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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

Juan Carlos Hidalgo Solis,

Petitioner,

v.

Warden of the Golden State Annex;

Todd M. LYONS, Acting Director,
Immigration and Customs Enforcement, U.S.
Department of Homeland Security;

Kristi NOEM, in her Official Capacity,
Secretary, U.S. Department of Homeland
Security; and

Pam BONDI, in her Official Capacity,
Attorney General of the United States;

Respondents - Defendants,

No.

PETITION FOR WRIT OF HABEAS
CORPUS AND COMPLAINT FOR A
DECLARATORY AND INJUNCTIVE
RELIEF

Challenge to Unlawful Incarceration Under
Color of Immigration Detention Statutes;
Request for Declaratory and Injunctive Relief

INTRODUCTION

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1
2 1. Petitioner, Juan Carlos Hidalgo Solis, (“Mr. Hidalgo Solis”), by and through his
3 undersigned counsel, hereby files this petition for writ of habeas corpus to remedy Respondents-
4 Defendants’ (“Respondents”) unlawful re-detention of Mr. Hidalgo Solis without any process, in
5 violation of the Fifth Amendment to the U.S. Constitution.

6 2. Mr. Hidalgo Solis is a native and citizen of Peru. Mr. Hidalgo Solis entered the United
7 States with inspection on October 1, 2023 seeking asylum. When Mr. Hidalgo Solis arrived in
8 the United States, federal agents briefly detained him, determined that he was not a flight risk or
9 danger to the community, and released him on his own recognizance with a notice to appear for
10 removal proceedings in immigration court. Since then, Petitioner had done everything the
11 government asked him to do; he has diligently attended every Immigration and Customs
12 Enforcement (“ICE”) and United States Citizenship and Immigration Services (“USCIS”) appointment and check-in.

13 3. On February 24, 2024, Mr. Hidalgo Solis filed an asylum application with the
14 immigration court. On December 30, 2024, Mr. Hidalgo Solis’ work authorization permit was
15 approved.

16 4. On November 13, 2025, Mr. Hidalgo Solis appeared at a regularly scheduled ICE
17 appointment at 630 Sansome Street in San Francisco, California. On that date, ICE detained him
18 and informed him that he would be transferred to an ICE detention facility because he violated
19 the terms of his ISAP conditions. He was informed that there was an issue with a picture upload
20 on his ISAP app. He was unaware that he had a problem with the picture upload until that day.

21 5. Mr. Hidalgo Solis does not have an order of deportation. When Mr. Hidalgo Solis was
22 released from ICE custody upon entering the United States, the immigration authorities gave him
23 a copy of a Notice to Appear in Immigration Court. The authorities informed Mr. Hidalgo Solis
24 that he would have to appear at all ICE appointments and court hearings.

25 6. Over the last two years in which he has lived at liberty, Mr. Hidalgo Solis has complied
26 with all obligations of the Immigration court and ICE orders.

27 7. Mr. Hidalgo Solis has not committed any violation of any local, State or Federal law
28 since being released. Mr. Hidalgo Solis has been steadily employed since obtaining legal work
authorization in the United States.

8. Mr. Hidalgo Solis resides with his wife and four children in Livermore, California.

1 9. Mr. Hidalgo Solis' arrest and detention have caused him tremendous and ongoing harm.
2 Every additional day Mr. Hidalgo Solis spends in unlawful detention subjects him to further
3 irreparable harm.

4 10. The Constitution protects Mr. Hidalgo Solis – and every other person present in this
5 country – from arbitrary deprivations of his liberty and guarantees him due process of law. The
6 government's power over immigration is broad, but as the Supreme Court has declared, it
7 is subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001).
8 "Freedom from bodily restraint has always been at the core of this liberty protected by the Due
9 Process Clause from arbitrary government action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

10 11. By status and regulation, as interpreted by the Board of Immigration Appeals ("BIA"),
11 ICE has the authority to re-arrest a noncitizen and revoke their bond, only where there has been
12 a change in circumstances since the individual's release, 8 U.S.C. § 236.1(c)(9); *Matter of Sugay*,
13 17 I&N Dec. 647, 640 (BIA 1981). The government has further clarified in litigation that any
14 change in circumstance must be "material." *Saravia v. Barr*, 280 F. Supp. 3d 1168, 1197 (N.D.
15 Cal. 2017).

16 12. That authority is proscribed by the Due Process Clause because it's well-established that
17 individuals released from incarceration have a liberty interest in their freedom. In turn, to protect
18 that interest, on the particular facts of Mr. Hidalgo Solis's case, due process requires notice and
19 a hearing, prior to any revocation of his conditional release, at which he is afforded the
20 opportunity to advance his arguments as to why his release should not be revoked.

21 13. That basic principle – that individuals placed at liberty are entitled to due process before
22 the government imprisons them – has particular force here, where Mr. Hidalgo Solis's detention
23 was already found to be unnecessary to serve its purpose.

24 14. Therefore, at a minimum, to lawfully re-arrest Mr. Hidalgo Solis, the government must
25 first establish, by clear and convincing evidence and before a neutral decision maker, that he is a
26 danger to the community or a flight risk, such that his re-incarceration is necessary.

27 15. Mr. Hidalgo Solis respectfully seeks a writ of habeas corpus ordering the government to
28 immediately release him from his ongoing, unlawful detention, and prohibit his re-arrest without
a hearing to contest that re-arrest before a neutral decision maker. In addition, to preserve this
Court's jurisdiction, Mr. Hidalgo Solis also requests that this Court order the government not to
deport him for the duration of this proceeding or transfer him outside of this Court's jurisdiction.

JURISDICTION AND VENUE

16. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general federal question jurisdiction; 5 U.S.C. § 701, et seq., All Writs Act; 28 U.S.C. § 2241, et seq., habeas corpus; 28 U.S.C. § 2201, the Declaratory Judgment Act; Art. 1, § 9, CL. 2 of the United States Constitution (the Suspension Clause); Art. 3 of the United States Constitution, and the common law, the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-7-6 (Administrative Procedure Act).

17. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Mr. Hidalgo Solis is physically detained within this District at the California City Detention Center.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez*, 872 F.3d at 988. A court may waive the prudential exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)(citation and quotation marks omitted)).

19. Mr. Hidalgo Solis asserts that exhaustion should be waived because administrative remedies are (1) futile and (2) his continued detention results in irreparable harm. Prudential exhaustion is not required here because it would be futile, and Mr. Hidalgo Solis will “suffer irreparable harm if unable to secure immediate judicial consideration of his claim.” *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992).

20. Any attempt to exhaust his administrative remedies would be futile because an Immigration would deny his request for a bond hearing under the recent Bureau of Immigration Appeals (“BIA”) decisions *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). Any further exhaustion requirements would be unreasonable.

21. Both *Yajure Hurtado* and *Q. Li* held that IJs do not have the authority to hold a bond hearing where the moving noncitizens entered the country without inspection. Because Mr.

1 Hidalgo Solis entered the country without inspection, if he were to move for a bond hearing, an
2 IJ following these decisions would have to decline jurisdiction over the issue.

3 22. Mr. Hidalgo Solis' immigration attorney attempted to secure immediate release with ICE
4 but ICE denied her request. Mr. Hidalgo Solis' immigration attorney also attempted to obtain a
5 bond hearing with the immigration court and the immigration court denied her bond hearing
6 request. On December 17, 2025, undersigned counsel emailed ICE in Bakersfield to request
7 immediate release but received no response.

8 **PARTIES**

9 23. Petitioner, Mr. Hidalgo Solis is a 46-year-old man from Peru. He has no criminal history
10 anywhere in the world. He has a pending application for Asylum, Withholding of Removal and
11 relief under the Convention Against Torture with the Immigration court. He is presently in civil
12 immigration detention at Golden State Annex Detention Facility in McFarland, California.

13 24. Respondent is the Warden of Golden State Annex in McFarland, California. In his
14 official capacity, he is the legal custodian of Mr. Hidalgo Solis.

15 25. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official
16 Capacity. Among other things, ICE is responsible for the administration and enforcement of the
17 immigration laws, including the removal of noncitizens. In his official capacity as head of ICE,
18 he is the legal custodian of Mr. Hidalgo Solis.

19 26. Respondent Kristi NOEM is the Secretary of DHS and is named in her official capacity.
20 DHS is the federal agency encompassing ICE, which is responsible for the administration and
21 enforcement of the INA and all other laws relating to the immigration of noncitizens. In her
22 capacity as Secretary, Respondent Noem has responsibility for the administration and
23 enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland
24 Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); see also 8 U.S.C. §
25 1103(a). Respondent Noem is the ultimate legal custodian of Mr. Hidalgo Solis.

26 27. Respondent Pamela BONDI is the Attorney General of the United States and the most
27 senior official at the Department of Justice. In that capacity and through her agents, she is
28 responsible for overseeing the implementation and enforcement of the federal immigration laws.
The Attorney General delegates this responsibility to the Executive Office for Immigration
Review, which administers the immigration courts and the BIA. She has the authority to interpret
immigration laws and adjudicate removal cases.

LEGAL BACKGROUND

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

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

29. These protections extend to noncitizens facing detention, as “in our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755, (1987). Accordingly, “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.

30. Substantive due process requires that all forms of civil detention – including immigration detention bear a “reasonable relation” to a non-punitive purpose. See *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes of immigration detention: ensuring a noncitizen’s appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 53 U.S. at 690-92; see also *Demore v. Kim*, 538 U.S. 510 at 519-20, 527-28 (2003).

31. The procedural component of the Due Process Clause prohibits the government from imposing even permissible physical restraints without adequate procedural safeguards.

32. In Mr. Hidalgo Solis’s particular circumstances, the Due Process Clause of the Constitution makes it unlawful for Respondents to re-arrest him without first providing a pre-deprivation hearing before a neutral decision maker to determine whether circumstances have materially changed since his release in October of 2023, such that detention would now only be warranted on the basis that he is a danger or flight risk by clear and convincing evidence.

33. The statute and regulations grant ICE the ability to unilaterally revoke any noncitizen’s immigration bond and re-arrest the noncitizen at any time. 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9). Notwithstanding the breadth of the statutory language granting ICE the power to revoke an immigration bond “at any time,” 9 U.S.C. 1226(b), in *Matter of Sugay*, 17 I&N Dec. at 640, the BIA recognized an implicit limitation on ICE’s authority to re-arrest noncitizens. There, the BIA held that “where a previous bond determination has been made by an immigration

1 judge, no change should be made by the DHS absent a change of circumstance.” *Id.* In practice,
 2 DHS “requires a showing of changed circumstances both where the prior bond determination
 3 was made by an immigration judge and where the previous release decision was made by a DHS
 4 officer.” *Saravia*, 280 F. Supp. 3d at 1197 (emphasis added). The Ninth Circuit has also assumed
 5 that, under *Matter of Sugay*, ICE has no authority to re-detain an individual absent changed
 6 circumstances. *Panosyan v Mayorkas*, 854 F. App’x 787, 788 (9th Cir. 2021)(“thus, absent
 7 changed circumstances... ICE cannot detain Panosyan.”).

8 34. ICE has further limited its authority as described in *Sugay*, and ‘generally only re-arrests
 9 (noncitizens) pursuant to § 1226(b) after a material change in circumstances.” *Saravia*, 280 F.
 10 Supp. 3d at 1197, aff’d sub nom. *Saravia for A.H.*, 905 F.3d 1137 (quoting Defs. ‘ Second Supp.
 11 Br. At 1, Dkt. No 90) (emphasis added). Thus, under BIA case law and ICE practice, ICE may
 12 re-arrest a noncitizen who had previously released on bond only after a material change in
 13 circumstances. See *Saravia*, 280 F. Supp. 3d at 1176; *Matter of Sugay*, 17 I&N Dec. at 640.

14 35. ICE’s power to re-arrest a noncitizen who is at liberty following a release on bond is also
 15 constrained by the demands of due process. See *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th
 16 Cir. 2017)(“the government’s discretion to incarcerate non-citizens is always constrained by the
 17 requirements of due process”). In this case the guidance provided by *Matter of Sugay* – that ICE
 18 should not re-arrest a noncitizen absent changed circumstances – is insufficient to protect Mr.
 19 Hidalgo Solis’s weighty interest in his freedom from detention.

20 36. Federal district courts in California have repeatedly recognized the demands of due
 21 process and the limitations on DHS’s authority to revoke a noncitizen’s bond or parole set out in
 22 DHS’s stated practice and *Matter of Sugay* both require a pre-deprivation hearing for a noncitizen
 23 on bond, like Mr. Hidalgo Solis, before ICE re-detains him. See e.g., *Meza v. Bonnar*, 2018 WL
 24 2554572 (N.D. Cal. June 4, 2018); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL
 25 1382859, at 3 (N.D. Cal. May 12, 2025)(temporary injunction warranted preventing re-arrest at
 26 plaintiff’s ICE interview when he had been on bond for more than five years). See also *Doe v.*
 27 *Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, 4 (E.D. Cal. Mar. 3, 2025)(holding
 28 the Constitution requires a hearing before any re-arrest).

FACTUAL ALLEGATIONS

37. Mr. Hidalgo Solis’s liberty from immigration custody is protected by the Due Process
 Clause: “Freedom from imprisonment- from government custody, detention, or other forms of

1 physical restraint – lies at the heart of the liberty that (the Due Process) Clause protects.”
2 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

3 38. Since October 1, 2023, Mr. Hidalgo Solis exercised that freedom when he was released
4 on his own recognizance. As a result, he retained a weighty liberty interest under the Due Process
5 Clause of the Fifth Amendment in avoiding re-incarceration. See *Young v. Harper*, 520 U.S.
6 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*,
408 U.S. 471, 482-483 (1972).

7 39. Just as in *Morrissey*, Mr. Hidalgo Solis’s release “enables him to do a wide range of
8 things open to persons” who have never been in custody or convicted of any crime, including to
9 live at home, work, go to the doctor, take his medication, and “be with family and friends and to
10 form the other enduring attachments of normal life” *Morrissey*, 408 U.S. at 482.

11 40. Mr. Hidalgo Solis has complied with all conditions for release for well over two years,
12 as he litigates his removal proceedings. He has meritorious applications for relief from removal.

13 **A. Mr. Hidalgo Solis is Unlawfully Arrested and Detained Pursuant to**
14 **DHS’s New Policy.**

15 41. Deportation, like detention, constitutes a deprivation of liberty protected by the Due
16 Process Clause. As the Supreme Court has held, a noncitizen’s interest in deportation proceedings
17 “is, without question, a weighty one” because “[s]he stands to lose the right ‘to stay and live and
18 work in this land of freedom.’” *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (quoting *Bridges v.*
Wixon, 326 U.S. 135, 154 (1945)).

19 42. Mr. Hidalgo Solis asserts that, here, (1) where his detention would be civil, (2) where
20 he has been at liberty for two years, during which time he has complied with all conditions of
21 release and has maintained steady employment, (3) where he has a substantial application for
22 Asylum, withholding and CAT pending before the immigration court (4) where no change in
23 circumstances exist that would justify his detention, and (5) where the only circumstance that has
24 changed is ICE’s move to arrest as many people as possible because of the new administration,
25 due process mandates that he receive notice and a hearing before a neutral adjudicator prior to
any re-arrest or revocation of a bond.

26 43. “Adequate, or due, process depends upon the nature of the interest affected. The more
27 important the interest and the greater the effect of its impairment, the greater the procedural
28 safeguards the government must provide to satisfy due process.” *Haygood v. Younger*, 769 F.2d

1 1350, 1355-56)9th Cir. 1985)(en banc)(citing *Morrissey*, 408 U.S. at 481-82). This Court must
2 “balance Mr. Hidalgo Solis’s liberty interest against the government’s interest in the efficient
3 administer of” its immigration laws to determine what process he is owed to ensure that ICE does
4 not unconstitutionally deprive him of his liberty. *Id.* 1at 1357.

5 44. Under the test set forth in *Mathias v. Eldridge*, this Court must consider these factors in
6 conducting its balancing test: ‘First , the private interest that will be affected by the official action;
7 second, the risk of an erroneous deprivation of such interest through the process used, and the
8 probative value, if any, of additional or substitute procedural safeguards; and finally the
9 government’s interest, including the function involved and fiscal and administrative burdens that
10 the additional or substitute procedural requirements would entail.’ *Haygood*, 769 F.3d at 1357
(citing *Mathews v. Eldridge*, 424 U.S .319, 335 (1976).

11 45. Because, in this case, the provision for a pre-deprivation hearing is both possible and
12 valuable to prevent an erroneous deprivation of liberty, ICE is required to provide Mr. Hidalgo
13 Solis with notice and a hearing prior to any re-incarceration and revocation of his pre-trial release.
14 See *Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F2d at 1355-56; *Jones*, 393 F.3d at 932; see
15 also *Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th
16 Cir. 1984)(holding that individuals awaiting involuntary civil commitment proceedings may be
17 constitutionally be held in jail pending the determination as to whether they can ultimately be
18 committed). Under *Mathews*, “the balance weighs heavily in favor of Mr. Hidalgo Solis” and
requires a pre-deprivation hearing before a neutral adjudicator.

19 46. In 2023, Petitioner fled to the United States. He was initially arrested by DHS officers
20 but was released one day later on his own recognizance with a notice to appear for removal
21 proceedings. In granting his release, DHS determined that he posed little if any risk of flight or
22 danger to the community.

23 47. DHS has not yet filed Mr. Hidalgo Solis’s Notice to Appear with the immigration court.
24 On February 24, 2024, Mr. Hidalgo Solis filed an asylum, withholding and CAT application with
25 the immigration court. On December 30, 2024, Mr. Hidalgo Solis work authorization was
approved by USCIS.

26 48. Since arriving to the United States, Mr. Hidalgo Solis has attended every immigration
27 appointment that he was required to attend. Mr. Hidalgo Solis has no criminal history. Mr.
28 Hidalgo Solis lives in Livermore, California with his wife and four children. Mr. Hidalgo Solis

1 has informed ICE about his change of address. Mr. Hidalgo Solis has attended all check-ins with
2 ICE.

3 49. Mr. Hidalgo Solis has applied for asylum based on well-founded fear of persecution in
4 Peru.

5 50. Ever since Mr. Hidalgo Solis entered the country, he has fully complied with all court
6 and supervision requirements.

7 51. On November 13, 2025, Petitioner appeared at a regularly scheduled ICE check-in at the
8 ICE San Francisco Office at 630 Sansome Street in San Francisco, California.

9 52. The ICE agent informed Mr. Hidalgo Solis that he violated ISAP and that he would be
10 detained.

11 53. Petitioner immediately attempted to secure release through his immigration attorney
12 however his immigration attorney was unable to secure a bond with the immigration court.
13 Petitioner immediately retained undersigned counsel to represent him in this habeas corpus
14 proceeding. On December 17, 2025, counsel sent an email to the Bakersfield ICE office
15 regarding release but received no response.

16 54. Mr. Hidalgo Solis remains in custody. At this time, there are no new circumstances that
17 would justify a re-arrest of petitioner.

18 55. Because Mr. Hidalgo Solis has never been determined to be a flight risk or danger to the
19 community, his detention is not related to either of the permissible justifications for civil
20 immigration litigation. His detention does not further any legitimate government interest.

21 **B. As a Result of His Arrest and Detention, Mr. Hidalgo Solis is**
22 **Suffering Ongoing and Irreparable Harm.**

23 56. Mr. Hidalgo Solis is being deprived of his liberty without any permissible justification.
24 The government previously released him on his own recognizance because he did not pose
25 sufficient risk of flight or danger to the community to warrant detention.

26 57. None of that has changed. Mr. Hidalgo Solis has no criminal record, and there is no basis
27 to believe that he poses any public safety risk. Nor is Mr. Hidalgo Solis, who was arrested while
28 appearing for an ICE check-in, conceivably a flight risk. To the contrary, Mr. Hidalgo Solis
appeared for every immigration appearance.

58. Mr. Hidalgo Solis is now separated from his family who desperately need him at home.

59. Mr. Hidalgo Solis's job also requires his presence.

60. Mr. Hidalgo Solis is suffering from debilitating conditions at the Golden State Annex, in Fresno, California.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process—Detention)

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

62. 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.

63. 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.*

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

65. Moreover, Petitioner’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 Petitioner’s detention appears to be “not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons”—namely, to meet newly-imposed DHS quotas. *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Procedural Due Process—Detention)

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

67. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty liberty interest in avoiding re-incarceration after his release. See *Young v. Harper*, 520 U.S. 143, 146–

47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); see also *Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an IJ’s bond determination).

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

69. Petitioner’s re-detention without a pre-deprivation hearing violated due process. Over two years after deciding to release Petitioner from custody on his own recognizance, Respondents re-detained Petitioner with no notice, no explanation of the justification of his re-detention, and no opportunity to contest his re-detention before a neutral adjudicator before being taken into custody.

70. Petitioner 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 Petitioner without a hearing; bond hearings are conducted as a matter of course in immigration proceedings, and nothing in Petitioner’s record suggested 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”).

THIRD CLAIM FOR RELIEF

Violation of the Fourth Amendment to the United States Constitution

(Unlawful Arrest)

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

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

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

74. In the immigration context, this prohibition means that a person who immigration authorities released from initial custody cannot be re-arrested “solely on the ground that he is subject to removal proceedings” and without some new, intervening cause. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff’d sub nom., Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). Courts have long recognized that permitting such rearrests could result in “harassment by continual rearrests.” *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971). DHS agents arrested Petitioner in 2023 after he entered the United States, charged him with a violation of civil immigration law, and released him on his own recognizance with a notice to appear in immigration court. Petitioner appeared at his ICE check-in as instructed even though his removal case had been taken off calendar by the immigration judge.

75. DHS re-arrested Petitioner on November 13, 2025, based on nothing more than the 2023 civil charge of violating immigration law for which he was previously released. Petitioner had not engaged in any conduct in the intervening time that made him a flight risk or danger to the community. No material change in circumstances justified Petitioner’s re-arrest.

76. Petitioner’s re-arrest and detention by Respondents absent any material change in circumstances is thus an unreasonable seizure in violation of the Fourth Amendment.

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 Petitioner from custody;
3. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment, the Fourth Amendment, the First Amendment, and the Administrative Procedure Act;
4. Enjoin Respondents from deporting Petitioner pending these proceedings;
5. Enjoin Respondents from re-detaining Petitioner 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 Petitioner is a flight risk or danger to the community;
6. Award Petitioner 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.

Date: December 18, 2025

Respectfully Submitted,

/s/ Robert Beles

Robert J. Beles

Attorney For Petitioner

Juan Carlos Hidalgo Solis

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed the events described in the Petition with the Petitioner. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on December 18, 2025, in Oakland, CA.

/s/ Robert Beles
Robert J. Beles
Attorney for Juan Carlos
Hidalgo Solis