there is any valid basis for her
17 detention.” *Pinchi*, 792 F. Supp 3d at 1035 (cleaned up); *Alegria Palma*, No. 25-cv-1942-BJC-
18 MMP at *6 (“Given that Petitioner was previously released following a determination that he
19 posed no flight risk or danger to the community, and absent any new evidence showing a
20 material change in circumstances, the risk of erroneous detention without a hearing is
21 substantial.”). The government can claim no interest in re-detention where there are no
22 changed circumstances going to flight risk or danger that warrant re-detention. *See Pinchi*, 792
23 F. Supp 3d at 1035. Thus, a fair process for proving the existence of such changed
24 circumstances satisfies any government interest in re-detention.
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1 112. Because the government has not afforded the Petitioner pre-deprivation hearings
2 to determine whether changed circumstances going to flight risk or danger warrant his re-
3 detention, his detention violates procedural Due Process.
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5 **COUNT THREE**
6 **VIOLATION OF IMMIGRATION AND NATIONALITY ACT**
7 **8 U.S.C. 1226(a)**
8 **(Against All Respondents)**

9 113. Petitioner realleges and incorporates by reference each and every allegation
10 contained above.

11 114. Petitioner was re-detained in the interior of the country at his ICE check-in
12 appointment and thus is currently detained under 8 U.S.C. 1226(a).
13

14 115. Detention under 8 U.S.C. 1226(a) must serve a legitimate government purpose of
15 mitigating danger or preventing flight. *See Zadvydas*, 533 U.S. at 690; 8 U.S.C. 1226(a), (b), 8
16 C.F.R. 1236.1(c)(8).

17 116. Petitioner's prior release by DHS necessarily reflects a determination that the
18 noncitizen is neither a flight risk nor a danger to the community. 8 C.F.R. 1236.1(c)(8)
19 (outlining requirements for release on recognizance); 8 C.F.R. 212.5(b) (outlining requirements
20 for parole).
21

22 117. Thus, Petitioner's re-detention pursuant to 8 U.S.C. 1226(a) requires an
23 individualized determination of a material change in circumstances going to flight risk or
24 danger in order for their re-detention to serve a regulatory purpose.
25

26 118. Petitioner's re-detention violates the INA where he was not afforded an
27 individualized determination of a material change in circumstances related to flight risk or
28 danger to justify re-detention.

- 1 (3) Pursuant to 28 U.S.C § 2243, issue an Order to Show Cause directing
- 2 Respondents to show why the Writ of Habeas Corpus should not be
- 3 granted within three days of the filing of this petition;
- 4 (4) Issue a Writ of Habeas Corpus and order the immediate release of the
- 5 Petitioner;
- 6 (5) Issue a temporary restraining order and preliminary injunction ordering
- 7 the release of the Petitioner and enjoining Respondents from further
- 8 detaining him without a hearing, at which Respondents prove changed
- 9 circumstances regarding his dangerousness or risk of flight warrant his
- 10 detention;
- 11 (6) Award Petitioner attorney's fees and costs under the Equal Access to
- 12 Justice Act as amended, 5 U.S.C § 504 and 28 U.S.C § 2412, and on any
- 13 other basis justified by law; and
- 14 (7) Grant any other and further relief as the Court deems just and proper.
- 15
- 16

17 Dated: November 28, 2025

The Law Offices of Ian M. Seruelo

18
19 /s/ Ian M. Seruelo

20 Ian M. Seruelo, Esq.
21 ianmseruelo@gmail.com
22 Counsel for the Plaintiff-Petitioner
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**VERIFICATION BY ATTORNEY ACTING ON MR. PIOTR STANISLAW
JABLONSKI'S BEHALF PURSUANT TO 28 U.S.C. §2242**

I am submitting this verification on behalf of Mr. Piotr Stanislaw Jablonski because I am his attorney. As Mr. Jablonski's attorney, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: November 28, 2025

The Law Offices of Ian M. Seruelo

/s/ Ian M. Seruelo

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