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5
6 **UNITED STATES DISTRICT COURT**
7 **NORTHERN DISTRICT OF CALIFORNIA**
8 **SAN FRANCISCO DIVISION**

9 **Martina Martin Garcia,**

10 Petitioner,

11 v.

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

17 Respondents.

Case No 3:25-cv-10617

**PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

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3 1. Martina Martin Garcia (“Petitioner”) is a monolingual Mayan Mam-speaking, non-literate native
4 of Guatemala who was arrested by Department of Homeland Security (“DHS”) agents today,
5 December 11, 2025, after reporting to Immigration and Customs Enforcement (“ICE”) pursuant
6 to an order from her Intensive Appearance and Supervision Program (“ISAP”). The Petitioner
7 was complying with what should have been a routine check-in with ICE.
- 8 2. The Petitioner was released from Customs and Border Protection (“CBP”) custody on April,
9 2024. She was released on her own recognizance and was placed in INA section 240 (8 U.S.C.
10 1229a) removal proceedings in April, 2024.
- 11 3. Since her release in 2024, she has complied with her supervision conditions, including checking
12 in regularly with ICE’s Intensive Supervision Appearance Program (“ISAP”). She has no
13 criminal history and no prior entries into the United States.
- 14 4. The Petitioner received a removal order on June 24, 2025, and filed an appeal with the Board of
15 Immigration Appeals (“BIA”) that same day. She now has an appeal pending with the BIA
16 where she and her two children are awaiting a decision regarding their application for asylum,
17 withholding of removal, and protection under the Convention Against Torture (“CAT”). The
18 appeal automatically stays Petitioner’s removal until the BIA renders a final decision in their
19 case. 8 C.F.R. § 1003.6(a).
- 20 5. The Petitioner was handcuffed and taken into immigration custody on December 11, 2025. She is
21 being held at the 630 Sansome Street ICE Processing Center in San Francisco, California.
- 22 6. The Petitioner’s arrest and detention are causing her tremendous and ongoing harm. She has
23 been torn away from her one-year-old, United States Citizen baby, her fourteen-year-old son,
24 her ten-year-old daughter, and her five-year-old daughter. Two of them are part of the pending
25 removal proceedings, entered the country with her, and have now been separated from their
26 mother.

1 7. This arrest is part of a new, nationwide DHS strategy of sweeping up people who attend their
2 check-ins with ICE, detaining them, and putting them on track to deportation. Since mid-May,
3 DHS has implemented a coordinated practice of leveraging immigration detention to strip people
4 like the Petitioner of their substantive and procedural rights and pressure them into deportation.
5 Immigration detention is civil, and thus is permissible for only two reasons: to ensure a
6 noncitizen's appearance at immigration hearings and to prevent danger to the community. But
7 DHS did not arrest and detain the Petitioner—who demonstrably poses no risk of absconding
8 from immigration proceedings or danger to the community—for either of these reasons. Instead,
9 as part of its broader enforcement campaign, DHS detained the Petitioner to strip her of her
10 procedural rights, force her to forfeit his application for relief, and pressure her into fast-track
11 removal.

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

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

23
24 **JURISDICTION AND VENUE**

25 10. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28
26 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), 28 U.S.C. §

1 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), and
2 the First, Fourth, and Fifth Amendments to the U.S. Constitution.

3 11. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. §
4 1391(b)(2) and (e)(1) because the Petitioner is physically detained within this district.

5
6 **INTRADISTRICT ASSIGNMENT**

7 12. The Petitioner was detained by ICE in the ICE Processing Center at 630 Sansome Street, San
8 Francisco, California. Assignment to the San Francisco Division of this Court is therefore proper
9 under N.D. Local Rule 3-1(d).

10
11 **PARTIES**

12 13. The Petitioner, Martina Martin Garcia, is a native of Guatemala who came to the United States
13 fleeing persecution in 2024. She resides with and provides for her young children, including a
14 United States Citizen baby, in Oakland, California. The Petitioner is currently detained in the
15 ICE Processing Center at 630 Sansome Street, San Francisco, California.

16 14. The Respondent Sergio Albarran is the Acting Field Office Director of the San Francisco ICE
17 Field Office. He is the physical custodian of the Petitioner. In this capacity, he is responsible for
18 the administration of immigration laws and the execution of immigration enforcement and
19 detention policy within ICE's San Francisco Area of Responsibility, including the detention of
20 the Petitioner. Respondent Albarran maintains an office and regularly conducts business in this
21 district. Respondent Albarran is sued in his official capacity.

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

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

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

12
13 **EXHAUSTION**

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

21
22 **LEGAL BACKGROUND**

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

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

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

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

12 22. Substantive due process thus requires that all forms of civil detention—including immigration
13 detention—bear a “reasonable relation” to a non-punitive purpose. *See Jackson v. Indiana*, 406
14 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive
15 purposes for immigration detention: ensuring a noncitizen’s appearance at immigration
16 proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also*
17 *Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003). 22. *Second*, the procedural
18 component of the Due Process Clause prohibits the government from imposing even permissible
19 physical restraints without adequate procedural safeguards.

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

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

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

13 **FACTUAL ALLEGATIONS**

14 26. The Petitioner was born in Guatemala and resides in Northern California with her children.

15 27. CBP released the Petitioner on her own recognizance on April, 2024.

16 28. Since April 2024, the Petitioner has enjoyed her liberty in the United States on her own
17 recognizance. Upon her release nearly two years ago, Petitioner was placed on intensive
18 conditions of release, which were modified roughly 14 months ago to include a requirement to
19 upload her photograph to an electronic application every week. Petitioner has overwhelmingly
20 complied with the conditions of her release, including routine ISAP check-ins. While Petitioner
21 has never missed an in-person ISAP or ICE check-in, she is alleged to have failed to upload her
22 photograph on fewer than 10 occasions in the more than 60 weeks she has been subject to this
23 requirement. Petitioner has therefore complied with the overwhelming majority of the
24 requirements of her intensive supervision program, notwithstanding the fact that does not speak
25 English or Spanish and does not read or write in any language.
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1 29. The Petitioner has complied with all immigration court visits and is eager to receive a decision
2 from the BIA regarding claims of asylum, withholding of removal, and protection under CAT.
3 That appeal is still awaiting adjudication and has no final set date for a decision.

4 30. On December 11, 2025, the Petitioner was complying with her check-in laid out by her case
5 manager, Elena Jaffe from ISAP, when she was arrested by DHS agents.

6 31. At no point did the Petitioner attempt to run or hide.

7 32. The Petitioner was taken for processing and is still being held in the ICE Processing Facility and
8 630 Sansome Street, San Francisco, California.

9 33. An ICE agent presented a warrant after communicating the decision to arrest Petitioner.

10 34. Because the Petitioner has never been determined to be a flight risk or danger to the community,
11 her ongoing detention is not related to either of the permissible justifications for civil
12 immigration litigation. Her detention does not further any legitimate government interest.

13 35. The Petitioner is being deprived of her liberty without any permissible justification. The
14 government previously released her on her own recognizance because she did not pose sufficient
15 risk of flight or danger to the community to warrant detention.

16 36. None of that has changed. The Petitioner has no criminal record and no prior entries into the
17 United States. There is no basis to believe that she poses any public-safety risk. Nor is the
18 Petitioner, who was arrested *while reporting to ICE in compliance with ISAP's instructions*,
19 conceivably a flight risk. To the contrary, the Petitioner complied with their ICE and
20 immigration court obligations.

21 37. The petitioner is now separated from her one-year-old, United States Citizen baby, her fourteen-
22 year-old son, her ten-year-old daughter, and her five-year-old daughter.

23
24 **CLAIMS FOR RELIEF**

25 **FIRST CLAIM FOR RELIEF**

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

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

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

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

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

11 41. The Petitioner is not a flight risk or danger to the community. The Respondents’ detention of the
12 Petitioner is therefore unjustified and unlawful. Accordingly, the Petitioner is being detained in
13 violation of the Due Process Clause of the Fifth Amendment.

14 42. Moreover, the Petitioner’s detention is punitive as it bears no “reasonable relation” to any
15 legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly
16 “nonpunitive in purpose and effect”). Here, the purpose of the Petitioner’s detention appears to
17 be “not to facilitate deportation, or to protect against risk of flight or dangerousness, but to
18 incarcerate for other reasons”—namely, to meet newly-imposed DHS quotas by arresting people
19 when complying with their reporting obligations to ICE. *Demore*, 538 U.S. at 532–33 (Kennedy,
20 J., concurring).

21 **SECOND CLAIM FOR RELIEF**

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

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

24 25 43. The Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this
26 Petition as if fully set forth herein.

- 1 44. As part of the liberty protected by the Due Process Clause, the Petitioner has a weighty liberty
2 interest in avoiding re-incarceration after her release. *See Young v. Harper*, 520 U.S. 143, 146–
3 47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S.
4 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a
5 protected liberty interest in remaining out of custody following an IJ’s bond determination).
- 6 45. Accordingly, “[i]n the context of immigration detention, it is well-settled that due process
7 requires adequate procedural protections to ensure that the government’s asserted justification
8 for physical confinement outweighs the individual’s constitutionally protected interest in
9 avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinerman*, 494 U.S. at
10 127 (Generally, “the Constitution requires some kind of a hearing *before* the State deprives a
11 person of liberty or property.”). In the immigration context, for such hearings to comply with due
12 process, the government must bear the burden to demonstrate, by clear and convincing evidence,
13 that the noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d
14 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).
- 15 46. The Petitioner’s detention without a pre-deprivation hearing violated due process. Since 2024,
16 the Petitioner was released in the United States on her own recognizance. The Respondents
17 detained the Petitioner with no notice, no justification of her detention, and no opportunity to
18 contest her detention before a neutral adjudicator before being taken into custody.
- 19 47. The Petitioner has a profound personal interest in her liberty. Because she received no procedural
20 protections, the risk of erroneous deprivation is high. And the government has no legitimate
21 interest in detaining the Petitioner without a hearing; bond hearings are conducted as a matter of
22 course in immigration proceedings, and nothing in the Petitioner’s record suggested that he
23 would abscond or endanger the community before a bond hearing could be carried out. *See, e.g.,*
24 *Jorge M.F. v. Wilkinson*, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*,
25 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) (“the government’s concern that delay in
26 scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of
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1 petitioner's strong family ties and his continued employment during the pandemic as an essential
2 agricultural worker").

3
4 **THIRD CLAIM FOR RELIEF**

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

6 **(Unlawful Arrest)**

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

9 49. The Fourth Amendment protects the right of persons present in the United States to be free from
10 unreasonable seizures by government officials.

11 50. As a corollary to that right, the Fourth Amendment prohibits government officials from
12 conducting repeated arrests on the same probable cause.

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

22 52. In the immigration context, this prohibition means that a person who immigration authorities
23 released from initial custody cannot be re-arrested "solely on the ground that he is subject to
24 removal proceedings" and without some new, intervening cause. *Saravia v. Sessions*, 280 F.
25 Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff'd sub nom., Saravia for A.H. v. Sessions*, 905 F.3d
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1 1137 (9th Cir. 2018). Courts have long recognized that permitting such rearrests could result in
2 “harassment by continual rearrests.” *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971).

3 53. The Petitioner was released in the United States on her own recognizance in 2024. The Petitioner
4 reported as instructed to ICE and ISAP since her release in 2024 and diligently pursued an
5 application for asylum, withholding of removal, and CAT.

6 54. ICE re-arrested the Petitioner on December 11, 2025, despite the fact that Petitioner had
7 completed her ISAP check-in as instructed that same day and had not engaged in any other
8 conduct in the intervening time that made her a flight risk or danger to the community. No
9 material change in circumstances justified the Petitioner’s re-arrest.

10 55. In addition, ICE re-arrested Petitioner while her BIA appeal is pending, and an automatic stay of
11 removal applies. 8 C.F.R. § 1003.6(a).

12 56. The Petitioner’s re-arrest and detention by the Respondents lacks any material change in
13 circumstances is thus an unreasonable seizure in violation of the Fourth Amendment.

14
15 **FOURTH CLAIM FOR RELIEF**

16 **Violation of the First and Fifth Amendments to the United States Constitution**

17 **(Right to Access Courts and Petition for Redress)**

18 57. The Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this
19 Petition as if fully set forth herein.

20 58. The First and Fifth Amendments to the United States Constitution guarantee the rights to access
21 the courts and to petition for redress of grievances, which includes the right to participate as a
22 party or witness in judicial and administrative proceedings.

23 59. The Constitution as a corollary prohibits systemic official action that bans or obstructs
24 meaningful access to the courts, including the filing or presenting of legal claims. *See*
25 *Christopher v. Harbury*, 536 U.S. 403 (2002).

1 60. The Petitioner’s arrest and detention have interfered with her ability to access immigration court,
2 the BIA, and participate in her immigration proceedings—including pursuing her application for
3 asylum, withholding of removal, and relief under CAT pending at the BIA.

4 61. The government’s arrest of the Petitioner therefore deprived her of her First and Fifth
5 Amendment rights to meaningfully access court and to petition for redress of grievances

6 62. The Petitioner has no adequate remedy at law.

7
8 **FIFTH CLAIM FOR RELIEF**

9 **Violation of the Administrative Procedure Act, 5 U.S.C. §§ 702, 706**

10
11 63. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this
12 Petition as if fully set forth herein.

13 64. Under 8 C.F.R. § 1003.6(a), a removal order shall not “be executed while an appeal is pending or
14 while a case is before the [BIA].”

15 65. ICE re-arrested Petitioner with the purpose of deportation, even though her BIA appeal is
16 pending, and an automatic stay of removal applies.

17 66. Re-detaining Petitioner with no material change in circumstances regarding her flight risk or
18 danger and for the purpose of deporting her, while her BIA appeal is pending and a stay of
19 removal applies, would be contrary to the Fifth Amendment’s guarantee of due process in
20 violation of 5 U.S.C. § 706(2)(A)-(B).

21
22 **SIXTH CLAIM FOR RELIEF**

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

24 **(Procedural Due Process—Deportation)**

25 67. The Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this
26 Petition as if fully set forth herein.

1 68. The Petitioner has a liberty interest in protection from deportation. *Landon v. Plasencia*, 459
2 U.S. 21, 34 (1982) (a noncitizen’s interest in deportation proceedings “is, without question, a
3 weighty one” because “she stands to lose the right ‘to stay and live and work in this land of
4 freedom’”) (quoting *Bridges v. Wixon*, 326 U.S. 135, 154 (1945)); *Orantes-Hernandez v. Smith*,
5 541 F. Supp. 351, 377 n.32 (C.D. Cal. 1982) (“It is well-settled that the right to a deportation
6 hearing is of constitutional scope because deportation ‘involves issues basic to human liberty and
7 happiness and, in the present upheavals in lands to which aliens may be returned perhaps to life
8 itself.’”) (quoting *Wong Yang Sung v. McGrath*, 339 U.S. 33, 50 (1950)). Accordingly, “[a]
9 person who faces deportation is entitled under our constitution to a full and fair deportation
10 hearing,” *Hartooni v. I.N.S.*, 21 F.3d 336, 339–40 (9th Cir. 1994), because “without such a
11 hearing, there would be no constitutional authority for deportation.” *Wong Yang Sung*, 339 U.S.
12 at 49.

13 69. Depriving the Petitioner of her liberty interest is unconstitutional under the Fifth Amendment
14 unless it is “accompanied by sufficient procedural protections.” See *Johnson v. Ryan*, 55D F.4th
15 1167, 1179–80 (9th Cir. 2022) (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

16 70. Deporting the Petitioner after she has complied with all her in-person ICE check-ins and
17 immigration court hearing obligations would violate due process by failing to provide adequate
18 procedural protections to her weighty interests. In addition, ICE re-arrested Petitioner with the
19 purpose of deportation, even though her BIA appeal is pending, and an automatic stay of
20 removal applies. 8 C.F.R. § 1003.6(a).

21
22
23 **PRAYER FOR RELIEF**

24 The Petitioner respectfully requests that this Court:

- 25 1. Assume jurisdiction over this matter;
26 2. Declare the Petitioners detention unlawful;

- 1 3. Issue a writ of habeas corpus ordering the Respondents to immediately release the Petitioner
- 2 from custody;
- 3 4. Enjoin the Respondents from transferring the Petitioner outside this District or deporting the
- 4 Petitioner pending these proceedings;
- 5 5. Enjoin the Respondents from re-detaining the Petitioner unless her re-detention is ordered at a
- 6 custody hearing before a neutral arbiter in which the government bears the burden of proving, by
- 7 clear and convincing evidence, that the Petitioner is a flight risk or danger to the community;
- 8 6. Award Petitioner her costs and reasonable attorneys' fees in this action as provided for by the
- 9 Equal Access to Justice Act and 28 U.S.C. § 2412; and
- 10 7. Grant such further relief as the Court deems just and proper.

11
12 Date: December 11, 2025

Respectfully submitted,

13
14 /s/ Alyosha Maggin

Alyosha Maggin (SBN 359420)
CENTRO LEGAL DE LA RAZA

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16 *Attorney for the Petitioner*