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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF CALIFORNIA
7

8 C.M.Y.G.,

9 Petitioner,

10 v.

11 Christopher CHESTNUT, Field Office
Director, California City Detention
12 Facility, Office of Detention and
Removal, U.S. Immigrations and Customs
13 Enforcement, U.S. Department of
Homeland Security;

14 Sergio ALBARRAN, Acting Field Office
Director of the San Francisco
15 Immigration and Customs Enforcement
Office, U.S. Department of Homeland
16 Security;

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

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

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

22 Respondents.
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25
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27
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No.

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

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

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INTRODUCTION

1. Petitioner, C.M.Y.G., has been civilly imprisoned by U.S. Immigration and Customs Enforcement (ICE) at California City ICE Processing Center (“Cal City”) since November 5, 2025, after having complied with the conditions of her release from the custody of the Department of Homeland Security (DHS) since she was granted parole in August 2023. For years, C.M.Y.G. has appeared at appointments, taken photographs, and answered supervision calls from the Intensive Supervision Appearance Program (ISAP), while diligently pursuing asylum before the Executive Office of Immigration Review (EOIR).

2. C.M.Y.G.’s current detention may be permitted under the Constitution and Immigration and Nationality Act (INA) only if Respondents can demonstrate before a neutral decision-maker that she is a flight risk or danger to the community, or if her removal is imminent. C.M.Y.G. has no criminal history, and is not a flight risk or danger. Her asylum case remains pending before EOIR, and thus, removal is not imminent. Thus, C.M.Y.G.’s continued detention without a bond hearing before a neutral decision-maker violates her rights under the INA and the Due Process Clause of the Fifth Amendment. U.S. Const. amend. V.

3. This Court should issue a writ of habeas corpus and determine that C.M.Y.G. is entitled to immediate release under reasonable conditions and pending further order of the Court.

4. Alternatively, this Court should order C.M.Y.G.’s release unless she receives a bond hearing before a neutral arbiter where: (1) to justify her continued detention, the government bears the burden to establish by clear and convincing evidence that C.M.Y.G. is a danger or flight risk; and (2) if the government cannot meet its burden, C.M.Y.G. must be ordered released on reasonable conditions, taking into account her ability to pay bond.

CUSTODY

5. C.M.Y.G. is currently in the custody of ICE at California City, California. C.M.Y.G. is therefore in “‘custody’ of [the DHS] within the meaning of the habeas corpus statute.” *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

6. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal

1 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),
2 28 U.S.C. § 2241 (habeas corpus), U.S. Const. article I, § 9, cl. 2 (the Suspension Clause), U.S.
3 Const., amend IV and V, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

4 **VENUE**

5 7. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
6 U.S.C. § 1391(b)(2) and (c)(1) because Petitioner is physically detained within this district.

7 **REQUIREMENTS OF 28 USC § 2243**

8 8. The Court must grant the petition for writ of habeas corpus or issue an order to
9 show cause (OSC) to Respondents “forthwith,” unless the petitioner is not entitled to relief. 28
10 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within
11 three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
12 (emphasis added).

13 9. Courts have long recognized the significance of the habeas statute in protecting
14 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
15 important writ known to the constitutional law of England, affording as it does a swift and
16 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400
17 (1963) (emphasis added).

18 10. Habeas corpus must remain a swift remedy. Importantly, “the statute itself directs
19 courts to give petitions for habeas corpus ‘special, preferential consideration to ensure expeditious
20 hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations
21 omitted). The Ninth Circuit warned against any action creating the perception “that courts are
22 more concerned with efficient trial management than with the vindication of constitutional
23 rights.” *Id.*

24 **EXHAUSTION**

25 11. For habeas claims, exhaustion of administrative remedies is prudential, not
26 jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive the
27 prudential exhaustion requirement if “administrative remedies are inadequate or not efficacious,
28 pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the

1 administrative proceedings would be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000
2 (9th Cir. 2004) (citation and quotation marks omitted)). C.M.Y.G. asserts that exhaustion should
3 be waived because administrative remedies are (1) futile and (2) her continued detention results in
4 irreparable harm.

5 12. It would be futile for C.M.Y.G. to seek a bond hearing from an Immigration Judge.
6 Her request would be summarily denied based on the current interpretation of the BIA’s recent
7 decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (B.I.A. 2025) and *Matter of Yajure Hurtado*, 29
8 I&N Dec. 216 (BIA 2025).

9 13. Further, no statutory exhaustion requirements apply to C.M.Y.G.’s claim of
10 unlawful custody in violation of her due process rights, and there are no administrative remedies
11 that she needs to exhaust. *Reno v. Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936,
12 142 L.Ed.2d 940 (1999) (finding exhaustion to be a “futile exercise because the agency does not
13 have jurisdiction to review” constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d
14 1098, 1099 (C.D. Cal. 2000) (same).

15 PARTIES

16 14. C.M.Y.G. is a 24-year-old female citizen of Peru who entered the U.S. in August
17 2023 and has remained in the country since. *See* Affidavit of C.M.Y.G. (“C.M.Y.G. Aff.”). DHS
18 detained C.M.Y.G. upon entry and released her on parole one week later pursuant to 8 C.F.R. §
19 212.5. *Id.*; *see also* Notice of Release and Proof of Service, *attached as* Exh. 1. C.M.Y.G.
20 established a life in Bakersfield, California. C.M.Y.G. Aff. ¶ 10. She was awaiting the approval
21 of her employment authorization document prior to detention. ¶ 10. *Id.*

22 15. Respondent Christopher Chestnut is the Field Office Director of ICE, California
23 City, CA, and is named in his official capacity. ICE is the component of the DHS that is
24 responsible for detaining and removing noncitizens according to immigration law and oversees
25 custody determinations. In her official capacity, he is the legal custodian of C.M.Y.G.

26 16. Respondent Sergio ALBARRAN is the Acting Field Office Director of the San
27 Francisco ICE Field Office. In this capacity, he is responsible for the administration of
28

1 immigration laws and the execution of immigration enforcement and detention policy within
2 ICE's San Francisco Area of Responsibility, including the detention of Petitioner. Respondent
3 Albarran maintains an office and regularly conducts business in this district. Respondent Albarran
4 is sued in his official capacity.

5 17. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his
6 official capacity. Among other things, ICE is responsible for the administration and enforcement
7 of the immigration laws, including the removal of noncitizens. In his official capacity as head of
8 ICE, he is the legal custodian of C.M.Y.G.

9 18. Respondent Kristi NOEM is the Secretary of DHS and is named in her official
10 capacity. DHS is the federal agency that encompasses ICE, which is responsible for administering
11 and enforcing the INA and all other laws related to the immigration of noncitizens. In her
12 capacity as Secretary, Respondent Noem has responsibility for the administration and
13 enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland
14 Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. §
15 1103(a). Respondent Noem is the ultimate legal custodian of C.M.Y.G.

16 19. Respondent Pam BONDI is the Attorney General of the United States and the most
17 senior official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She
18 has the authority to interpret immigration laws and adjudicate removal cases. The Attorney
19 General delegates this responsibility to the EOIR, which administers the immigration courts and
20 the BIA.

21 **FACTUAL ALLEGATIONS**

22 20. Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign
23 targeting people who are in regular removal proceedings in immigration court, many of whom
24 have pending applications for asylum or other relief. This "coordinated operation" is "aimed at
25 dramatically accelerating deportations" by arresting people at the courthouse or at the ICE office
26 and placing them into expedited removal. Arelis R. Hernández & Maria Sacchetti, *Immigrant*
27 *Arrests at Courthouses Signal New Tactic in Trump's Deportation Push*, Wash. Post, May 23,
28

2025, <https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>; *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, <https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>. The Trump administration implemented a policy to drastically increase immigration arrests to a target of at least 3,000 per day. According to White House officials like Stephen Miller, this directive prioritized arrest numbers over the individuals' criminal history, encouraging agents to conduct mass round-ups in public spaces rather than targeted investigations.

21. As a result, arrests of non-citizens with no criminal record surged by over 800%, and two-thirds of those deported had no criminal history. This focus on quantity over public safety led to a new and aggressive tactic: systematically arresting immigrants at courthouses and ICE appointments, regardless of the status of their legal cases. This has created a climate of fear, discouraging people from attending their mandatory hearings or ICE appointments.

22. In addition, individuals are now held for extended periods, sometimes days, in temporary holding cells that are not designed for overnight or prolonged detention, often under inhumane conditions. Government officials have justified these harsh conditions not as a matter of necessity, but as an intentional deterrent, which is not a constitutionally permissible reason for detention.

23. The government's new campaign is also a significant shift from the previous DHS practice of re-detaining noncitizens only after a material change in circumstances. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018), (describing prior practice).

24. C.M.Y.G. fled Peru in 2023 as a result of the persistent persecution and harm she endured at the hands of a family member. *See* Asylum Application of C.M.Y.G.- first page ("Asylum App."), *attached as* Exh. 2. On or around August 29, 2023, C.M.Y.G. tried crossing the border at San Luis, AZ when she was apprehended by immigration officials. C.M.Y.G. Aff. ¶ 2. DHS admitted C.M.Y.G. into their custody for one week before determining that she is not a

1 danger to the community nor a flight risk and releasing her pursuant to 8 C.F.R. § 212.5. Exh. 1;
2 *see also* C.M.Y.G. Aff. ¶ 3.

3 25. Upon her release, C.M.Y.G. established a life in Bakersfield, California. Aff. ¶ 10.
4 C.M.Y.G. had a pending employment authorization application with the DHS prior to her
5 detention. ¶ 10 *Id.* C.M.Y.G. has never committed any crimes, nor been arrested for any reason. ¶
6 12 *Id.*

7 26. C.M.Y.G. diligently complied with all requirements imposed by DHS through the
8 Intensive Supervision Appearance Program (ISAP). ¶ 14 *Id.* She initially attended in-person
9 appointments in Bakersfield to present documents and sign paperwork. ¶ 4 *Id.* She was
10 transitioned to a different Intensive Supervision Appearance Program (ISAP), which required the
11 installation of a monitoring application on a cell phone for weekly reporting every Monday. ¶ 4
12 *Id.* The program required C.M.Y.G. to take a photo every week, answer phone calls from ISAP
13 officers, and report periodically in-person at ISAP and ICE offices. ¶ 4 *Id.* To her knowledge,
14 C.M.Y.G. always complied with the requirements of the ISAP program and her ICE's order of
15 supervision. ¶ 4 *Id.*

16 27. On November 3, 2025, C.M.Y.G. took her weekly photo as required. ¶ 5 *Id.* She
17 confirmed with her officer that she was in compliance and reassured her that everything was fine.
18 ¶ 5 *Id.* Her ISAP officer informed C.M.Y.G. that she had an in-person meeting scheduled for
19 November 4, 2025, at the ICE office in Bakersfield. ¶ 5 *Id.*

20 28. On November 4, 2025, at 8 a.m. C.M.Y.G. appeared for a supervision check-in
21 with ICE at the Bakersfield office. ¶ 6 *Id.* Upon arrival, C.M.Y.G. noticed a long line outside the
22 building. ¶ 6 *Id.* C.M.Y.G. checked in and was told to wait inside. She waited for nearly thirty
23 minutes before being called inside into a room. ¶ 6 *Id.* An ICE officer then brought her into a
24 room and informed her that she was under arrest “for failing to report on time” without offering
25 any explanation for her arrest or any claim of non-compliance. ¶ 6 *Id.* ICE arrested and re-
26 detained C.M.Y.G. on November 4, 2025 then transferred her to California City Detention
27 Facility. ¶ 7 *Id.* Since her detention, C.M.Y.G. has begun suffering from anxiety and depression. ¶
28

1 9 *Id.* She is also experiencing extreme stress, worrying about the possibility of being returned to
2 Peru where she will suffer irreparable harm. ¶ 9 *Id.*

3 29. C.M.Y.G.'s asylum case remains pending. *See* Asylum App. Prior to her detention,
4 C.M.Y.G. appeared at an EOIR in person hearing. Her next scheduled hearing is set to occur on
5 January 21, 2026. *See* Automatic Case Information for C.M.Y.G., *attached as* Exh. 3.

6 **LEGAL ARGUMENT**

7 30. C.M.Y.G.'s removal proceedings before the Los Angeles Immigration Judge are
8 governed by INA § 240 ("section 240 proceedings"). Section 240 proceedings provide important
9 statutory protections, including hearings before an Immigration Judge. *See* 8 U.S.C. §
10 1229a(a)(1), (a)(4).

11 31. In C.M.Y.G.'s particular circumstances, the Due Process Clause of the
12 Constitution makes it unlawful for Respondents to re-arrest her without first providing a pre-
13 deprivation hearing before a neutral decision maker to determine whether circumstances have
14 materially changed since her release from custody in August 2023, such that detention would now
15 be warranted on the basis that she is a danger or a flight risk by clear and convincing evidence.

16 32. By statute and regulations, ICE has the ability to unilaterally revoke any
17 noncitizen's immigration bond determination or parole, and re-arrest the noncitizen at any time. 8
18 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9). Notwithstanding the breadth of the statutory language
19 granting ICE the power to revoke an immigration bond "at any time," 8 U.S.C. 1226(b), in *Matter*
20 *of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981), the BIA has recognized an implicit limitation on
21 ICE's authority to re-arrest noncitizens. There, the BIA held that "where a previous bond
22 determination has been made by an immigration judge, no change should be made by [the DHS]
23 absent a change of circumstance." *Id.* In practice, DHS "requires a showing of changed
24 circumstances both where the prior bond determination was made by an immigration judge and
25 where the previous release decision was made by a DHS officer." *Saravia*, 280 F. Supp. 3d at
26 1197 (emphasis added). The Ninth Circuit has also assumed that, under *Matter of Sugay*, ICE has
27 no authority to re-detain an individual absent changed circumstances. *Panosyan v. Mayorkas*, 854
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1 F. App'x 787, 788 (9th Cir. 2021) ("Thus, absent changed circumstances ... ICE cannot redetain
2 Panosyan.").

3 33. ICE has further limited its authority as described in *Sugay*, and "generally only re-
4 arrests [noncitizens] pursuant to § 1226(b) after a material change in circumstances." *Saravia*,
5 280 F. Supp. 3d at 1197, aff'd sub nom. *Saravia* for A.H., 905 F.3d 1137 (quoting Defs.' Second
6 Supp. Br. at 1, Dkt. No. 90) (emphasis added). Thus, under BIA case law and ICE practice, ICE
7 may re-arrest a noncitizen who had been previously released on bond only after a material change
8 in circumstances. *See Saravia*, 280 F. Supp. 3d at 1176; *Matter of Sugay*, 17 I&N Dec. at 640.

9 34. ICE's power to re-arrest a noncitizen who is at liberty following a release from
10 custody is also constrained by the demands of due process. *See Hernandez*, 872 F.3d at 981 ("the
11 government's discretion to incarcerate non-citizens is always constrained by the requirements of
12 due process"). *See also Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (Due Process requires pre-
13 deprivation hearing before revocation of probation); *Morrissey v. Brewer*, 408 U.S. 471, 482
14 (1972) (same, in parole context). Petitioner's release from custody in August 2023 and ties to her
15 family and community provide her with a protected liberty interest. *See Ortega v. Bonnar*, 415 F.
16 Supp. 3d 963 (N.D. Cal. Nov. 22, 2019).

17 35. Federal district courts in California have repeatedly recognized that the demands
18 of due process and the limitations on DHS's authority to revoke a noncitizen's release from
19 custody set out in DHS's stated practice and *Matter of Sugay* both require a pre-deprivation
20 hearing for a noncitizen on ICE's supervision, like C.M.Y.G. before ICE re-detains her. *See, e.g.,*
21 *Meza v. Bonnar*, 2018 WL 2554572 (N.D. Cal. June 4, 2018); *Ortega v. Bonnar*, 415 F. Supp. 3d
22 963 (N.D. Cal. 2019); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *3 (N.D.
23 Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at *2
24 (N.D. Cal. Mar. 1, 2021); *Romero v. Kaiser*, No. 22-cv-02508-TSH, 2022 WL 1443250, at *3-4
25 (N.D. Cal. May 6, 2022) (Petitioner would suffer irreparable harm if re-detained, and required
26 notice and a hearing before any re-detention); *Enamorado v. Kaiser*, No. 25-CV-04072-NW,
27 2025 WL 1382859, at *3 (N.D. Cal. May 12, 2025) (temporary injunction warranted preventing
28

1 re-arrest at plaintiff's ICE interview when he had been on bond for more than five years). *See*
 2 *also Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, *4 (E.D. Cal. Mar. 3,
 3 2025) (holding the Constitution requires a hearing before any re-arrest).

4 **I. Petitioner Has a Protected Liberty Interest in Her Conditional Release**

5 36. The Due Process Clause protects C.M.Y.G.'s liberty from immigration custody:
 6 "Freedom from imprisonment—from government custody, detention, or other forms of physical
 7 restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v.*
 8 *Davis*, 533 U.S. 678, 690 (2001).

9 37. Since August 2023, C.M.Y.G. exercised that freedom under ICE's order releasing
 10 her from custody. As she was released from custody, she retains a weighty liberty interest under
 11 the Due Process Clause of the Fifth Amendment in avoiding unlawful re-incarceration. *See Young*
 12 *v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon*, 411 U.S. at 781-82; *Morrissey*, 408 U.S. at 482-
 13 483. Respondents created a reasonable expectation that C.M.Y.G. would be permitted to live and
 14 work in the United States without being subject to arbitrary arrest and removal.

15 38. This reasonable expectation creates constitutionally protected liberty and property
 16 interests. *Perry v. Sindermann*, 408 U.S. 593, 601-03 (1972) (reliance on policies and practices
 17 may establish a legitimate claim of entitlement to a constitutionally-protected interest); *see also*
 18 *Texas v. United States*, 136 S. Ct. 2271 (2016) (explaining that "DACA involve[s] issuing
 19 benefits" to certain applicants). These benefits are entitled to constitutional protections no matter
 20 how they may be characterized by Respondents. *See, e.g., Newman v. Sathyavaglswaran*, 287
 21 F.3d 786, 797 (9th Cir. 2002) ("[T]he identification of property interests under constitutional law
 22 turns on the substance of the interest recognized, not the name given that interest by the state or
 23 other independent source.") (internal quotations omitted).

24 39. In *Morrissey*, the Supreme Court examined the "nature of the interest" that a
 25 parolee has in "his continued liberty." 408 U.S. at 481-82. The Court noted that, "subject to the
 26 conditions of his parole, [a parolee] can be gainfully employed and is free to be with family and
 27 friends and to form the other enduring attachments of normal life." *Id* at 482. The Court further
 28

1 noted that “the parolee has relied on at least an implicit promise that parole will be revoked only
2 if he fails to live up to the parole conditions.” *Id.* The Court explained that “the liberty of a
3 parolee, although indeterminate, includes many of the core values of unqualified liberty and its
4 termination inflicts a grievous loss on the parolee and often others.” *Id.* In turn, “[b]y whatever
5 name, the liberty is valuable and must be seen within the protection of the [Fifth] Amendment.”
6 *Id.* at 482.

7 40. This basic principle—that individuals have a liberty interest in their conditional
8 release—has been reinforced by both the Supreme Court and the circuit courts on numerous
9 occasions. *See, e.g., Young v. Harper*, 520 U.S. at 152 (holding that individuals placed in a pre-
10 parole program created to reduce prison overcrowding have a protected liberty interest requiring
11 pre-deprivation process); *Gagnon v. Scarpelli*, 411 U.S. at 781-82 (holding that individuals
12 released on felony probation have a protected liberty interest requiring pre-deprivation process).
13 As the First Circuit has explained, when analyzing the issue of whether a specific conditional
14 release rises to the level of a protected liberty interest, “[c]ourts have resolved the issue by
15 comparing the specific conditional release in the case before them with the liberty interest in
16 parole as characterized by *Morrissey*.” *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir.
17 2010) (internal quotation marks and citation omitted). *See also, e.g., Hurd v. District of*
18 *Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) (“a person who is in fact free of physical
19 confinement—even if that freedom is lawfully revocable—has a liberty interest that entitles [her]
20 to constitutional due process before [she] is re-incarcerated”) (citing *Young*, 520 U.S. at 152,
21 *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at 482).

22 41. In fact, it is well-established that an individual maintains a protectable liberty
23 interest even where the individual obtains liberty through a mistake of law or fact. *See id.*;
24 *Gonzalez-Fuentes*, 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982)
25 (noting that due process considerations support the notion that an inmate released on parole by
26 mistake, because he was serving a sentence that did not carry a possibility of parole, could not be
27 re-incarcerated because the mistaken release was not his fault, and he had appropriately adjusted
28

1 to society, so it “would be inconsistent with fundamental principles of liberty and justice” to
 2 return [her] to prison) (internal quotation marks and citation omitted).

3 42. Here, when this Court compares the specific release in C.M.Y.G.’s case “with the
 4 liberty interest in parole as characterized by *Morrissey*,” they are strikingly similar. *See Gonzalez-*
 5 *Fuentes*, 607 F.3d at 887. Just as in *Morrissey*, C.M.Y.G.’s release “enables [her] to do a wide
 6 range of things open to persons” who have never been in custody or convicted of any crime,
 7 including to live at home, practice his faith, care for his grandmother, and “be with family and
 8 friends and to form the other enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482.

9
 10 **II. Petitioner’s Liberty Interest Mandates a Hearing Before Any Re-Arrest or
 Revocation of Release from Custody**

11 43. C.M.Y.G. asserts that, here, (1) where her detention would be civil; (2) where she
 12 has been at liberty for over two years; (3) where no change in circumstances exist that would
 13 justify her lawful detention; and (4) where the only circumstance was ICE’s move to arrest as
 14 many people as possible because of the new administration, due process mandates that she be
 15 released from her unlawful custody and receive notice and a hearing before a neutral adjudicator
 16 prior to any re-arrest or revocation of her custody release.

17 44. “Adequate, or due, process depends upon the nature of the interest affected. The
 18 more important the interest and the greater the effect of its impairment, the greater the procedural
 19 safeguards the [government] must provide to satisfy due process.” *Haygood v. Younger*, 769 F.2d
 20 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court must
 21 “balance [C.M.Y.G.’s] liberty interest against the [government’s] interest in the efficient
 22 administration of” its immigration laws in order to determine what process [she] is owed to
 23 ensure that ICE does not unconstitutionally deprive [her] of [her] liberty. *Id.* at 1357. Under the
 24 test set forth in *Mathews v. Eldridge*, this Court must consider three factors in conducting its
 25 balancing test: “first, the private interest that will be affected by the official action; second, the
 26 risk of an erroneous deprivation of such interest through the procedures used, and the probative
 27 value, if any, of additional or substitute procedural safeguards; and finally the government’s
 28 interest, including the function involved and the fiscal and administrative burdens that the

1 additional or substitute procedural requirements would entail.” *Haygood*, 769 F.2d at 1357 (citing
 2 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)). Several district courts have applied the *Mathews*
 3 factors in similar cases, and found that those in Petitioner’s position, noncitizens granted the
 4 liberty of release pending removal proceedings, have due process rights. *See e.g., Calderon v.*
 5 *Kaiser*, No. 25-CV-06695-AMO, 2025 WL 2430609, at *3 (N.D. Cal. Aug. 22, 2025); *Ramirez*
 6 *Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263, at *5 (N.D. Cal. Aug. 21, 2025);
 7 *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025);
 8 *Hernandez Nieves v. Kaiser*, No. 25-CV-06921-LB, 2025 WL 2533110, at *4 (N.D. Cal. Sept. 3,
 9 2025).

10 45. The Supreme Court “usually has held that the Constitution requires some kind of a
 11 hearing before the State deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S.
 12 113, 127 (1990) (emphasis in original). Only in a “special case” where post-deprivation remedies
 13 are “the only remedies the State could be expected to provide” can post-deprivation process
 14 satisfy the requirements of due process. *Zinerman*, 494 U.S. at 985. Moreover, only where “one
 15 of the variables in the *Mathews* equation—the value of predeprivation safeguards—is negligible
 16 in preventing the kind of deprivation at issue” such that “the State cannot be required
 17 constitutionally to do the impossible by providing predeprivation process,” can the government
 18 avoid providing pre-deprivation process. *Id.*

19 46. Because, in this case, ICE is required to release C.M.Y.G. from her unlawful
 20 custody and provide C.M.Y.G. with notice and a hearing prior to any re-incarceration and
 21 revocation of her liberty. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56;
 22 *Jones*, 393 F.3d at 932; *Zinerman*, 494 U.S. at 985; *see also Youngberg v. Romeo*, 457 U.S. 307,
 23 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir. 1984) (holding that individuals
 24 awaiting involuntary civil commitment proceedings may not constitutionally be held in jail
 25 pending the determination as to whether they can ultimately be recommitted). Under *Mathews*,
 26 the balance weighs heavily in favor of C.M.Y.G.’s liberty and requires a pre-deprivation hearing
 27 before a neutral adjudicator.
 28

III. Petitioner's Private Interest in Her Liberty is Profound

47. Under *Morrissey* and its progeny, individuals conditionally released from serving a criminal sentence have a liberty interest that is “valuable.” *Morrissey*, 408 U.S. at 482. In addition, the principles espoused in *Hurd* and *Johnson*—that a person who is in fact free of physical confinement, even if that freedom is lawfully revocable, has a liberty interest that entitles her to constitutional due process before she is re-incarcerated—apply with even greater force to individuals like C.M.Y.G., who have been released pending civil removal proceedings, rather than parolees or probationers who are subject to incarceration as part of a sentence for a criminal conviction. Parolees and probationers have a diminished liberty interest given their underlying convictions. *See, e.g., U.S. v. Knights*, 534 U.S. 112, 119 (2001); *Griffin v. Wisconsin*, 483 U.S. 868, 874 (1987). Nonetheless, even in the criminal parolee context, the courts have held that the parolee cannot be re-arrested without a due process hearing in which they can raise any claims they may have regarding why their re-incarceration would be unlawful. *See Gonzalez-Fuentes*, 607 F.3d at 891-92; *Hurd*, 864 F.3d at 683. Thus, C.M.Y.G. retains a truly weighty liberty interest even though she is under conditional release.

48. What is at stake in this case for C.M.Y.G. is one of the most profound individual interests recognized by our legal system: whether ICE may unilaterally nullify a prior decision releasing her from custody and to take away—without a lawful basis—her physical freedom, i.e., her “constitutionally protected interest in avoiding physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (internal quotation omitted). “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). *See also Zadvydas*, 533 U.S. at 690 (“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.”); *Cooper v. Oklahoma*, 517 U.S. 348 (1996).

49. Thus, there is a clear profound private interest at stake in this case, which must be weighed heavily when determining what process she is owed under the Constitution. *See Mathews*, 424 U.S. at 334-35.

IV. The Government's Interest in Re-Incarcerating Petitioner Without a Hearing is Low and the Burden on the Government to Refrain from Re-Arresting Her Unless and Until She is Provided a Hearing That Comports with Due Process is Minimal

50. The government's interest in detaining C.M.Y.G. without a due process hearing is low, and when weighed against C.M.Y.G.'s significant private interest in her liberty, the scale tips sharply in favor of enjoining Respondents to release C.M.Y.G. from her unlawful custody and refrain from re-arresting C.M.Y.G. unless and until the government demonstrates by clear and convincing evidence that she is a flight risk or danger to the community. It becomes abundantly clear that the *Mathews* test favors C.M.Y.G. when the Court considers that the process she seeks—notice and a hearing regarding whether she has violated any conditions of her release, and, if so, providing C.M.Y.G. with a hearing before this Court (or a neutral decisionmaker) to determine whether there is clear and convincing evidence that C.M.Y.G. is a flight risk or danger to the community would impose only a *de minimis* burden on the government, because the government routinely provides this sort of hearing to individuals like C.M.Y.G.

51. As immigration detention is civil, it can have no punitive purpose. The government's only interest in holding an individual in immigration detention can be to prevent danger to the community or to ensure a noncitizen's appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any lawful basis for detaining C.M.Y.G. has lived at liberty complying with the conditions of her release since August 2023.

52. ICE determined C.M.Y.G. not to be a danger to the community or a flight risk in August 2023 and has done nothing to undermine that determination. To the contrary, she complied with the terms of her release. *See Morrissey*, 408 U.S. at 482 (“It is not sophistic to attach greater importance to a person's justifiable reliance in maintaining his conditional freedom so long as he abides by the conditions on his release, than to his mere anticipation or hope of freedom”) (quoting *United States ex rel. Bey v. Connecticut Board of Parole*, 443 F.3d 1079, 1086 (2d Cir. 1971)).

53. It is difficult to see how the government's interest in ensuring her presence at the moment of removal has materially changed since she was released in August 2023, when she has

1 appeared at every ISAP and ICE appointment. The government's interest in detaining C.M.Y.G.
2 at this time is therefore low. That ICE has a new policy to make a minimum number of arrests
3 each day under the new administration does not constitute a material change in circumstances or
4 increase the government's interest in detaining her.

5 54. Moreover, the "fiscal and administrative burdens" that his immediate release and a
6 lawful pre-detention hearing would impose is nonexistent in this case. *See Mathews*, 424 U.S. at
7 334-35. C.M.Y.G. does not seek a unique or expensive form of process, but rather a routine
8 hearing regarding whether her order of release should be revoked and whether she should be re-
9 incarcerated.

10 55. As the Ninth Circuit noted in 2017, which remains true today, "[t]he costs to the
11 public of immigration detention are 'staggering': \$158 each day per detainee, amounting to a total
12 daily cost of \$6.5 million." *Hernandez*, 872 F.3d at 996. ICE's unlawful action of placing her in
13 custody is more of a financial burden than releasing her and providing a pre-custody hearing
14 before any future re-arrest occurs.

15 56. In addition, providing C.M.Y.G. with a hearing before this Court (or a neutral
16 decisionmaker) regarding release from custody is a routine procedure that the government
17 provides to those in immigration jails on a daily basis. At that hearing, the Court would have the
18 opportunity to determine whether circumstances have changed sufficiently to justify her re-arrest.
19 But there is no justifiable reason to re-incarcerate C.M.Y.G. prior to such a hearing taking place.
20 As the Supreme Court noted in *Morrissey*, even where the State has an "overwhelming interest in
21 being able to return [a parolee] to imprisonment without the burden of a new adversary criminal
22 trial if in fact he has failed to abide by the conditions of his parole . . . the State has no interest in
23 revoking parole without some informal procedural guarantees." *Morrissey*, 408 U.S. at 483.

24 57. Releasing C.M.Y.G. from unlawful custody and enjoining her re-arrest until ICE
25 (1) moves for a pre-deprivation bond hearing before an Immigration Judge and (2) demonstrates
26 by clear and convincing evidence that C.M.Y.G. is a flight risk or danger to the community.
27 *Hernandez*, 872 F.3d at 996.

V. Without a Due Process Hearing Prior to Any Re-Arrest, the Risk of an Erroneous Deprivation of Liberty is High, and Process in the Form of a Constitutionally Compliant Hearing Where ICE Carries the Burden Would Decrease That Risk

58. Releasing C.M.Y.G. from unlawful custody and providing C.M.Y.G. a pre-deprivation hearing would decrease the risk of C.M.Y.G. being erroneously deprived of her liberty. Before C.M.Y.G. can be lawfully detained, she must be provided with a hearing before a neutral adjudicator at which the government is held to show that there has been sufficiently changed circumstances such that ICE's August 2023 release from custody determination should be altered or revoked because clear and convincing evidence exists to establish that C.M.Y.G. is a danger to the community or a flight risk.

59. On November 4, 2025, C.M.Y.G. did not receive this protection. Instead, she was detained by ICE, without notice, as she attended her appointment with ICE, demonstrating compliance, and there have been no material changes in her circumstances.

60. By contrast, the procedure C.M.Y.G. seeks—a hearing in front of a neutral adjudicator at which the government must prove by clear and convincing evidence that circumstances have changed to justify her detention before any re-arrest—is much more likely to produce accurate determinations regarding factual disputes, such as whether a particular occurrence constitutes a “changed circumstance.” See *Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th Cir. 1989) (when “delicate judgments depending on credibility of witnesses and assessment of conditions not subject to measurement” are at issue, the “risk of error is considerable when just determinations are made after hearing only one side”). “A neutral judge is one of the most basic due process protections.” *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth Circuit has noted that the risk of an erroneous deprivation of liberty under *Mathews* can be decreased where a neutral decisionmaker, rather than ICE alone, makes custody determinations. *Diouf v. Napolitano* (“*Diouf II*”), 634 F.3d 1081, 1091-92 (9th Cir. 2011).

61. Due process also requires consideration of alternatives to detention at any custody determination hearing that may occur. The primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is

1 not reasonably related to this purpose if there are alternatives to detention that could mitigate risk
2 of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly, alternatives to detention
3 must be considered in determining whether C.M.Y.G.'s reincarceration is warranted.

4
5 **CLAIMS FOR RELIEF**

6 **FIRST CLAIM FOR RELIEF**

7 **Violation of Procedural Due Process Under U.S. Const. Amend. V**

8 62. C.M.Y.G. re-alleges and incorporates herein by reference, as is set forth fully
9 herein, the allegations in all the preceding paragraphs.

10 63. The Due Process Clause of the Fifth Amendment forbids the government from
11 depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

12 64. C.M.Y.G. has a vested liberty interest in her lawful conditional release. Due
13 Process does not permit the government to strip her of that liberty without a hearing before this
14 Court. *See Morrissey*, 408 U.S. at 487-488.

15 65. The Court must therefore order that ICE release C.M.Y.G. from her current
16 unlawful custody.

17 66. Prior to any re-arrest, the government must provide her with a hearing before a
18 neutral adjudicator. At the hearing, the neutral adjudicator would evaluate, inter alia, whether
19 clear and convincing evidence demonstrates, taking into consideration alternatives to detention,
20 that C.M.Y.G. is a danger to the community or a flight risk, such that her reincarceration is
21 warranted. During any custody determination hearing that occurs, this Court or, alternatively, a
22 neutral adjudicator must consider alternatives to detention when determining whether C.M.Y.G.'s
23 re-incarceration is warranted.

24 **SECOND CLAIM FOR RELIEF**

25 **Violation of Substantive Due Process Under U.S. Const. Amend. V**

26 67. C.M.Y.G. re-alleges and incorporates herein by reference, as is set forth fully
27 herein, the allegations in all the preceding paragraphs.

28 68. The Due Process Clause of the Fifth Amendment forbids the government from

1 depriving individuals of their right to be free from unjustified deprivations of liberty. U.S. Const.
2 amend. V.

3 69. C.M.Y.G. has a vested liberty interest in her conditional release. Due Process does
4 not permit the government to strip her of that liberty without it being tethered to one of the two
5 constitutional bases for civil detention: to mitigate against the risk of flight or to protect the
6 community from danger. Since August 2023, C.M.Y.G. has attended all her appointments, thus
7 demonstrating that she is neither a flight risk nor a danger. Re-arresting her now would be
8 punitive and violate her constitutional right to be free from the unjustified deprivation of her
9 liberty.

10 70. For these reasons, C.M.Y.G.'s continued unlawful custody and any subsequent re-
11 arrest without first being provided a pre-deprivation hearing would violate the Constitution.

12 71. The Court must therefore order that she be released from custody.

13 72. The Court must order the government to not re-arrest her in any subsequent action
14 without a hearing before a neutral adjudicator. At the hearing, the neutral adjudicator would
15 evaluate, inter alia, whether clear and convincing evidence demonstrates, taking into
16 consideration alternatives to detention, that C.M.Y.G. is a danger to the community or a flight
17 risk, such that her reincarceration is warranted. During any custody determination hearing that
18 occurs, this Court or, in the alternative, a neutral adjudicator must consider alternatives to
19 detention when determining whether C.M.Y.G.'s reincarceration is warranted.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, C.M.Y.G. prays that this Court grant the following relief:

- 22 (1) Assume jurisdiction over this matter;
- 23 (2) Declare that ICE's November 4, 2025, apprehension and detention of C.M.Y.G.
24 was an unlawful exercise of authority because the ICE officer provided no reason
25 that she presents a danger to the community or is flight risk;
- 26 (3) Order ICE to immediately release C.M.Y.G. from her unlawful detention;
- 27 (4) Enjoin re-arresting C.M.Y.G. unless and until a hearing can be held before a
28

1 neutral adjudicator to determine whether her re-incarceration would be lawful
2 because the government has shown that she is a danger or a flight risk by clear and
3 convincing evidence;

4 (5) Declare that C.M.Y.G. cannot be re-arrested unless and until she is afforded a
5 hearing on the question of whether her re-incarceration would be lawful—i.e.,
6 whether the government has demonstrated to a neutral adjudicator that she is a
7 danger or a flight risk by clear and convincing evidence;

8 (6) Award reasonable costs and attorney fees; and

9 (7) Grant such further relief as the Court deems just and proper.

10 Respectfully submitted this Thursday, December 19,
11 2025. By counsel,

12 /s/ Natalia Vieira Santanna
13 Natalia Vieira Santanna, Esq.
14 Attorney for Petitioner
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20 **VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

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

25 Executed on December 19, 2025, in Oakland, CA.

26 /s/ Natalia Vieira Santanna
27 Natalia Vieira Santanna, Esq.
28 Attorney for Petitioner