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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 GURPARTAP SINGH,  
12

13 Petitioner,  
14

15 v.  
16

17 WARDEN OF THE GOLDEN STATE  
ANNEX DETENTION FACILITY, OR  
18 ACTING FIELD OFFICE DIRECTOR, SAN  
FRANCISCO FIELD OFFICE, UNITED  
19 STATES IMMIGRATION AND CUSTOMS  
ENFORCEMENT, CURRENT OR ACTING  
20 DIRECTOR UNITED STATES  
IMMIGRATION AND CUSTOMS  
21 ENFORCEMENT, CURRENT OR ACTING  
SECRETARY, UNITED STATES  
22 DEPARTMENT OF HOMELAND  
SECURITY, CURRENT OR ACTING  
UNITED STATES ATTORNEY GENERAL,

23 Respondents.  
24  
25  
26  
27  
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Case No. 1:25-CV-01689-KES-EPG

**FIRST AMENDED PETITION FOR  
WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. § 2241;**



**VERIFIED PETITION**

**PETITIONER'S DHS NO:**  


**INTRODUCTION**

1  
2 1. Gurpartap Singh (“Petitioner”) is a refugee from India who has been unlawfully  
3 detained by Respondents for over seven months. After fleeing the country in 2023 to escape  
4 persecution, he sought asylum in the United States. *See* the Declaration of Carrie LeRoy at ¶ 3.<sup>1</sup>  
5 Since May 26, 2025, Petitioner has been arbitrarily detained by Respondents in violation of the  
6 Due Process Clause of the Fifth Amendment to the United States Constitution, the Fourth  
7 Amendment to the United States Constitution and his statutory rights under the Immigration  
8 and Nationality Act (“INA”) and the Administrative Procedure Act (“APA”).

9 2. Petitioner was initially apprehended and detained by immigration officials in  
10 Arizona on May 6, 2023. A Notice to Appear was issued to Petitioner on May 9, 2023,  
11 indicating that he was charged with being “an alien present in the United States without being  
12 admitted or paroled, or who arrives in the United States at any time or place other than as  
13 designated by the Attorney General,” in violation of Section 212(a)(6)(a)(i) of the INA. Ex. C;  
14 LeRoy Decl. at ¶ 3.

15 3. After it was determined that he posed no flight risk or danger to the community,  
16 on May 9, 2023, Petitioner was released on his own recognizance. Ex. D; LeRoy Decl. at ¶ 4.  
17 Thereafter, Petitioner timely filed an application for applied for Asylum and for Withholding of  
18 Removal, received work authorization from DHS, began building a productive life for himself  
19 in Manteca, California. He adhered to the law, the conditions of his parole and maintained  
20 steady employment at an order fulfillment center for a large online retailer, paid associated  
21 state and federal income taxes and integrated into his community, including   
22  Exs. A, F; LeRoy Decl. at ¶¶ 5, 6, 8.

23 4. Petitioner has never been arrested for, charged with, or otherwise accused of a  
24 crime. LeRoy Decl. at ¶ 7. Petitioner has not received any notice from DHS or otherwise  
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27 <sup>1</sup> Facts asserted in this Petition are drawn from the attached declaration of Carrie LeRoy, counsel for  
28 Petitioner, and from exhibits to that declaration. Further citation will be made directly to the individual  
exhibits attached to the declaration, or to the declaration itself, hereinafter “LeRoy Decl.”

1 suggesting that he has committed any crimes or presented a national security risk. LeRoy Decl.  
2 at ¶ 7.

3 5. When Petitioner appeared for his last ICE check-in appointment at the ICE field  
4 office in Stockton, California on May 26, 2025, DHS officials re-arrested Petitioner without  
5 providing him with any clear notice or explanation of the basis for his re-arrest or re-detention.  
6 Petitioner reports that he did have some technical difficulties with a DHS GPS-enable reporting  
7 application, but does not believe that such issues resulted in a violation of the conditions of his  
8 parole. LeRoy Decl. at ¶¶ 8 -10. Upon his re-arrest, Petitioner was not afforded an opportunity  
9 to contest the basis of the revocation of his parole and re-detention and he has been detained for  
10 over seven months without a bond hearing. LeRoy Decl. at ¶¶ 9, 10.

11 6. Following Petitioner's re-arrest on May 26, 2025, Petitioner was served with a  
12 Notice and Order of Expedited Removal, citing his alleged violation of Section 212(a)(7)(i)(I)  
13 of the INA for not having valid travel documents and omitting any reference to the original  
14 May 9, 2023 charge of violating Section 212(a)(6)(a)(i) of the INA. Ex. H; LeRoy Decl. at ¶  
15 11. Petitioner does not understand why the charge against him changed or why he was suddenly  
16 placed into expedited removal proceedings. LeRoy Decl. at ¶ 11.

17 7. On June 5, 2025, DHS sent Petitioner a letter notifying him that his I-589  
18 application was dismissed, given that he had been placed into expedited removal proceedings.  
19 Ex. B; LeRoy Decl. at ¶ 12.


20 8. On or around June 20, 2025, an asylum officer determined that Petitioner has a  
21 credible fear of persecution in India on the basis of  Ex. E; LeRoy  
22 Decl. at ¶ 13.

23 9. On or around June 21, 2025, a Notice to Appear was served on Petitioner  
24 alleging that he violated both Section 212(a)(7)(i)(I) and 212(a)(6)(a)(i) of the INA.  
25 Specifically, the Notice to Appear states that Petitioner “entered the United States at an  
26 unknown location on or about May 7, 2023” and that he “was not then admitted or paroled by  
27 an immigration officer.” Petitioner reports that he was confused by the allegation that he had  
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1 not been inspected or “paroled,” given the fact that on May 9, 2023, he was released on his own  
2 recognizance. Ex. C; LeRoy Decl. at ¶ 14.

3 10. Petitioner did not have counsel to advise him on procedure in immigration court  
4 and reports that his asylum case has not been reviewed by the immigration judge assigned to  
5 his case. Petitioner has stated that he is willing to comply with all obligations relating to his  
6 asylum case, that he has no intention of fleeing or engaging in any unlawful conduct and does  
7 not understand why he has been detained for over seven months without any clear explanation  
8 for his re-arrest and revocation of parole on May 26, 2025 and decision to place him in  
9 expedited removal proceedings. LeRoy Decl. at ¶ 15.

10 11. Petitioner is experiencing extreme hardship and exacerbated health issues as a  
11 result of his prolonged detention at the Golden State Annex Facility, 611 Frontage Road,  
12 McFarland, California 93250 (“Golden State Annex”). LeRoy Decl. at ¶ 16. He is unable to  
13 practice his religion or to fully adhere to its requirements in detention, including dietary  
14 restrictions. Petitioner has lost over seven pounds since his detention commenced because he  
15 cannot eat most of the food that is provided to Golden State Annex detainees. In addition, prior  
16 to his detention, Petitioner was being evaluated for hypertension and severe breathing issues  
17 relating to a potential deviated septum or nose bone malformation for which surgery may be  
18 required. Petitioner has sought but not received adequate medical treatment in detention. Ex. I;  
19 LeRoy Decl. at ¶ 16. For example, he was referred to an ear, nose and throat specialist to  
20 evaluate his breathing difficulties, but was thereafter only permitted to make an appointment  
21 with a nurse, who could not provide the necessary medical evaluation or treatment. As a result  
22 of his breathing issues, Petitioner has considerable difficulty resting and sleeping in detention.  
23 Ex. I; LeRoy Decl. at ¶ 16.

24 12. Petitioner has significant and meaningful connections to his community in the  
25 United States. Since arriving in the United States in 2023, he has befriended neighbors and  
26  He has held steady employment at an order  
27 fulfillment center for a large online retailer and paid associated state and federal income taxes  
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1 and integrated into his community, [REDACTED] His local  
2 supporters praise his good character and commitment to serving and helping others. Ex. G;  
3 LeRoy Decl. at ¶ 17.

4 13. As a result of his arrest and prolonged detention, Petitioner is suffering  
5 irreparable and ongoing harm. The unconstitutional deprivation of “physical liberty”  
6 “unquestionably constitutes irreparable injury.” *Hernandez v. Sessions*, 872 F.3d 976, 994-95  
7 (9th Cir. 2017). Indeed, “[f]reedom from imprisonment—from government custody, detention,  
8 or other forms of physical restraint—lies at the heart of the liberty that [the Due Process]  
9 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

10 14. Considering similar facts and legal issues, courts in this circuit have repeatedly  
11 granted the relief Petitioner seeks – including in the context of the re-arrest of individuals  
12 appearing for ICE check-in appointments. See, e.g., *Vilela v. Robbins*, No. 1:25-cv-01393-  
13 KES-HBK, 2025 U.S. Dist. LEXIS 219172, at \*20 (E.D. Cal., Nov. 6, 2025); *J.A.E.M. v.*  
14 *Wofford*, No. 1:25-cv-01380-KES-HBK, 2025 U.S. Dist. LEXIS 211728, at \*21 (E.D. Cal.,  
15 Oct. 27, 2025); *J.C.L.A. v. Wofford*, No. 1:25-cv-01310-KES-EPG, 2025 U.S. Dist. LEXIS  
16 205300, at \*20-21 (E.D. Cal., Oct. 17, 2025); *J.O.L.R. v. Wofford*, No. 1:25-cv-01241-KES-  
17 SKO, 2025 U.S. Dist. LEXIS 202706, at \*15-16 (E.D. Cal., Oct. 14, 2025); *M.R.R. v.*  
18 *Chestnut*, 1:25-cv-01517-JLT-SKO (E.D. Cal. Nov. 24, 2025); see also *Pinchi v. Noem*, 792  
19 F.Supp.3d 1025, 1032 (N.D. Cal. 2025), converted to preliminary injunction at \_\_\_ F. Supp. 3d  
20 \_\_\_, 2025 WL 2084921 (N.D. Cal. July 24, 2025); *Singh v. Andrews*, 2025 WL 1918679, \*10  
21 (E.D. Cal. July 11, 2025) (granting preliminary injunction); *Maklad v. Murray*, No. 1:25-CV-  
22 00946 JLT SAB, 2025 WL 2299376, at \*2, 7–8 (E.D. Cal. Aug. 8, 2025) (same).

23 15. Petitioner’s compliance with U.S. law and efforts to build a peaceful and  
24 productive life for himself in the United States did not matter to Respondents. Rather than  
25 seeking to determine whether Petitioner posed a flight risk or danger to the community, federal  
26 immigration agents re-arrested him pursuant to Respondents’ sweeping, and unlawful policy  
27 targeting people for arrest at immigration courthouses and ICE check-in appointments for the  
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1 purpose of fast-tracking deportations by arbitrarily reclassifying noncitizens and placing them  
2 into expedited removal proceedings. Respondents' current quota-driven policy amounts to:  
3 arrest and detain now, ask questions later and deport as soon as possible to deny legitimate  
4 asylum seekers their right to due process.

5 16. Petitioner's summary arrest and indefinite detention flout the Constitution. The  
6 only legitimate interests that civil immigration detention serves are mitigating flight risk and  
7 preventing danger to the community. When those interests are absent, the Fifth Amendment's  
8 Due Process Clause squarely prohibits detention. Additionally, by summarily arresting and  
9 detaining Petitioner without a bond hearing and without making any affirmative showing of  
10 changed circumstances, Respondents violated Petitioner's procedural due process rights. At the  
11 very least, prior to his re-detention, he was constitutionally entitled to a hearing before a neutral  
12 arbiter at which the government should have justified his re-detention—or been ordered to  
13 release him.

14 17. The Due Process Clause applies to "all 'persons' within the United States,  
15 including [noncitizens], whether their presence here is lawful, unlawful, temporary, or  
16 permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from bodily restraint has  
17 always been at the core of the liberty protected by the Due Process Clause from arbitrary  
18 governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

19 18. Immigration detention is civil and thus is permissible for only two reasons: to  
20 ensure a noncitizen's appearance at immigration hearings and to prevent danger to the  
21 community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Here, there is no credible argument  
22 that Petitioner, *who was arrested while attending his ICE check-in*, is a flight risk or danger.

23 19. Respondents also violated Petitioner's statutory and constitutional rights by  
24 attempting to arbitrarily reclassify Petitioner on June 21, 2025 as being subject to both Section  
25 212(a)(7)(i)(I) and 212(a)(6)(a)(i) of the INA and placing him in expedited removal  
26 proceedings. Specifically, the 2025 Notice to Appear states that Petitioner "entered the United  
27 States at an unknown location on or about May 7, 2023" and that he "was not then admitted or  
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1 paroled by an immigration officer.” That charge on its face is factually inaccurate, as Petitioner  
2 had been apprehended by an immigration officer and released on his own recognizance on May  
3 9, 2023. Exs. C, D; LeRoy Decl. at ¶ 14. The premise of Petitioner’s placement in expedited  
4 removal proceedings and that Petitioner was not previously paroled thus was inaccurate,  
5 resulting in a violation of Petitioner’s due process rights and rights under the INA.

6 20. To qualify for expedited removal, a non-citizen must either lack entry  
7 documentation or seek admission through fraud or misrepresentation. *See* INA §  
8 235(b)(1)(A)(i) (referring to *id.* § 212(a)(6)(C), (a)(7)). In addition, the non-citizen must either  
9 be “arriving in the United States” or within a class that the Secretary of Homeland Security has  
10 designated for expedited removal. *Id.* Petitioner was originally charged in 2023 not with  
11 lacking documentation or engaging in fraud, but rather under Section 212(a)(6)(A)(i) as an  
12 alien “not then admitted or paroled after inspection by an Immigration Officer.” Ex. C. Thus,  
13 Petitioner was placed into expedited removal proceedings in May 2025 in violation of the INA.  
14 *See Coalition For Humane Immigrant Rights, v. Noem*, No. 25-CV-872 (JMC), 2025 WL  
15 2192986, at \*5 (D.D.C. Aug. 1, 2025) (explaining that “a person who has been paroled without  
16 first having been placed in expedited removal cannot be designated for expedited removal”;  
17 *Espinoza, et al., v. Kaiser, et al.*, 2025 WL 2675785, at \*8-9 (E.D. Cal. Sep. 18, 2025).

18 21. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b), as he  
19 was not paroled “for urgent humanitarian reasons or significant public benefit.” He was paroled  
20 and released on his own recognizance in accordance with 8 U.S.C. § 1226(a). *See* Ex. D;  
21 LeRoy Decl. at ¶ 4. Respondents failed to adhere to the statutory requirements for re-detaining  
22 Petitioner pursuant to 8 U.S.C. § 1226(a)(2)(B) and thus violated the INA.

23 22. Petitioner has not conceded that he is deportable to India and an asylum officer  
24 determined that he has a credible fear of persecution if forced to return to India. Ex. E.

25 23. Respondents failed to comply with the minimal amount of process contemplated  
26 by the relevant statutes and regulations. Respondents did not provide Petitioner with written notice  
27 prior to his parole revocation as is required by § 1182(d)(5)(A)’s implementing regulations. *See* 8  
28

1 C.F.R. § 212.5(e)(2)(i) (“[P]arole shall be terminated upon written notice to the alien and he or he  
2 shall be restored to the status that he or he had at the time of parole.”).

3 24. Petitioner’s arbitrary arrest follows a pattern in recent months of ICE re-arresting  
4 noncitizens at their ICE check-ins without cause or for alleged minor violations of conditions of  
5 release. In many of these cases, ICE does not argue that the noncitizens are flight risks or  
6 dangers to the community. Instead, ICE claims that purported technical violations – often based  
7 on vague and unsupported allegations - are a sufficient justification for re-detention. Courts have  
8 rejected this contention. *See Bernal v. Albarran*, No. 25-cv-09772-RS, 2025 U.S. Dist. LEXIS  
9 232122, at \*19 (N.D. Cal. Nov. 25, 2025) (granting injunctive relief and holding that “detention  
10 is permitted under section 1226(a) only if [petitioner] is dangerous or a flight risk,” and that  
11 “minor, technical violations” of his release conditions are insufficient to establish danger or  
12 flight risk).

13 25. Generally, “the Constitution requires some kind of a hearing *before* the State  
14 deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990)  
15 (emphasis added). Consistent with this principle, a growing number of district courts have held  
16 that noncitizens re-arrested at ICE check-in appointments were entitled to pre-deprivation bond  
17 hearings and ordered their immediate release. *See, e.g., See Vilela v. Robbins*, No. 1:25-cv-  
18 01393-KES-HBK, 2025 U.S. Dist. LEXIS 219172, at \*20 (E.D. Cal., Nov. 6, 2025).

19 26. ICE is under intense pressure by the current presidential administration to meet  
20 arrest quotas.<sup>2</sup> As of December 7, 2025, “more than a third of the roughly 220,000  
21 people arrested by ICE officers in the first nine months of the Trump administration had no  
22 criminal histories, according to new data.”<sup>3</sup> The risk of erroneous deprivation without process is  
23

24 <sup>2</sup> See José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under Trump*, The  
25 Guardian, June 14, 2025, <https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures>;  
26 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-](https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html)  
arrests.html.

27 <sup>3</sup> See Laura Strickler and Julia Ainsley, *ICE has Arrested Nearly 75,000 People with no Criminal Records, Data  
28 Shows*, NBC News, Dec. 7, 2025, [https://www.nbcnews.com/politics/immigration/ice-arrested-nearly-75000-people-](https://www.nbcnews.com/politics/immigration/ice-arrested-nearly-75000-people-no-criminal-records-data-shows-rcna247377)  
no-criminal-records-data-shows-rcna247377

1 thus particularly high in the current political context. Pre-deprivation bond hearings are the only  
2 way to safeguard against pretextual, quota-driven arrests and arbitrary, indefinite detention and  
3 to protect the due process rights of law-abiding refugees such as Petitioner.

4 27. Detention under 8 U.S.C. § 1226 without a bond hearing is presumptively  
5 unconstitutional when it exceeds six months. *See Demore v. Kim*, 538 U.S. 510, 529-30 (2003)  
6 (upholding only “brief” detentions under Section 1226(c), which last “roughly a month and a  
7 half in the vast majority of cases in which it is invoked, and about five months in the minority  
8 of cases in which the [noncitizen] chooses to appeal.”).

9 28. Petitioner respectfully seeks a writ of habeas corpus ordering Respondents to  
10 immediately release him from his ongoing, unlawful detention, and prohibiting his re-arrest  
11 without a prompt hearing to contest that re-arrest before an immigration judge pursuant to  
12 which the government is required to prove by clear and convincing evidence that Petitioner is  
13 a flight risk or danger to others, even after consideration of alternatives to detention that could  
14 mitigate any risk that Petitioner's release would present; and if the government cannot meet its  
15 burden, the immigration judge shall order Petitioner's release on appropriate conditions of  
16 supervision, taking into account Petitioner's ability to pay a bond.

17 29. Alternatively, Petitioner requests that the Court issue a writ of habeas corpus  
18 and order Petitioner's release within 7 days unless Respondents schedule a hearing before an  
19 immigration judge where: (1) to continue detention, the government must establish by clear and  
20 convincing evidence that Petitioner presents a risk of flight or danger, even after consideration  
21 of alternatives to detention that could mitigate any risk that Petitioner's release would present;  
22 and (2) if the government cannot meet its burden, the immigration judge shall order Petitioner's  
23 release on appropriate conditions of supervision, taking into account Petitioner's ability to pay a  
24 bond.

25 30. In addition, to preserve this Court's jurisdiction, Petitioner requests that this  
26 Court order Respondents not to transfer him outside of the Eastern District of California or  
27 deport him outside of the United States for the duration of these proceedings.

1 **JURISDICTION AND VENUE**

2 31. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal  
3 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),  
4 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension  
5 Clause) and the Fourth and Fifth Amendments to the U.S. Constitution.

6 32. Congress has preserved judicial review of challenges to prolonged immigration  
7 detention. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839-841 (2018) (holding that 8 U.S.C.  
8 §§ 1226(e), 1252(b)(9) do not bar review of challenges to prolonged immigration detention); *see*  
9 *also id.* at 876 (Breyer, J., dissenting). (“8 U.S.C. § 1252(b)(9) . . . by its terms applies only with  
10 respect to review of an order of removal”) (internal quotation marks and brackets omitted).

11 33. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28  
12 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district. *See*  
13 *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 78, 484, 493- 500 (1973). Venue is  
14 also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees,  
15 officers, and agencies of the United States, and because a substantial part of the events or  
16 omissions giving rise to the claims occurred in the Eastern District of California.

17 **PARTIES**

18 34. Petitioner is a law-abiding refugee from India. He is presently in civil  
19 immigration detention at the Golden State Annex, which is in the Eastern District of California.

20 35. Respondent Warden of the Golden State Annex, where Petitioner is detained, has  
21 immediate physical custody of Petitioner. He is sued in his official capacity.

22 36. Respondent Field Office Director of the San Francisco Immigration and Customs  
23 Enforcement Office. He is responsible for the administration of immigration laws and the  
24 execution of immigration enforcement and detention policy within ICE’s San Francisco Area of  
25 Responsibility, including the detention of Petitioner. He maintains an office and regularly  
26 conducts business in this district. He is sued in his official capacity.

27 37. Respondent Acting Director of ICE is the Senior Official Performing the Duties  
28

1 of the Director of ICE responsible for the administration and enforcement of the immigration  
2 laws of the United States; routinely transacts business in this District; and is legally responsible  
3 for pursuing any effort to detain and remove the Petitioner. He is sued in his official capacity.

4 38. Respondent Secretary of the DHS has ultimate authority over DHS. In that  
5 capacity and through her agents, she has broad authority over and responsibility for the operation  
6 and enforcement of the immigration laws; routinely transacts business in this District; and is  
7 legally responsible for pursuing any effort to detain and remove Petitioner. She is sued in her  
8 official capacity.

9 39. Respondent Attorney General of the United States is the most senior official at the  
10 Department of Justice. In that capacity and through her agents, she is responsible for overseeing  
11 the implementation and enforcement of the federal immigration laws. The Attorney General  
12 delegates this responsibility to the Executive Office for Immigration Review ("EOIR"), which  
13 administers the immigration courts and the Board of Immigration Appeals (the "BIA"). She is  
14 sued in her official capacity.

15 **REQUIREMENTS OF 28 U.S.C. § 2243**

16 40. The Court must grant the petition for writ of habeas corpus or order Respondents  
17 to show cause "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order  
18 to show cause is issued, the Respondents must file a return "within three days unless for good  
19 cause additional time, not exceeding twenty days, is allowed." *Id.* Habeas corpus is "perhaps the  
20 most important writ known to the constitutional law . . . affording as it does a swift and imperative  
21 remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).  
22 "The application for the writ usurps the attention and displaces the calendar of the judge or justice  
23 who entertains and receives prompt action from him within the four corners of the application."  
24 *Yong v. I.N.S.*, 20 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

25 **EXHAUSTION**

26 41. There is no requirement to exhaust administrative remedies because no other  
27 forum exists in which Petitioner can raise the claims herein. There is no statutory exhaustion  
28

1 requirement prior to challenging the constitutionality of an arrest or detention or challenging a  
2 policy under the Administrative Procedure Act. In addition, any further exhaustion  
3 requirements would be unreasonable, as immigration judges have now taken the position, citing  
4 *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025), that they lack jurisdiction to  
5 conduct a bond hearing with respect to migrants such as Petitioner. Although Petitioner is not  
6 subject to mandatory detention as an arriving alien who has not entered and been paroled  
7 within the interior of the United States, immigration courts have also taken the position that an  
8 arriving alien is not eligible for bond. *See Matter of Q. Li*, 29 I&N Dec. 66, 69 (BIA 2025).  
9 Further, Petitioner received a notice of expedited removal and thus an immigration judge would  
10 take the position that he is ineligible for bond. *See Matter of M-S-*, 27 I&N Dec. 509, 512 (A.G.  
11 2019). Finally, regardless of the statutory basis for his current detention, it would be futile for  
12 Petitioner to seek a bond hearing and release in immigration court. Only an order of this Court  
13 could effectively grant Petitioner relief. *See Mosqueda v. Noem*, No. 5:25-CV-02304 CAS  
14 (BFM), 2025 WL 2591530, at \*5; (C.D. Cal. Sept. 8, 2025).

15 42. Prudential exhaustion is not required here because it would be futile, and  
16 Petitioner will “suffer irreparable harm if unable to secure immediate judicial consideration” of  
17 his claim. *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). A court may waive the prudential  
18 exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of  
19 administrative remedies would be a futile gesture, irreparable injury will result, or the  
20 administrative proceedings would be void.” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir.  
21 2004) (citation and quotation marks omitted); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS  
22 (BFM), 2025 WL 2591530, at \*7 (C.D. Cal. Sept. 8, 2025). Administrative remedies in this  
23 case are unavailable and even if there is a slim possibility that an immigration judge would  
24 eventually grant Petitioner a bond hearing, not efficacious, as he has already been unlawfully  
25 detained for over seven months without a bond hearing. LeRoy Decl. at ¶ 9.

26  
27 **LEGAL BACKGROUND**

1 ***Due Process***

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

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

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

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

21 47. Due process requires that the government provide bond hearings to noncitizens  
22 facing prolonged detention. “The Due Process Clause foresees eligibility for bail as part of due  
23 process” because “[b]ail is basic to our system of law.” *Jennings*, 138 S. Ct. at 862 (Breyer, J.,  
24 dissenting) (internal quotation marks omitted). While the Supreme Court upheld the mandatory  
25 detention of a noncitizen under Section 1226(c) in *Demore*, it did so based on the petitioner’s  
26 concession of deportability and the Court’s understanding at the time that such detentions are  
27 typically “brief.” *Demore*, 538 U.S. at 522 n.6, 528. Where a noncitizen has been detained for a  
28

1 prolonged period or is pursuing a substantial defense to removal or claim to relief, due process  
2 requires an individualized determination that such a significant deprivation of liberty is  
3 warranted. *Id.* at 532 (Kennedy, J., concurring) (“[I]ndividualized determination as to his risk  
4 of flight and dangerousness” may be warranted “if the continued detention became  
5 unreasonable or unjustified”); *see also Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (holding  
6 that detention beyond the “initial commitment” requires additional safeguards).

7 48. Detention without a bond hearing is presumptively unconstitutional when it  
8 exceeds six months. *See Demore*, 538 U.S. at 529-30 (upholding only “brief” detentions under  
9 Section 1226(c), which last “roughly a month and a half in the vast majority of cases in which  
10 it is invoked, and about five months in the minority of cases in which the [noncitizen] chooses  
11 to appeal”); *Zadvydas*, 533 U.S. at 701 (“Congress previously doubted the constitutionality of  
12 detention for more than six months.”); *Rodriguez v. Nielsen*, Case No. 18-CV-04187-TSH,  
13 2019 WL 7491555, at \*6 (N.D. Cal. Jan. 7, 2019) (“[D]etention becomes prolonged after six  
14 months and entitles [Petitioner] to a bond hearing”); *see also Rodriguez v. Marin*, 909 F.3d  
15 252, 256 (9th Cir. 2018) (“We have grave doubts that any statute that allows for arbitrary  
16 prolonged detention without any process is constitutional”); *Hutto v. Finney*, 437 U.S. 678,  
17 685-86 (1978) (holding that, in the Eighth Amendment context, “the length of confinement  
18 cannot be ignored in deciding whether [a] confinement meets constitutional standards”); *Reid v.*  
19 *Donelan*, 17 F.4th 1, 7 (1st Cir. 2021) (holding that “the Due Process Clause imposes some  
20 form of reasonableness limitation upon the duration of detention” under section 1226(c))  
21 (internal quotation marks omitted).

22 49. The recognition that six months is a substantial period of confinement and is the  
23 time after which additional process is required to support continued incarceration is deeply  
24 rooted in our legal tradition. With few exceptions, “in the late 18th century in America crimes  
25 triable without a jury were for the most part punishable by no more than a six-month prison  
26 term.” *Duncan v. Louisiana*, 391 U.S. 145, 161 & n.34 (1968). Consistent with this tradition,  
27 the Supreme Court has found six months to be the limit of confinement for a criminal offense  
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1 that a federal court may impose without the protection afforded by jury trial. *Cheff v.*  
2 *Schnackenberg*, 384 U.S. 373, 380 (1966) (plurality opinion). The Court has also looked to six  
3 months as a benchmark in other contexts involving civil detention. *See McNeil v. Dir., Patuxent*  
4 *Inst.*, 407 U.S. 245, 249, 250-52 (1972) (recognizing six months as an outer limit for  
5 confinement without individualized inquiry for civil commitment).

6 50. Petitioner's re-arrest after parole and detention for over seven months without  
7 any individualized review, is unreasonable under the test set forth in *Mathews v. Eldridge*, 424  
8 U.S. 319, 335 (1976).

9 51. The *Mathews* test for procedural due process claims balances: (1) the private  
10 interest threatened by governmental action; (2) the risk of erroneous deprivation of such  
11 interest and the value of additional or substitute safeguards; and (3) the government interest.  
12 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *see also Sho v. Current or Acting Field Off.*  
13 *Dir.*, No. 1:21-CV-01812 TLN AC, 2023 WL 4014649, at \*3 (E.D. Cal. June 15, 2023), report  
14 and recommendation adopted, No. 1:21-CV-1812-TLN-AC, 2023 WL 4109421 (E.D. Cal. June  
15 21, 2023) (applying *Mathews* factors to a habeas petitioner's due process claims and collecting  
16 cases doing the same). Here, each factor weighs in Petitioner's favor, requiring this Court to  
17 promptly hold a hearing to evaluate whether the government can justify Petitioner's ongoing  
18 detention.

19 52. First, Petitioner indisputably has a weighty interest in his liberty, the core  
20 private interest at stake here. *Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment. . . lies  
21 at the heart of the liberty [the Due Process Clause] protects."). Petitioner, who is being held in  
22 "incarceration-like conditions," has an overwhelming interest here, regardless of the length of  
23 his immigration detention, because "any length of detention implicates the same" fundamental  
24 rights. *Rajnish v. Jennings*, No. 3:20-cv-07819-WHO, 2020 WL 7626414, at \*6 (N.D. Cal.  
25 Dec. 22, 2020). Petitioner faces severe hardships while detained by ICE. Petitioner is held in a  
26 locked down facility, with limited freedom of movement and no access to Petitioner's friends,  
27 place of worship or community. LeRoy Decl. at ¶17. Petitioner is also suffering from health  
28

1 issues that have not been adequately evaluated and treated at Golden State Annex. *See* Ex. I;  
2 LeRoy Decl. at ¶ 16.

3         53.       Second, Petitioner will suffer the erroneous risk of deprivation of his liberty  
4 without an individualized evidentiary hearing. The risk of erroneous deprivation of his liberty is  
5 high, as he has been detained since May 26, 2025 without any evaluation of whether the  
6 government can justify detention under their individualized circumstances. “[T]he risk of an  
7 erroneous deprivation of liberty in the absence of a hearing before a neutral decisionmaker is  
8 substantial.” *Diouf*, 634 F.3d at 1092. Conversely, “the probable value of additional procedural  
9 safeguards-an individualized evaluation of the justification for his detention-is high, because  
10 Respondents have provided virtually no procedural safeguards at all.” *Jimenez v. Wolf*, No. 19-  
11 cv-07996-NC, 2020 WL 510347, \*3 (N.D. Cal. Jan. 30, 2020) (granting habeas petition for  
12 person who had been detained for one year without a bond hearing).

13         54.       Third, the government's interest is very low in continuing to detain Petitioner  
14 without providing any neutral review. *See Mathews*, 424 U.S. at 335. The specific interest at  
15 stake here is not the government's ability to continue to detain Petitioner, but rather the  
16 government's ability to continue to detain them for months on end without any individualized  
17 review. *See Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 964 (N.D. Cal. 2019); *Henriquez*  
18 *v. Garland*, No. 5:22-CV-00869-EJD, 2022 WL 2132919, at \*5 (N.D. Cal. June 14, 2022). The  
19 cost of providing an individualized inquiry is minimal. *See Henriquez*, 2022 WL 2132919, at  
20 \*5. The government has repeatedly conceded this fact. *See Lopez Reyes v. Bonnar*, 362 F.  
21 Supp. 3d 762, 777 (N.D. Cal. 2019); *Singh v. Barr*, 400 F. Supp. 3d 1005, 1021 (S.D. Cal.  
22 2019).

23         55.       In sum, the *Mathews* factors establish that Petitioner is entitled to an evidentiary  
24 hearing before a neutral adjudicator. Unsurprisingly, courts applying these standards in this  
25 Circuit have repeatedly held that prolonged detention without a hearing before a neutral  
26 adjudicator violates procedural due process. *See, e.g., Gonzalez v. Bonnar*, No. 18-CV-05321-  
27 JSC, 2019 WL 330906, at \*1, \*5 (N.D. Cal. Jan. 25, 2019) (holding that the petitioner's  
28

1 detention for just over one year without a custody hearing violates his due process rights and  
2 granting habeas); *see also Singh v. Garland*, No. 1:23-cv-01043-EPG-HC, 2023 WL 5836048,  
3 at \*6 (E.D. Cal. 2023); *Sho v. Current or Acting Field Office Director*, No. 1:21-cv-01812-  
4 TLN-AC, 2023 WL 4014649 (E.D. Cal. 2023). This Court should so hold as well.

5 56. The procedural component of the Due Process Clause prohibits the government  
6 from imposing even permissible physical restraints without adequate procedural safeguards.  
7 Generally, “the Constitution requires some kind of a hearing *before* the State deprives a person  
8 of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases  
9 where that freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d at 683 (citing  
10 *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional  
11 supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)  
12 (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole  
13 context).

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

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

26 ***Statutory Detention Framework***

27 59. The Immigration and Nationality Act prescribes permissible grounds for detention  
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1 for the vast majority of noncitizens in removal proceedings. 8 U.S.C. § 1226 authorizes the  
2 detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8  
3 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the  
4 outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been  
5 arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8  
6 U.S.C. § 1226(c). Second, the INA provides for mandatory detention of noncitizens properly  
7 subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking  
8 admission referred to under § 1225(b)(2). A noncitizen is subject to mandatory detention under 8  
9 U.S.C. § 1225(b), if he was paroled “for urgent humanitarian reasons or significant public  
10 benefit.” Last, the INA also provides for detention of noncitizens who have been ordered  
11 removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

12         60. To qualify for expedited removal, a noncitizen must either lack entry  
13 documentation or seek admission through fraud or misrepresentation. *See* INA §  
14 235(b)(1)(A)(i) (referring to *id.* § 212(a)(6)(C), (a)(7)). In addition, the non-citizen must either  
15 be “arriving in the United States” or within a class that the Secretary of Homeland Security has  
16 designated for expedited removal. *Id.* Once paroled without being placed into expedited  
17 removal proceedings, the noncitizen cannot be placed into expedited removal proceedings. *See*  
18 *Coalition For Humane Immigrant Rights, v. Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986,  
19 at \*5 (D.D.C. Aug. 1, 2025) (explaining that “a person who has been paroled without first  
20 having been placed in expedited removal cannot be designated for expedited removal”);  
21 *Espinoza, et al., v. Kaiser, et al.*, 2025 WL 2675785, at \*8-9 (E.D. Cal. Sep. 18, 2025).

22         61. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the  
23 Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No.  
24 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section  
25 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1,  
26 139 Stat. 3 (2025).

27         62. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining  
28

1 that, in general, people who entered the country without inspection were not considered detained  
2 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited  
3 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;  
4 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

5 63. Thus, in the decades that followed, most people who entered without inspection  
6 and were placed in standard removal proceedings received bond hearings, unless their criminal  
7 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent  
8 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”  
9 were entitled to a custody hearing before an immigration judge or other hearing officer. *See* 8  
10 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that §  
11 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

12 64. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that  
13 rejected well-established understanding of the statutory framework and reversed decades of  
14 practice. The new policy, entitled “Interim Guidance Regarding Detention Authority for  
15 Applicants for Admission,”<sup>4</sup> claims that all persons who entered the United States without  
16 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The  
17 policy applies regardless of when a person is apprehended and affects those who have resided in  
18 the United States for months, years, and even decades.

19 65. On September 5, 2025, the BIA adopted this same position in a published  
20 decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025). Thus, the Board held  
21 that all noncitizens who entered the United States without admission are subject to detention  
22 under § 1225(b)(2)(A) and are ineligible for immigration judge bond hearings. Since  
23 Respondents adopted their new policies, dozens of federal courts have rejected their new  
24 interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter of Yajure*  
25 *Hurtado*, which adopts the same reading of the statute as ICE.).

26  
27 <sup>4</sup> Available at [https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)  
28 [authority-for-applications-for-admission](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission).

1 66. Numerous courts have rejected ICE and EOIR's attempt to create a new category  
2 of mandatory detention by denying bond hearings to noncitizens who are subject to § 1226(a).  
3 See, e.g., *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025);  
4 *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, \_\_\_ F. Supp. 3d \_\_\_, 2025 WL 2084238 (D.  
5 Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL  
6 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-  
7 PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No.  
8 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No.  
9 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v.*  
10 *Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025);  
11 *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v.*  
12 *Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo*  
13 *v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-*  
14 *Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025);  
15 *Kostak v. Trump*, No. 3:25-cv-01093- JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025);  
16 *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d , 2025 WL 2466670 (D.  
17 Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL  
18 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM,  
19 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304  
20 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-  
21 CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-  
22 11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); see also, e.g., *Palma Perez v. Berg*,  
23 No. 8:25CV494, 2025 WL 2531566, at \*2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends  
24 to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-  
25 cv-03161-JFB-RCC, 2025 WL 2402271 at \*3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v.*  
26 *Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at \*2 (D. Neb. Aug. 14, 2025)  
27 (same); *O.P.A.M. v. Wofford*, No. 1:25-cv-01423 JLT SAB (E.D. CA Nov. 7, 2025); see also,  
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1 *F.M.V. v. Wofford*, No. 1:25-cv-01381-KES-SAB (HC) (E.D. CA Nov. 4, 2025) (petitioner  
2 disputed DHS’ allegations of several missed ICE check-in dates, yet petitioner’s immediate  
3 release was ordered and motion for preliminary injunction was granted.).

4 67. By contrast, § 1225(b) applies to people newly arriving at U.S. ports of entry or  
5 who recently entered the United States. The statute’s entire framework is premised on  
6 inspections at the border of new arrivals who are “seeking admission” to the United States. 8  
7 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention  
8 scheme applies “at the Nation’s borders and ports of entry, where the Government must  
9 determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v.*  
10 *Rodriguez*, 583U.S. 281, 287 (2018).

11 68. To the extent that the government now wants to reclassify Petitioner as detained  
12 under § 1225(b)(2)(A) after initially releasing him on his own recognizance in 2023 under §  
13 1226(a), courts have found this to be an impermissible *post hoc* purported justification for  
14 mandatory detention. See *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 WL 2371588, at \*13–  
15 14 (S.D.N.Y. Aug. 13, 2025); see, also, *C.A.R.V. v. Wofford*, No. 1:25-CV-01395 JLT SKO 2025  
16 U.S. Dist. LEXIS 216277, at \*27 (E.D. Cal., Nov. 1, 2025) (“Respondents fail to contend with  
17 the liberty interest created by the fact that the Petitioner in this case was released on  
18 recognizance in 2021, prior to the manifestation of this interpretation.”). Accordingly, the  
19 mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who  
20 have already entered and were residing and working in the United States with the express  
21 authorization of DHS at the time they were re-arrested and who were not initially paroled for  
22 urgent humanitarian reasons or for a significant public benefit.

23 69. Pursuant to 8 U.S.C. § 1226(b), “[t]he Attorney General at any time may revoke  
24 a bond or parole authorized under subsection (a), rearrest the alien under the original warrant,  
25 and detain the alien.” 8 U.S.C. § 1226(b). The implementing regulations elaborate that “such  
26 release [under § 1226] may be revoked at any time in the discretion of” various DHS officials,  
27 “in which event the alien may be taken into physical custody and detained.” 8 C.F.R. §  
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1 1236.1(c)(9). However, DHS may not re-arrest that noncitizen absent a material change in  
2 circumstance. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub*  
3 *nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (“[w]here the release decision  
4 was made by a DHS officer, not an immigration judge, the Government’s practice has been to  
5 require a showing of changed circumstances before re-arrest.”).

6 70. The specific permissible grounds for re-detaining an individual subject to 8  
7 U.S.C. § 1226(a) require a “material change of circumstances.” *Duong v. Kaiser*, 2025 U.S.  
8 Dist. LEXIS 185024, \*22 (N.D. Cal. Sept. 19, 2025) (requiring a “‘material change of  
9 circumstances’ before bond can be revoked or modified” (citations omitted)). Once a  
10 noncitizen has been released, the law prohibits federal agents from rearresting the noncitizen  
11 merely because he is subject to removal proceedings. Rather, the federal agents must be able  
12 to present evidence of materially changed circumstances - namely, evidence that the  
13 noncitizen is in fact dangerous or has become a flight risk, or is now subject to a final order of  
14 removal.

15 71. Pursuant to 8 U.S.C. § 1226(a), parolees may be re-arrested and re-detained if  
16 (1) they violate a term or condition of their release, (2) they sustain a new criminal conviction;  
17 or (3) removal proceedings are concluded such that they are no longer subject to detention  
18 under § 1226(c) and instead are subject to detention under 8 U.S.C. § 1231(a). None of the  
19 foregoing permissible grounds for re-detaining a parolee pursuant to 8 U.S.C. § 1226(a)  
20 applied to Petitioner when he was re-arrested in May 2025 and do not apply after seven  
21 months of unlawful detention—regardless of Respondents’ transparent attempts to re-classify  
22 him as subject to mandatory detention, either through their unlawful notice of expedited  
23 removal or second Notice to Appear that conflicts and is inconsistent with the initial Notice to  
24 Appear and Respondents’ decision to release Petitioner on his own recognizance in 2023. Exs.  
25 C, D.

26 **FACTUAL ALLEGATIONS**

27 72. After fleeing persecution in India in 2023, Petitioner sought asylum in the  
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1 United States. *See* LeRoy Decl. at ¶ 3. Since May 26, 2025, Petitioner has been arbitrarily  
2 detained by Respondents in violation of the Due Process Clause of the Fifth Amendment to the  
3 United States Constitution, the Fourth Amendment to the United States Constitution and his  
4 statutory rights under the INA and APA.

5 73. Petitioner was initially apprehended and detained by immigration officials in  
6 Arizona on May 6, 2023. A Notice to Appear was issued to Petitioner on May 9, 2023,  
7 indicating that he was charged with being “an alien present in the United States without being  
8 admitted or paroled, or who arrives in the United States at any time or place other than as  
9 designated by the Attorney General,” in violation of Section 212(a)(6)(a)(i) of the INA. Ex. C;  
10 LeRoy Decl. at ¶ 3.

11 74. After it was determined that he posed no flight risk or danger to the community,  
12 on May 9, 2023, Petitioner was released on his own recognizance. Ex. D; LeRoy Decl. at ¶ 4.  
13 Thereafter, Petitioner timely filed an application for applied for Asylum and for Withholding of  
14 Removal, received work authorization from DHS, began building a productive life for himself  
15 in Manteca, California, adhering to the law, the conditions of his parole and maintaining steady  
16 employment at an order fulfillment center for a large online retailer. Exs. A, F; LeRoy Decl. at  
17 ¶¶ 5, 6, 8.


18 75. Petitioner has never been arrested for, charged with, or otherwise accused of a  
19 crime. LeRoy Decl. at ¶ 7. Petitioner has not received any notice from DHS or otherwise  
20 suggesting that he has committed any crimes or presented a national security risk. LeRoy Decl.  
21 at ¶ 7.

22 76. When Petitioner appeared for his last ICE check-in appointment at the ICE field  
23 office in Stockton, California on May 26, 2025, DHS officials re-arrested Petitioner without  
24 providing him with any clear notice or explanation of the basis for his re-arrest or re-detention.  
25 Petitioner reports that he did have some technical difficulties with a DHS GPS-enable reporting  
26 application, but does not believe that such issues resulted in a violation of the conditions of his  
27 parole. LeRoy Decl. at ¶¶ 8, 9, 10. Upon his re-arrest, Petitioner was not afforded an  
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1 opportunity to contest the basis of the revocation of his parole and re-detention and he has been  
2 detained for over seven months without a bond hearing. LeRoy Decl. at ¶¶ 9, 10.

3 77. Following Petitioner's re-arrest on May 26, 2025, Petitioner was served with a  
4 Notice and Order of Expedited Removal, citing his alleged violation of Section 212(a)(7)(i)(I)  
5 of the INA for not having valid travel documents and omitting any reference to the original  
6 May 9, 2023 charge of violating Section 212(a)(6)(a)(i) of the INA. Ex. H; LeRoy Decl. at ¶  
7 11. Petitioner does not understand why the charge against him changed or why he was suddenly  
8 placed into expedited removal proceedings. LeRoy Decl. at ¶ 11.

9 78. On June 5, 2025, DHS sent Petitioner a letter notifying him that his I-589  
10 application was dismissed, given that he had been placed into expedited removal proceedings.  
11 Ex. B; LeRoy Decl. at ¶ 12.

12 79. On or around June 20, 2025, an asylum officer determined that Petitioner has a  
13 credible fear of persecution in India on the basis of  Ex. E; LeRoy  
14 Decl. at ¶ 13. Given such finding, Petitioner is not deportable to India.

15 80. On or around June 21, 2025, a Notice to Appear was served on Petitioner  
16 alleging that he violated both Section 212(a)(7)(i)(I) and 212(a)(6)(a)(i) of the INA.  
17 Specifically, the Notice to Appear states that Petitioner “entered the United States at an  
18 unknown location on or about May 7, 2023” and that he “was not then admitted or paroled by  
19 an immigration officer.” Petitioner reports that he was confused by the allegation that he had  
20 not been inspected or “paroled,” given the fact that on May 9, 2023, he was released on his own  
21 recognizance by an immigration officer. Exs. C, D; LeRoy Decl. at ¶¶ 4, 14.

22 81. Petitioner did not have counsel to advise him on procedure in immigration court  
23 and reports that his asylum case has not been reviewed by the immigration judge assigned to  
24 his case. Petitioner has stated that he is willing to comply with all obligations relating to his  
25 asylum case, that he has no intention of fleeing or engaging in any unlawful conduct and does  
26 not understand why he has been detained for over seven months without any explanation for his  
27 re-arrest and revocation of parole on May 26, 2025 and decision to place him in expedited  
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1 removal proceedings. LeRoy Decl. at ¶ 15.

2 82. Petitioner is experiencing extreme hardship and exacerbated health issues as a  
3 result of his prolonged detention at the Golden State Annex. LeRoy Decl. at ¶ 16. He is unable  
4 to practice his religion or to fully adhere to its requirements in detention, including dietary  
5 restrictions. Petitioner has lost over seven pounds since his detention commenced because he  
6 cannot eat most of the food that is provided to Golden State Annex detainees. In addition, prior  
7 to his detention, Petitioner was being evaluated for hypertension and severe breathing issues  
8 relating to a potential deviated septum or nose bone malformation for which surgery may be  
9 required. Petitioner has sought but not received adequate medical treatment in detention. Ex. I;  
10 LeRoy Decl. at ¶ 16. For example, he was referred to an ear, nose and throat specialist to  
11 evaluate his breathing difficulties, but was thereafter only permitted to make an appointment  
12 with a nurse, who could not provide the necessary medical evaluation or treatment. As a result  
13 of his breathing issues, Petitioner has considerable difficulty resting and sleeping in detention.  
14 Ex. I; LeRoy Decl. at ¶ 16.

15 83. Petitioner has significant and meaningful connections to his community in the  
16 United States. Since coming to the United States in 2023, he has befriended neighbors and  
17 ~~\_\_\_\_\_~~ He maintained steady employment, paid taxes  
18 and integrated into his community, including ~~\_\_\_\_\_~~ His local  
19 supporters praise his good character and commitment to serving and helping others. Ex. G;  
20 LeRoy Decl. at ¶ 17.

21 84. As a result of his arrest and prolonged detention, Petitioner is suffering irreparable  
22 and ongoing harm. Petitioner is being deprived of his liberty without any permissible  
23 justification. The government previously released him on his own recognizance because he did  
24 not pose sufficient risk of flight or danger to the community to warrant detention.

25 85. None of that has changed. Upon information and belief, Petitioner  
26 has no criminal record, and there is no basis to believe that he poses any public-safety risk. Nor  
27 is Petitioner, who was arrested while appearing for an ICE check-in, a flight risk. To the  
28

1 contrary, Petitioner is actively seeking to comply with his ICE and immigration obligations and  
2 he has demonstrated a commitment to full compliance since his arrival in the United States.  
3 LeRoy Decl. at ¶¶ 8, 15.

4 **CLAIMS FOR RELIEF**

5 **FIRST CLAIM FOR RELIEF**

6 **Violation of the Fifth Amendment to the United States Constitution**  
7 **(Substantive Due Process—Prolonged Detention)**

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

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

14 88. Immigration detention is constitutionally permissible only when it furthers the  
15 government’s legitimate goals of ensuring the noncitizen’s appearance during removal  
16 proceedings and preventing danger to the community. *See id.* Petitioner is neither a flight risk  
17 nor danger to the community. Respondents’ detention of Petitioner is therefore unjustified and  
18 unlawful. Accordingly, Petitioner is being detained in violation of the Due Process Clause of  
19 the Fifth Amendment.

20 89. Moreover, Petitioner’s prolonged detention of over seven months is punitive as  
21 it bears no “reasonable relation” to any legitimate government purpose. *Id.* (finding  
22 immigration detention is civil and thus ostensibly “nonpunitive in purpose and effect.”). Here,  
23 the purpose of Petitioner’s detention appears to be “not to facilitate deportation, or to protect  
24 against risk of flight or dangerousness, but to incarcerate for other reasons”—namely, to meet  
25 newly-imposed DHS deportation quotas and carry out President Donald Trump’s mass  
26 deportation campaign. *See Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

27 **SECOND CLAIM FOR RELIEF**

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

**(Procedural Due Process—Detention)**

1  
2 90. Petitioner repeats and re-alleges the allegations contained in the preceding  
3 paragraphs of this Petition as if fully set forth herein.

4 91. As part of the liberty protected by the Due Process Clause, Petitioner  
5 has a weighty liberty interest in avoiding re-incarceration after his release. *See Young v.*  
6 *Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973);  
7 *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70  
8 (holding that a noncitizen has a protected liberty interest in remaining out of custody following  
9 an immigration judge’s bond determination).

10 92. Accordingly, “[i]n the context of immigration detention, it is well-settled that  
11 due process requires adequate procedural protections to ensure that the government’s asserted  
12 justification for physical confinement outweighs the individual’s constitutionally protected  
13 interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinerman*,  
14 494 U.S. at 127 (Generally, “the Constitution requires some kind of a hearing *before* the State  
15 deprives a person of liberty or property.”). In the immigration context, for such hearings to  
16 comply with due process, the government must bear the burden to demonstrate, by clear and  
17 convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See*  
18 *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th  
19 775, 785, 786 (9th Cir. 2024).

20 93. Petitioner’s re-detention without a pre-deprivation hearing violated  
21 due process. Long after deciding to release Petitioner from custody on his own recognizance in  
22 2023, Respondents re-detained Petitioner with no clear notice or opportunity to contest his re-  
23 detention before a neutral adjudicator before being taken into custody.

24 94. Petitioner has a profound personal interest in his liberty. Because  
25 he received no procedural protections, the risk of erroneous deprivation is high. And the  
26 government has no legitimate interest in detaining Petitioner without a pre-deprivation hearing;  
27 bond hearings are conducted as a matter of course in immigration proceedings. *See, e.g., Jorge*  
28 *M.F. v. Wilkinson*, 2021 WL 783561, at \*3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020

1 WL 5074312, at \*3 (N.D. Cal. Aug. 23, 2020).

2 **THIRD CLAIM FOR RELIEF**

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

4 **(Unlawful Arrest)**

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

7 96. The Fourth Amendment protects the right of persons present in the United States  
8 to be free from unreasonable seizures by government officials.

9 97. As a corollary to that right, the Fourth Amendment prohibits government officials  
10 from conducting repeated arrests on the same probable cause. It is axiomatic that seizures have  
11 purposes. When those purposes are spent, further seizure is unreasonable. . . . [T]he primary  
12 purpose of an arrest is to ensure the arrestee appears to answer charges. . . . Once the arrestee  
13 appears before the court, the purpose of the initial seizure has been accomplished. Further seizure  
14 requires a court order or new cause; the original probable cause determination is no justification.  
15 *Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020) (cleaned up); *see also United States v.*  
16 *Kordosky*, No. 88-CR-52-C, 1988 WL 238041, at \*7 n.14 (W.D. Wis. Sept. 12, 1988) (“Absent  
17 some compelling justification, the repeated seizure of a person on the same probable cause  
18 cannot, by any standard, be regarded as reasonable under the Fourth Amendment.”).

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

26 99. Petitioner was arrested in May 2023 after he entered the United States and was  
27 charged with a violation of civil immigration law and released from custody on his own  
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1 recognizance. Petitioner adhered to all immigration law requirements, filed an asylum application  
2 and obtained a government-issued work authorization that is valid through 2029. Petitioner had  
3 not engaged in any conduct in the intervening time that made him a flight risk or danger to the  
4 community. No material change in circumstances justified Petitioner's re-arrest.

5 100. Petitioner's arbitrary re-arrest and detention by Respondents in May  
6 2025 after he had complied with applicable immigration law and DHS requirements and absent  
7 any material change in circumstances was thus an unreasonable seizure in violation of the  
8 Fourth Amendment.

9 **FOURTH CLAIM FOR RELIEF**

10 **Violation of the Administrative Procedure Act**

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

13 102. The Administrative Procedure Act prohibits federal action that is "in excess of  
14 statutory jurisdiction, authority or limitations, or short of statutory right," 5 U.S.C. § 706(2)(C),  
15 and "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," *id.*  
16 § 706(2)(A).

17 103. Respondents violated the Administrative Procedure Act by attempting to  
18 arbitrarily reclassifying Petitioner on June 21, 2025 as being subject to both Section  
19 212(a)(7)(i)(I) and 212(a)(6)(a)(i) of the INA and placing him in expedited removal  
20 proceedings. Specifically, the Notice to Appear states that Petitioner "entered the United States  
21 at an unknown location on or about May 7, 2023" and that he "was not then admitted or  
22 paroled by an immigration officer." That charge on its face is factually inaccurate, as Petitioner  
23 had been apprehended and released on his own recognizance on May 9, 2023. Petitioner's  
24 placement in expedited removal proceedings was thus arbitrary and capricious. Once paroled  
25 without being placed into expedited removal proceedings, the noncitizen cannot be placed into  
26 expedited removal proceedings. *See Coalition For Humane Immigrant Rights, v. Noem*, No.  
27 25-CV-872 (JMC), 2025 WL 2192986, at \*5 (D.D.C. Aug. 1, 2025) (explaining that "a person  
28

1 who has been paroled without first having been placed in expedited removal cannot be  
2 designated for expedited removal”); *Espinoza, et al., v. Kaiser, et al.*, 2025 WL 2675785, at \*8-  
3 9 (E.D. Cal. Sep. 18, 2025).

4 104. The government’s policy targeting people attending their immigration hearings and  
5 required ICE check-in appointments for arrest is arbitrary and capricious, in violation of 5 U.S.C.  
6 § 706(2)(A). The government’s quota-driven arrest policy therefore is in excess of its statutory  
7 authority in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C). The government  
8 has provided no reasoned or adequate explanation for the policy, which is a dramatic shift from  
9 recent and longstanding agency policy and practice.

10 105. Petitioner’s arrest and re-detention without cause pursuant to the government’s  
11 policy is a final agency action that violates the Administrative Procedure Act. *See* 5 U.S.C. §  
12 706(2).

13 **FIFTH CLAIM FOR RELIEF**

14 **Violation of the Immigration and Nationality Act (INA)**

15 **(8 U.S.C. § 1226(a))**

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

18 107. Petitioner was re-detained in the interior of the United States  
19 at an ICE check-in appointment and thus is currently detained under 8 U.S.C. § 1226(a).  
20 Detention under 8 U.S.C. § 1226(a) must serve a legitimate government purpose of mitigating  
21 danger or preventing flight. *See Zadvydas*, 533 U.S. at 690; 8 U.S.C. § 1226(a), (b); 8 C.F.R.  
22 1236.1(c)(8).

23 108. Petitioner’s prior release by DHS in 2023 necessarily reflects a determination  
24 that he was neither a flight risk nor a danger to the community. 8 C.F.R. 1236.1(c)(8) (outlining  
25 requirements for release on recognizance); 8 C.F.R. 212.5(b) (outlining requirements for parole).  
26 Thus, his re-detention pursuant 8 U.S.C. § 1226(a) requires an individualized determination of a  
27 material change in circumstances going to flight risk or danger in order for his re-detention to  
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1 serve a regulatory purpose.

2 109. Respondents violated the INA by attempting to arbitrarily reclassify Petitioner  
3 on June 21, 2025 as being subject to both Section 212(a)(7)(i)(I) and 212(a)(6)(a)(i) of the INA  
4 and placing him in removal proceedings. Specifically, the Notice to Appear states that  
5 Petitioner “entered the United States at an unknown location on or about May 7, 2023” and that  
6 he “was not then admitted or paroled by an immigration officer.” That charge on its face is  
7 factually inaccurate, as Petitioner had been apprehended and released on his own recognizance  
8 on May 9, 2023.

9 110. Petitioner’s placement in expedited removal proceedings violated the INA. Once  
10 paroled without being placed into expedited removal proceedings, the noncitizen cannot be  
11 placed into expedited removal proceedings. *See Coalition For Humane Immigrant Rights, v.*  
12 *Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986, at \*5 (D.D.C. Aug. 1, 2025) (explaining that  
13 a person who has been paroled without first having been placed in expedited removal cannot be  
14 designated for expedited removal; *Espinoza, et al., v. Kaiser, et al.*, 2025 WL 2675785, at \*8-9  
15 (E.D. Cal. Sep. 18, 2025).

16 111. To qualify for expedited removal, a non-citizen must either lack entry  
17 documentation or seek admission through fraud or misrepresentation. *See* INA §  
18 235(b)(1)(A)(i) (referring to *id.* § 212(a)(6)(C), (a)(7)). In addition, the non-citizen must either  
19 be “arriving in the United States” or within a class that the Secretary of Homeland Security has  
20 designated for expedited removal. *Id.* Petitioner was originally charged in 2023 not with  
21 lacking documentation or engaging in fraud, but rather under Section 212(a)(6)(A)(i) as an  
22 alien “not then admitted or paroled after inspection by an Immigration Officer.” Ex. C. Thus,  
23 Petitioner was placed into expedited removal proceedings in May 2025 in violation of the INA.

24 112. Petitioner’s re-detention violates the INA, given that he was not afforded an  
25 individualized determination of a material change in circumstances related to flight risk or  
26 danger to others prior to his re-arrest and re-detention on May 26, 2025.

27 **PRAYER FOR RELIEF**

1 Petitioner respectfully requests that this Court:

- 2 1. Assume jurisdiction over this matter;
- 3 2. Issue a writ of habeas corpus ordering Respondents to immediately release  
4 Petitioner from his ongoing, unlawful detention, and prohibiting his re-arrest  
5 without a prompt hearing to contest that re-arrest before an immigration judge  
6 pursuant to which the government is required to prove by clear and convincing  
7 evidence that Petitioner is a flight risk or danger to others, even after consideration  
8 of alternatives to detention that could mitigate any risk that Petitioner's release  
9 would present; and if the government cannot meet its burden, the immigration judge  
10 shall order Petitioner's release on appropriate conditions of supervision, taking into  
11 account Petitioner's ability to pay a bond;
- 12 3. Alternatively, Petitioner requests that the Court issue a writ of habeas corpus and  
13 order Petitioner's release within 7 days unless Respondents schedule a hearing  
14 before an immigration judge where: (1) to continue detention, the government must  
15 establish by clear and convincing evidence that Petitioner presents a risk of flight  
16 or danger, even after consideration of alternatives to detention that could mitigate  
17 any risk that Petitioner's release would present; and (2) if the government cannot  
18 meet its burden, the immigration judge shall order Petitioner's release on  
19 appropriate conditions of supervision, taking into account Petitioner's ability to pay  
20 a bond;
- 21 4. Declare that Petitioner's arrest and detention violate the Due Process Clause of the  
22 Fifth Amendment, the Fourth Amendment, the Administrative Procedure Act and  
23 the Immigration and Nationality Act;
- 24 5. Enjoin Respondents from transferring Petitioner outside this District or  
25 deporting Petitioner pending these proceedings;
- 26 6. Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered  
27 at a custody hearing before a neutral arbiter in which the government bears the  
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1 burden of proving, by clear and convincing evidence, that Petitioner is a flight risk  
2 or danger to the community;

3 7. Set aside Respondents' unlawful practice pursuant to 5 U.S.C. §706(2) as contrary  
4 to law, contrary to constitutional right, and in excess of statutory authority;

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

7 9. Grant such further relief as this Court deems just and proper.

8  
9 Date: December 31, 2025

Respectfully submitted,

10 /s/ Carrie LeRoy

11 Carrie LeRoy

12 Attorney for Petitioner  
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**VERIFICATION**

1  
2 I, Carrie LeRoy, declare as follows:

3 I am an attorney admitted to practice law in the State of California. Because many of the  
4 allegations of this Petition require a legal knowledge not possessed by Petitioner, I am making  
5 this verification on his behalf. I have read the foregoing First Amended Petition for Writ of  
6 Habeas Corpus and know the contents thereof to be true to my knowledge, information, or belief.  
7

8 I certify under penalty of perjury that the foregoing is true and correct, and that this declaration  
9 was executed on December 31, 2025.  
10

11 /s/ Carrie LeRoy  
12 Carrie LeRoy

13 Attorney for Petitioner  
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