

1 Andrea Reyes Corena (SBN 346051)  
2 CARECEN SF  
3 3101 Mission Street, Suite 101  
4 San Francisco, CA 94110  
5 Telephone: (415) 529-1705  
6 areyes@carecensf.org

7  
8 *Attorney for Petitioner*  
9  
10

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

Nestor Andres ARRIETA PATERNINA,

Petitioner,

v.

Sergio ALBARRAN, Acting Field Office  
Director of the San Francisco Immigration and  
Customs Enforcement Office; Todd LYONS,  
Acting Director of United States Immigration  
and Customs Enforcement; Kristi NOEM,  
Secretary of the United States Department of  
Homeland Security, Pamela BONDI, Attorney  
General of the United States, acting in their  
official capacities,

Respondents.

Case No. 3:25-cv-10378

PETITION FOR WRIT OF HABEAS  
CORPUS

## INTRODUCTION

1. Petitioner Nestor Andres Arrieta Paternina (“Mr. Arrieta Paternina” or “Petitioner”) 2  
3 is a 48-year-old asylum seeker from Colombia. He came to the United States at an uncertain date, 4  
most likely in early 2024. On information and belief, upon entry, he presented himself to border 5  
patrol officials and was apprehended. He was detained in Texas. On information and belief, he 6  
was later released on his own recognizance.

7. On information and belief, Mr. Arietta Paternina has been compliant with his 8  
obligations. He attended two scheduled ICE appointments as well as his immigration court 9  
hearings. He filed an application for asylum. He has been awaiting a master calendar hearing in 10  
immigration court, scheduled for April 27, 2026.

11. Ms. Arrieta Paternina has integrated into his local community. He is working for 12  
DoorDash, doing food delivery, and attends a local church. On information and belief, he has no 13  
criminal record. He is seeking counsel to represent him in his immigration proceedings.

14. On December 3, 2025, Mr. Arrieta Paternina was arrested by Immigration and 15  
Customs Enforcement (“ICE”) agents while attending a scheduled check-in appointment at the 16  
ICE field office at 630 Sansome Street in San Francisco. Counsel immediately responded to that 17  
field office, only to be denied access to Mr. Arrieta Paternina. For having been denied the ability 18  
to speak to Mr. Arrieta Paternina, the instant petition is being filed with limited information.

19. Mr. Arrieta Paternina suffers from hypertension for which he takes the medication 20  
Losartan. He additionally suffers from issues with his vertebrae.

21. Mr. Arrieta Paternina is currently locked in a temporary holding area at 630 22  
Sansome Street in San Francisco. One of the ICE agents informed counsel that he will soon be 23  
transferred to Stockton, CA for further processing, and then to a detention facility in California 24  
City, CA or Mesa Verde, CA.

25. This arrest is part of a new, nationwide Department of Homeland Security (“DHS”) 26  
strategy of arresting people at their court hearings as well as at regularly scheduled ICE check-in 27  
appointments. For the past several months, DHS has implemented a coordinated practice of 28  
leveraging immigration detention to strip people like Mr. Arrieta Paternina of their substantive and  
procedural rights and effect their swift deportation. Immigration detention is civil, and thus is

1 permissible for only two reasons: to ensure a noncitizen's appearance at immigration hearings and  
2 to prevent danger to the community. But DHS did not arrest and detain Mr. Arrieta Paternina —  
3 who poses no risk of absconding from immigration proceedings nor danger to the community —  
4 for either of these reasons. Instead, as part of its broader enforcement campaign, DHS likely  
5 detained Mr. Arrieta Paternina to strip him of his procedural rights, pressure him to forfeit his  
6 application for asylum, pressure him into fast-track removal, and meet their own internal quotas  
7 for arrests.

8. Mr. Arrieta Paternina's arrest and detention have already caused him substantial  
9 harm, including the emotional trauma of being arrested like a criminal when he had been compliant  
10 with legal requirements. The psychological toll of confinement is considerable, and conditions in  
11 immigration detention facilities are often substandard. Every additional day of unlawful detention  
will add to his immiseration and subject him to further irreparable harm.

9. Moreover, detention is highly prejudicial to his chance of success in his  
10 immigration proceedings. His loss of income will take away his ability to pay for immigration  
11 counsel, limiting him to seeking help from the limited number of nonprofit providers who take on  
12 detained cases. Those providers are already overwhelmed with demand for their services. While  
13 making it much harder to access legal help, detention will also make it much harder to go through  
14 all of the steps needed to prepare an asylum case — steps such as having extensive communication  
15 with counsel, collecting evidence, and preparing testimony.

10. The Constitution protects Mr. Arrieta Paternina—and every other person present in  
11 this country—from arbitrary deprivations of liberty, and guarantees him due process of law. The  
12 government's power over immigration is broad, but as the Supreme Court has declared, it “is  
13 subject to important constitutional limitations.” *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001).  
14 “Freedom from bodily restraint has always been at the core of the liberty protected by the Due  
15 Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

11. Mr. Arrieta Paternina respectfully seeks a writ of habeas corpus ordering the  
12 government to immediately release him from ongoing, unlawful detention, and prohibiting his re-  
13 arrest without a hearing to contest that re-arrest before a neutral decision-maker. In addition, to  
14 preserve this Court's jurisdiction, Petitioner also requests that this Court order the government not  
15

1 to transfer him outside of the District, or deport him, for the duration of this proceeding.

2

3 **JURISDICTION AND VENUE**

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

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

10

11 **PARTIES**

12 14. Mr. Arrieta Paternina is a 48-year-old asylum seeker from Colombia. He has filed  
13 an application for asylum, which remains pending. On information and belief, he has no criminal  
14 history, and has been compliant with his legal obligations since being released by ICE following  
15 his apprehension at the southern border. He is currently in civil immigration detention, in a  
16 temporary holding facility on the sixth floor of 630 Sansome Street in downtown San Francisco.

17 15. Respondent Sergio Albarran is the Acting Field Office Director of the San  
18 Francisco ICE Field Office. In this capacity, he is responsible for the administration of immigration  
19 laws and the execution of immigration enforcement and detention policy within ICE's San  
20 Francisco Area of Responsibility, including the detention of Mr. Arrieta Paternina. Respondent  
21 Albarran maintains an office and regularly conducts business in this district. Respondent Albarran  
22 is sued in his official capacity. Moreover, while Mr. Arrieta Paternina remains at the Sansome  
23 Street location, Mr. Albarrran serves as his immediate physical custodian.

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

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

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

### EXHAUSTION

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

### LEGAL BACKGROUND

#### *20       A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and 21       Detention.*

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

26       21. *First*, “[t]he touchstone of due process is protection of the individual against  
 27 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the  
 28 exercise of power without any reasonable justification in the service of a legitimate government

1 objective," *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

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

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

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

15 25. Generally, “the Constitution requires some kind of a hearing *before* the State  
16 deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so  
17 even in cases where that freedom is lawfully revocable. *See Hurd v. D.C. Gov’t*, 864 F.3d at 683  
18 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional  
19 supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)  
20 (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

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

27 27. This reasoning applies with equal if not greater force to people released from civil  
28 immigration detention, like Mr. Arrieta Paternina. After all, noncitizens living in the United States

1 like Petitioner have a protected liberty interest in their ongoing freedom from confinement. *See*  
 2 *Zadvydas*, 533 U.S. at 690. And, “[g]iven the civil context [of immigration detention], [the] liberty  
 3 interest [of noncitizens released from custody] is arguably greater than the interest of parolees.”  
 4 *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

5 **FACTUAL ALLEGATIONS**

6 ***A. DHS Undertakes New Campaign of Arrests at Courthouses and ICE Appointments.***

7 28. For the last several months, DHS has initiated an aggressive new enforcement  
 8 campaign targeting people in regular removal proceedings for detention. They have arrested many  
 9 at their immigration court hearings, a “coordinated operation” that has been “aimed at dramatically  
 10 accelerating deportations” by arresting people at courthouses and placing them into expedited  
 11 removal.<sup>1</sup> At the same time, they have also started to regularly make arrests at scheduled ICE  
 12 check-in appointments, for thinly pretextual reasons or none at all.

13 29. DHS’s aggressive tactics at immigration courts appear to be motivated by the  
 14 Administration’s imposition of a new daily quota of 3,000 ICE arrests.<sup>2</sup> As of June 2025, ICE’s  
 15 arrests of noncitizens with no criminal record had increased more than 800% since the previous  
 16 year.<sup>3</sup>

17 30. The government’s new campaign is a significant shift from previous DHS practice  
 18 of re-detaining noncitizens only after a material change in circumstances. *See Saravia v. Sessions*,

19  
 20  
 21 <sup>1</sup> Areli R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in Trump’s Deportation Push*, Wash. Post, May 23, 2025,  
 22 <https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>;  
 23 *see also* Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE is Seeking to Ramp Up Deportations Through Courthouse Arrests*, N.Y. Times, May 30, 2025,  
 24 <https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>.

25 <sup>2</sup> Ted Hesson & Kristina Cooke, *ICE’s Tactics Draw Criticism as it Triples Daily Arrest Targets*,  
 26 Reuters, June 10, 2025, <https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/>; Alayna Alvarez & Brittany Gibson, *ICE Ramps Up Immigration Arrests in Courthouses Across the U.S.*, Axios, June 12, 2025,  
 27 <https://wwwaxios.com/2025/06/12/ice-courthouse-arrests-trump>.

28 <sup>3</sup> José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under Trump*, The Guardian, June 14, 2025, <https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures>.

1 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905  
 2 F.3d 1137 (9th Cir. 2018) (describing prior practice).

3 ***B. Petitioner is Unlawfully Arrested and Detained Pursuant to DHS's New Policy.***

4 31. Mr. Arrieta Paternina has applied for asylum, stating his fear of returning to  
 5 Colombia. On information and belief, when he entered the United States, he sought out border  
 6 patrol agents in order to turn himself in. Following a period in detention, on information and belief,  
 7 he was released on his own recognizance. In granting his release, DHS determined that he posed  
 8 little if any risk of flight or danger to the community. Since then, on information and belief, he has  
 9 attended a court hearing and two ICE check-in appointments. On January 27, 2024, Mr. Arrieta  
 10 Paternina filed an application for asylum with the San Francisco Immigration Court. His next court  
 11 hearing is set for April 27, 2026.

12 32. He has been working in food delivery. On information and belief, he has no  
 13 criminal history.

14 33. On December 3, 2025, Mr. Arrieta Paternina appeared at the San Francisco ICE  
 15 field office for a check-in appointment. At that appointment, he was arrested.

16 34. Counsel quickly was alerted to the arrest and traveled to the San Francisco ICE  
 17 field office, but was denied access to Mr. Arrieta Paternina. She was told that he would be taken  
 18 to the Stockton, CA ICE office and then to a detention facility in California City, CA or Mesa  
 Verde, CA.

19 35. Because Mr. Arrieta Paternina has not been determined to be a flight risk nor a  
 20 danger to the community, his ongoing detention is not related to either of the permissible  
 21 justifications for civil immigration detention. His confinement does not further any legitimate  
 22 government interest.

23 ***C. As a Result of His Arrest and Detention, Petitioner is Suffering Ongoing and Irreparable  
 24 Harm.***

25 36. Mr. Arrieta Paternina is being deprived of his liberty without any permissible  
 26 justification. The government previously released him on his own recognizance because he did not  
 27 pose sufficient risk of flight or danger to the community to warrant detention.

37. None of that has changed. He has no criminal record, and there is no basis to believe that he poses a public safety risk. Nor is he, who was arrested *while appearing for an ICE appointment*, conceivably a flight risk. To the contrary, he has appeared for immigration court hearings and supervision check-ins.

38. Detention will pose him irreparable harm. It will interfere with his ability to find counsel for his asylum case. Immigration proceedings aside, it will pose a compounding psychological burden, in addition to whatever physical hardships he has to endure from prison conditions. It will deprive him of his livelihood, his community, his church, and his life as he knows it.

## CLAIMS FOR RELIEF

## FIRST CLAIM FOR RELIEF

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

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

39. Mr. Arrieta Paternina repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

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

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

42. Mr. Arrieta Paternina is not a flight risk or danger to the community. Respondents' detention of Mr. Arrieta Paternina is therefore unjustified and unlawful. Accordingly, Mr. Arrieta Paternina is being detained in violation of the Due Process Clause of the Fifth Amendment.

43. Moreover, Mr. Arrieta Paternina’s detention is punitive as it bears no “reasonable relation” to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly “nonpunitive in purpose and effect”). Here, the purpose of Mr. Arrieta Paternina’s detention appears to be “not to facilitate deportation, or to protect against risk of flight or

1 dangerousness, but to incarcerate for other reasons”—namely, to meet newly-imposed DHS arrest  
 2 quotas and transfer immigration court venue to a location where hearings are fast-tracked and  
 3 respondents experience great difficulty in presenting their cases effectively.

4 **SECOND CLAIM FOR RELIEF**

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

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

7 44. Mr. Arrieta Paternina repeats and re-alleges the allegations contained in the  
 preceding paragraphs of this Petition as if fully set forth herein.

8 45. As part of the liberty protected by the Due Process Clause, Mr. Arrieta Paternina  
 9 has a weighty liberty interest in avoiding re-incarceration after his initial release from DHS  
 10 custody. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778,  
 11 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp.  
 12 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody  
 13 following an IJ’s bond determination).

14 46. Accordingly, “[i]n the context of immigration detention, it is well-settled that due  
 15 process requires adequate procedural protections to ensure that the government’s asserted  
 16 justification for physical confinement outweighs the individual’s constitutionally protected  
 17 interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinermon*, 494  
 18 U.S. at 127 (Generally, “the Constitution requires some kind of a hearing *before* the State  
 19 deprives a person of liberty or property.”). In the immigration context, for such hearings to  
 20 comply with due process, the government must bear the burden to demonstrate, by clear and  
 21 convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh*  
 22 *v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785,  
 23 786 (9th Cir. 2024).

24 47. Mr. Arrieta Paternina’s re-detention without a pre-deprivation hearing violated  
 25 due process. A year and a half after deciding to release Mr. Arrieta Paternina from custody on  
 26 his own recognizance, Respondents re-detained him with no notice, no explanation of the  
 27 justification of his re-detention, and no opportunity to contest his re-detention before a neutral  
 28 adjudicator before being taken into custody.

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

## **PRAYER FOR RELIEF**

Petitioner respectfully requests that this Court:

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

1 Date: December 3, 2025

Respectfully Submitted,

2 /s/ Andrea Reyes Corena  
3 Andrea Reyes Corena (SBN 346051)  
4 areyes@carecensf.org  
5 CARECEN SF  
6 3101 Mission Street, Suite 101  
7 San Francisco, CA 94110  
8 Telephone: (415) 529-1705

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Attorney for Petitioner