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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Immigration Case

MAISURADZE, George

Petitioner,

v.

CHRISTOPHER J. LAROSE, Warden,
Otay Mesa Detention Center; TODD
LYONS, Acting Director of United States
Immigration and Customs Enforcement;
DOE, Secretary of the United States
Department of Homeland Security,
PAMELA BONDI, Attorney General of the
United States, acting in their official
capacities,

Respondents.

Case No.: '26CV1480 CAB AHG

**PETITION FOR WRIT OF
HABEAS CORPUS
(28 U.S.C. § 2241)**

Date Filed: March 9, 2026

I. INTRODUCTION

1. Petitioner, **George Maisuradze**, urgently requests this Court to order his release from unlawful detention. He asks the Court to issue an Order to Show Cause affording no more than 5 days for response. There are no factual disputes in this case, and the law is well-settled.

- 1 2. **George Maisuradze** (“Petitioner”) is an asylum seeker who fled **Georgia**. He arrived
2 in the U.S. on or about December 24, 2021, was not admitted or paroled by Customs
3 and Border Protection inside the United States. He was released from custody on his
4 own recognizance under 8 U.S.C. 1226(a). Then, on or around February 21, 2026, he
5 was detained despite no material change in circumstances and no advance
6 notice/hearing to determine if he poses a flight risk or is a danger.
- 7 3. Petitioner initially asks this Court to issue order requiring his release from custody
8 because his arrest, without change in circumstance, violates his Constitutional rights.
9 Additionally, Petitioner requests a declaration/injunction ordering that any detention of
10 Petitioner, until and unless he is subject of a final order of removal, is pursuant to 8
11 U.S.C. 1226 and that he is not subject to mandatory detention under Section 1225.
- 12 4. Petitioner’s case has been scheduled for a Master Hearing on March 12, 2026, before
13 the Hon. Judge Mark Sameit in Otay Mesa Immigration court.
- 14 5. Petitioner has been required to wait an unsubstantiated amount of time for his merits
15 hearing due to the Court’s congested docket and limited scheduling availability, and the
16 hearing date is subject to further continuances for an indefinite period given EOIR’s
17 current backlog.
- 18 6. A growing chorus of federal courts have found that § 236 governs in similar situations
19 as well. As has been recognized by several Federal Judges, detention of persons
20 similarly or identically situated to Petitioner is unlawful. *Lavish Lavish v. Albarran*,
21 No. 1:26-cv-00790-TLN-SCR (E.D. Cal. Feb. 26, 2026); *Kai Huang v. Warden of the*
22 *Golden State Annex Detention Facility*, No. 1:25-cv-02046-DC-SCR (E.D. Cal. Jan.
23 23, 2026); *Singh v. Chestnut*, No. 1:26-cv-00273-WBS-DMC, 2026 WL ____ (E.D.
24 Cal. Jan. 15, 2026); *M.K. v. Arteta*, 2025 U.S. Dist. LEXIS 265542, *11; (S.D.N.Y.
25 Dec. 23, 2025)(noting the number of cases ruling on these issues); *Alberto R.C. v.*
26 *Murray*, No. 1:25-cv-01618-KES-SKO (HC), 2025 LX 513970 (E.D. Cal. Dec. 16,
27 2025); *Sharan S. v. Chestnut*, No. 1:25-cv-01427-KES-SKO (HC), 2025 LX 524863
28

(E.D. Cal. Nov. 12, 2025); *Gagandeep Singh v. Bowen*, No. 5:25-cv-03034-CAS-PD, 2025 LX 590018, at *9 (C.D. Cal. Nov. 21, 2025); *Estrada Elias v. Knight*, No. 1:25-CV-00594-BTW, 2025 WT 3228262, at *1 (D. Idaho Nov. 19, 2025) (collecting cases); see also *Tut v. Noem*, No. 5:25-cv-02701-DOC-AGR, 2025 LX 415266, at *9 n.1 (C.D. Cal. Oct. 16, 2025) (collecting cases in this district); *Doe v. Becerra*, No. 2:25-cv-647-DJC-DMC, 2025 U.S. Dist. LEXIS 37929 at *8 (E.D. Cal. Mar. 3, 2025) (granting temporary restraining order); *Singh v. Bowen*, No. 5:25-cv-03034-CAS-PD, 2025 LX 590018, at *9 (C.D. Cal. Nov. 21, 2025); *Estrada Elias v. Knight*, No. 1:25-CV-00594-BTW, 2025 WT 3228262, at *1 (D. Idaho Nov. 19, 2025) (collecting cases); see also *Tut v. Noem*, No. 5:25-cv-02701-DOC-AGR, 2025 LX 415266, at *9 n.1 (C.D. Cal. Oct. 16, 2025) (collecting cases in this district) *Nadia Cristina DA Rocha Rosado v. Fred Figueroa, Warden, Eloy Det. Ctr.*, 2025 U.S. Dist. LEXIS 156344, *30 (Dist. Of Az, August 11, 2025); *Pinchi v. Noem*, 2025 U.S. Dist. LEXIS 142213 (N.D. Cal. July 24, 2025); *Sequen v. Kaiser*, 2025 U.S. Dist. LEXIS 148751 (N.D. Cal. August 1, 2025) (same); *Martinez v. Hyde*, 2025 U.S. Dist. LEXIS 141724, *7 (July 24, 2025)(same); see also *Guillermo M. R. v. Kaiser*, No. 25-CV-05436-RFL, 2025 U.S. Dist. LEXIS 138205, at *7 n.4 (N.D. Cal. July 17, 2025).

7. Civil Immigration Detention is generally permissible for only two reasons: to ensure a noncitizen's appearance at immigration hearings and to prevent danger to the community. But DHS did not arrest and detain Petitioner—who demonstrably poses no risk of absconding or danger to the community—for either of these reasons. Instead, as part of its broader enforcement campaign, DHS detained Petitioner to strip him of his procedural rights and seeking to pressure Petitioner into giving up his claim for protection or to process his case without his ability to fully assist in preparing evidence in support of his claim.
8. Petitioner's arrest and detention have caused and continue to cause significant harm to him and his family. Petitioner's income is crucial to his ability to afford legal counsel, to support himself, and to provide support to his loved ones outside the U.S.

1 9. The Constitution protects Petitioner—and every other person present in this country—
2 from arbitrary arrest and detention and guarantees him due process of law. While the
3 Executive Branch has broad power over the regulation of noncitizens, those powers are
4 still “subject to important constitutional limitations.” *Zadvydas v. Davis*, 533 U.S. 678,
5 695 (2001). “Freedom from bodily restraint has always been at the core of the liberty
6 protected by the Due Process Clause from arbitrary governmental action.” *Foucha v.*
7 *Louisiana*, 504 U.S. 71, 80 (1992).

8
9 10. Petitioner respectfully, and urgently, seeks a writ of habeas corpus ordering the
10 government to release him from unlawful detention, prohibiting his re-arrest absent a
11 finding that he is a danger to his community or a flight risk from a neutral
12 decisionmaker. In addition, to preserve this Court’s jurisdiction, Petitioner asks for an
13 order that the government not deport him for the duration of this proceeding.

14 II. JURISDICTION AND VENUE

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

20
21 12. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
22 U.S.C. § 1391(b)(2) and (c)(1) because Petitioner is physically detained within this
23 district. Petitioner is detained at California City Corrections Center, 22844 Virginia
24 Blvd., California City, CA 93505.

25 III. PARTIES

26
27 13. Petitioner, **George Maisuradze**, is a 46-year-old native and citizen of **Georgia**. He is
28 currently in the physical custody of U.S. Immigration and Customs Enforcement (ICE)

1 at Otay Mesa Detention Center, 7488 Calzada De La Fuente San Diego, CA 92154.

2 14. Respondent, Christopher J. LaRose, is the Warden of Otay Mesa Detention Center and
3 is responsible for the day-to-day operations of the facility where Petitioner is detained.
4 Respondent LaRose is sued in his official capacity.

5 15. Respondent, Todd M. Lyons, is the Acting Director of ICE. As the Senior Official
6 Performing the Duties of the Director of ICE, he is responsible for the administration
7 and enforcement of the immigration laws of the United States, routinely transacts
8 business in this District, and is legally responsible for pursuing any effort to detain and
9 remove the Petitioner. Respondent Lyons is sued in his official capacity.

10
11 16. Respondent, DOE, is the Secretary of Homeland Security and has ultimate authority
12 over DHS. In that capacity and through her agents, Respondent DOE has broad
13 authority over and responsibility for the operation and enforcement of the immigration
14 laws; routinely transacts business in this District; and is legally responsible for pursuing
15 any effort to detain and remove the Petitioner. Respondent DOE is sued in his/her
16 official capacity.

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

23
24 **IV. EXHAUSTION**

25 18. There is no requirement to exhaust because no other forum exists in which Petitioner
26 can raise the claims herein. There is no statutory exhaustion requirement prior to
27 challenging the constitutionality of an arrest or detention or challenging a policy under
28 the Administrative Procedure Act. Prudential exhaustion is not required here because it
would be futile, and Petitioner will “suffer irreparable harm if unable to secure

1 immediate judicial consideration of [their] claim.” *McCarthy v. Madigan*, 503 U.S. 140,
2 147 (1992). Any further exhaustion requirements would be unreasonable or futile.

3
4 19. Exhaustion, before the Agency, would be futile. EOIR has recently provided guidance
5 to all immigration judges that *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025)
6 controls and that any noncitizen who entered without inspection is ineligible for custody
7 redetermination before an immigration judge due to lack of jurisdiction. Courts in this
8 District have noted that nearly all immigration judges have cited *Hurtado* finding that
9 they lack jurisdiction to conduct a bond hearing where a noncitizen entered without
10 inspection. *See e.g. Daley v. Andrews* (E.D.Cal. Jan. 14, 2026), No. 1:25-cv-00922-KES-
11 CDB (HC)) 2026 LX 91108, at *13.

12 20. "The holding in *Matter of Hurtado* has been effectively neutralized within this district
13 following the final judgment in *Maldonado Bautista v. Noem*. The court’s vacatur of the
14 DHS interim guidance means that class members are once again eligible for bond
15 hearings under 8 U.S.C. § 1226(a)." *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-
16 SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). However, The Government
17 appealed the *Maldonado Bautista* final judgment to the U.S. Court of Appeals for the
18 Ninth Circuit.

19 21. In *Bautista*, the Ninth Circuit issued an administrative stay pending appeal of a district
20 court declaratory judgment and enforcement order relating to immigration detention
21 procedures. The decision was entered on March 6, 2026. The court temporarily stayed
22 the district court’s orders only to the extent they applied outside the Central District of
23 California, while allowing the judgment to remain in effect within the Central District
24 during the pendency of the government’s stay motion. The court emphasized that the
25 government’s motion did not challenge the district court’s interpretation of 8 U.S.C. §
26 1225(b)(2), which was already the subject of separate appellate proceedings. *Bautista v.*
27 *U.S. Department of Homeland Security*, No. 26-1044 (9th Cir. Mar. 6, 2026).
28

1 22. **Jurisdictional Limits:** the respondents will argue that since these individuals are not
2 being detained under the "interior arrest" statute (INA § 1226(a)), the Immigration
3 Judge lacks the basic jurisdiction to hold a bond hearing, regardless of the *Maldonado*
4 ruling.

5 23. **Flight risk loopholes:** the respondent argues that if a person doesn't have a U.S.
6 citizen or Permanent Resident (LPR) spouse, parent, or child, they have "no anchor"
7 in the U.S. and will simply vanish if released. Based on this presumption, each and
8 every bond request [on such situation] is being flatly denied.

9 10 V. LEGAL BACKGROUND

11 A. The Constitution prohibits arbitrary arrest and detention of noncitizens

12 24. The Constitution affords and requires due process rights for "all 'persons' within the
13 United States, including [noncitizens], whether their presence here is lawful, unlawful,
14 temporary, or permanent." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017)
15 (quoting *Zadvydas*, 533 U.S. at 693). These due process rights are both substantive and
16 procedural.

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

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

27
28 27. Substantive due process requires that all forms of civil detention—including
immigration detention—bear a "reasonable relation" to a non-punitive purpose. *See*

1 *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized
2 only two permissible non-punitive purposes for immigration detention: ensuring a
3 noncitizen's appearance at immigration proceedings and preventing danger to the
4 community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*, 538 U.S. 510 at
5 519–20, 527–28, 31 (2003).

6
7 28. Secondly, the Due Process Clause's procedural protections require that even
8 permissible forms of detention only be imposed where procedural safeguards are in
9 place and have been followed. *Lopez v. Heinauer*, 332 F.3d 507, 512 (8th Cir.
10 2003) ("The Supreme Court has long recognized that deportable aliens are entitled to
11 constitutional protections of due process.")

12 29. Except in rare situations, "the Constitution requires some kind of a hearing before the
13 State deprives a person of liberty or property." *Zinerman v. Burch*, 494 U.S. 113, 127
14 (1990). This is so even in cases where that freedom is lawfully revocable. *See Hurd v.*
15 *D.C., Gov't*, 864 F.3d at 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-
16 detention after pre-parole conditional supervision requires pre-deprivation hearing));
17 *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey*
18 *v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

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

26
27 31. This reasoning applies with equal or greater force to people released from civil
28 immigration detention. Noncitizens residing in the United States, like Petitioner, have a
protected liberty interest in their ongoing freedom from detention. *See Zadvydas*, 533

1 U.S. at 690. Further, “[g]iven the civil context [of immigration detention], [the] liberty
2 interest [of noncitizens released from custody] is arguably greater than the interest of
3 parolees.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

4 **B. Due Process and the Immigration and Nationality Act Protect Noncitizens**
5 **from Summary Removal Without a Hearing.**

6
7 32. Deportation, like detention, constitutes a deprivation of liberty protected by the Due
8 Process Clause. A noncitizen’s interest in deportation proceedings “is, without
9 question, a weighty one” because “he stands to lose the right ‘to stay and live and
10 work in this land of freedom.’” *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (quoting
11 *Bridges v. Wixon*, 326 U.S. 135, 154 (1945)).

12 33. Removal proceedings under Section 240 of the Immigration and Nationality Act
13 (“Section 240” proceedings) accordingly provide important substantive and procedural
14 protections. Noncitizens placed in Section 240 proceedings following initial arrest (as
15 was the petitioner in this case) are entitled to full hearings in immigration court before
16 immigration authorities can remove them. 8 U.S.C. § 1229a. Congress has afforded
17 statutory rights and protections including the right to be represented by counsel of their
18 choice, and the right to present and confront evidence. 8 U.S.C. § 1229a(4). They are
19 also entitled to administrative appellate review at the Board of Immigration Appeals
20 and further judicial review in the federal Courts of Appeals. *See* 8 C.F.R. § 1003.1(b)
21 (Board of Immigration Appeals); 8 U.S.C. § 1252(a)(5) (Courts of Appeals).

22 **C. Detention under the Immigration & Nationality Act: 8 U.S.C. §§ 1225 & 1226**
23

24 34. Detention of noncitizens who have not been ordered removed is generally governed by
25 one of two sections of the Immigration and Nationality Act: INA §§ 235 & 236 (8
26 U.S.C. §§ 1225, 1226).
27
28

1 35. Section 235 is titled "Inspection by immigration officers; expedited removal of
2 inadmissible arriving aliens; referral for hearing." The statute provides:

3
4 An alien present in the United States who has not been admitted or who
5 arrives in the United States . . . shall be deemed for purposes of this chapter
6 an applicant for admission. . . Subject to subparagraphs (B) and (C), in the
7 case of an alien who is an applicant for admission, if the examining
8 immigration officer determines that an alien seeking admission is not clearly
9 and beyond a doubt entitled to be admitted, the alien shall be detained for a
10 proceeding under section 1229a of this title. 8 U.S.C. § 1225(a)(1),
11 (b)(2)(A).

12 36. An applicant is seeking "admission," as that term is defined by § 1101(a)(13)(A), if he
13 is seeking entry "lawful entry . . . after inspection" and authorization. Tovar v. Noem,
14 No. 5:25-CV-1509-JKP, 2025 U.S. Dist. LEXIS 250408, at *13 (W.D. Tex. 2025).

15 37. An "[a]rriving alien means an applicant for admission coming or attempting to come
16 into the United States . . . regardless of the means of transport." 8 C.F.R. § 1.2.
17 "Admission" and "admitted" mean "the lawful entry of the alien into the United States
18 after inspection and authorization by an immigration officer." 8 U.S.C. §
19 1101(a)(13)(A).
20

21 38. Noncitizens subject to mandatory detention under § 235(b) may be released only if they
22 are "paroled 'for urgent humanitarian reasons or significant public benefit.'" *Gomes v.*
23 *Hyde*, No. 1:25-cv-11571-JEK, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at
24 *2 (D. Mass. July 7, 2025) (quoting 8 U.S.C. § 1182(d)(5)(A)); *see also Hyppolite v.*
25 *Noem*, No. 25-CV-4304 (NRM), 2025 U.S. Dist. LEXIS 197628, 2025 WL 2829511,
26 at *7 (E.D.N.Y. Oct. 6, 2025) (describing mandatory detention under § 235).
27
28

1 39. Section 1226 (INA 236), titled "Apprehension and detention of aliens," states:

2 On a warrant issued by the Attorney General, an alien may be arrested and detained
3 pending a decision on whether the alien is to be removed from the United States. Except
4 as provided in subsection (c) and pending such decision, the Attorney General —

5
6 (1) may continue to detain the arrested alien; and

7 (2) may release the alien on—

8 (A) bond of at least \$1,500 with security approved by, and containing conditions
9 prescribed by, the Attorney General; or

10 (B) conditional parole . . . 8 U.S.C. § 1226(a). INA § 236 therefore creates a
11 "discretionary detention framework" for noncitizens arrested and detained on a
12 warrant issued by the Attorney General. *Gomes*, 2025 U.S. Dist. LEXIS 128085,
13 2025 WL 1869299, at *2. It "authorizes the [g]overnment to detain certain aliens
14 already in the country pending the outcome of removal proceedings." *Jennings*, 583
U.S. at 289.

15 40. The arresting immigration officer has authority to make the initial custody
16 determination. *See Gomes*, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at *2
17 (citing 8 C.F.R. § 1236.1(c)(8)).

18 41. The noncitizen then "ha[s] the right to request a custody redetermination (i.e., bond)
19 hearing before an Immigration Judge." *Id.* (citing 8 C.F.R. § 1236.1(c)(8), (d)(1)).
20 "Bond may be denied only if the government 'either (1) prove[s] by clear and
21 convincing evidence that [the noncitizen] poses a danger to the community or (2)
22 prove[s] by a preponderance of the evidence that [the noncitizen] poses a flight risk.'"
23 *Id.* (alterations in original) (quoting *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir.
24 2021)).

25
26 42. Section 236(a)(2)(B) also allows release "on an Order of Recognizance, which is a form
27 of conditional parole." *Id.* (citations omitted).

43. Thus, § 236(a) requires "an individualized bond determination before a noncitizen may be taken into custody." *Hyppolite*, 2025 U.S. Dist. LEXIS 197628, 2025 WL 2829511, at *8 (citation omitted).

VI. FACTUAL ALLEGATIONS

A. DHS and EOIR seek to increase arrests and detentions

44. Since early last year, DHS has implemented a series of policies aimed at detaining noncitizens present in the United States without inspection and even those who had previously been released from custody on bond, recognizance, or on parole.

45. DHS's policies appear to be motivated by the Administration's imposition of quotas of 3,000 ICE arrests per day. In part as a result of this campaign, ICE's arrests of noncitizens with no criminal record have increased more than 800% since before January 2025.¹

46. The government's new campaign is also a significant shift from previous DHS practice, guided by clear judicial precedent, of only re-detaining noncitizens previously released only upon a material change in circumstances. *See e.g. Lorenzo C.P. v. Noem*, No. 1:25-cv-181, 2025 U.S. Dist. LEXIS 264574, at *7-8 (S.D. Tex. 2025) *De Jesús Aguilar v. English*, No. 3:25-CV-898 DRL-SJF, 2025 U.S. Dist. LEXIS 231463, at *15 (N.D. Ind. Nov. 25, 2025) *Salinas v. Woosley*, No. 4:25 Civ. 121, 2025 U.S. Dist. LEXIS 228539, 2025 WL 3243837, at *2 (W.D. Ky. Nov. 20, 2025); *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);

B. BIA decision aligns Agency precedent with novel and expanded use of detention to all persons present without having been inspected; Respondents increase pretextual rearrests.

47. For decades, noncitizens who entered without inspection, were arrested in the United States and were placed into removal proceedings were generally subject to discretionary

1 detention under 8 U.S.C. § 1226(a) (and its predecessor statute). Under that framework,
2 they could be considered for release on bond or conditional parole by the Department
3 of Homeland Security (“DHS”) and receive a bond hearing in immigration court
4 before an IJ who could order release if found not to pose an undue flight risk or danger
5 that justified continued detention.

6
7 48. The government upended this long-held policy and understanding of the law in 2025.

8 49. First, on July 8, 2025, U.S. Immigration and Customs Enforcement (“ICE”) issued an
9 interim guidance memo stating that anyone who entered without inspection was
10 ineligible for release on bond and could not challenge their detention at a bond hearing
11 in immigration court, regardless of how long an individual has lived in the United
12 States.

13 50. As a result, DHS attorneys started arguing, and some IJs started finding that such
14 individuals were not eligible for bond hearings in immigration court.

15
16 51. Then, on September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a
17 precedential decision, binding on all IJs, holding that an IJ had no authority to consider
18 bond requests for any person who entered the United States without inspection. See
19 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

20 52. Respondents have continued to rearrest and detain noncitizens across the country who
21 entered the U.S. without inspection even where the noncitizen was previously released
22 from custody under INA § 236.

23
24 53. Respondents often cite to de minimis alleged violations of conditions of prior release
25 as pretext for rearrest.

26 54. Numerous sources have reported that the alleged violations are not supported in
27 Respondents’ record keeping systems or that noncitizens report the alleged violations
28 are simply not accurate. See e.g. *Ramazan M. v. Andrews*, No. 1:25-cv-01356-KES-

SKO (HC), 2025 WL 3145562, at *6 (E.D. Cal. Nov. 10, 2025) (ordering pre-deprivation hearing where Respondents alleged check-in and other electronic monitoring violations, because “[w]hile respondents argue that petitioner is a flight risk, the purpose of a bond hearing is for a neutral decisionmaker to consider and evaluate such an argument to determine whether it is consistent with the facts and to ensure that noncitizens like petitioner are not deprived of their liberty without justification”), and at *E.A. T.B. v. Wamsley*, No. C25-1192-KKE, 2025 WL 2402130, at *4 (W.D. Wash. Aug. 19, 2025) (ordering immediate release of petitioner and finding that it does not “necessarily follow that Petitioner can be detained for [release conditions] violations without a hearing. That the Government may believe it has a valid reason to detain petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process.”).

55. Judges have also found the supposed violations “negligible” or been skeptical of existence of purported violations. See e.g. *Alas v. Albarran*, 2025 U.S. Dist. LEXIS 207060 *2 FN1 (ND Cal. Oct. 15, 2025).

C. Petitioner’s unlawful arrest and detention

56. Petitioner is a 46-year-old citizen and native of **Georgia**.

57. Petitioner entered the United States without inspection on or about December 24, 2021.

58. Petitioner was briefly apprehended by U.S. Customs and Border Protection upon entering the United States.

59. Petitioner was then released on his own recognizance pursuant to INA § 236.

60. Petitioner was not paroled.

61. Petitioner was not formally inspected or admitted into the United States at the time of entry or during initial arrest.

62. Petitioner filed his asylum application (Form I-589) with the USCIS in 2022 or within a year of his arrival.

1 63. He was issued an NTA on January 26, 2024 only, and later on his I-589 was updated
2 with the EOIR.

3 64. Respondents issued an NTA alleging that Petitioner entered the country without
4 inspection, permission, or proper entry document and was therefore inadmissible.

5 65. The NTA, though containing a field for such designation, does not indicate that
6 Petitioner is an 'arriving alien.'

7 66. Instead, the NTA indicates Petitioner is a person present in the United States who has
8 not been admitted or paroled.

9 67. Respondent's case was later filed with the EOIR, and he was waiting for the hearing
10 date.

11 68. Respondents did not provide afford hearing or consider whether changed circumstances
12 justified his rearrest as a flight risk or danger.

13 69. He has been redetained on Feb 21, 2026.

14 70. Petitioner remains detained in Respondents' custody to this date.

15 71. Petitioner has no notice of any future hearings scheduled.

16 **D. Petitioner has fully complied with all requirements to apply for asylum**
17 **protection, to appear at immigration appointments when requested and to**
18 **comply with the laws of the United States following his unlawful entry to the**
19 **U.S.**

20 72. Petitioner has no criminal history.

21 73. Petitioner has never been determined to be a flight risk or danger to the community; his
22 detention is not related to either of the permissible justifications for civil immigration
23 detention. His detention does not further any legitimate government interest.

24 **E. Petitioner is suffering irreparable and ongoing harm as a result of**
25 **unlawful detention**

26 74. Petitioner is being deprived of his liberty without lawful basis or permissible
27 justification. The government previously released him, finding that he was a not a danger
28 or flight risk.

1 75. Petitioner is unable to work with legal counsel to prepare his case, is incarcerated in penal
2 institution like conditions, and is unable to work to support himself or his family.

3
4 **VII. CLAIMS FOR RELIEF**

5 **FIRST CLAIM FOR RELIEF**

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

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

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

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

18
19 79. Petitioner is not a flight risk or danger to the community. Respondents’ detention of
20 Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being
21 detained in violation of the Due Process Clause of the Fifth Amendment.

22 80. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation” to any
23 legitimate government purpose. *Id.* (finding immigration detention is civil and thus
24 ostensibly “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s
25 detention appears to be “not to facilitate deportation, or to protect against risk of flight
26 or dangerousness, but to incarcerate for other reasons”—namely, to meet newly-
27 imposed DHS quotas and transfer immigration court venue away from an IJ who refused
28 to facilitate DHS’s new expedited removal scheme. *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)

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

82. Petitioner has a strong liberty interest under the Due Process Clause in not being re-incarcerated after prior 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); *Nadia Cristina DA Rocha Rosado v. Fred Figueroa, Warden, Eloy Det. Ctr.*, 2025 U.S. Dist. LEXIS 156344, *35

83. Accordingly, “[i]n the context of immigration detention, it is well-settled that due process requires adequate procedural protections 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 (cleaned up); *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 noncitizens pose 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).

84. Petitioner’s re-detention without a pre-deprivation hearing or notice of parole revocation violated due process. Nearly a year after deciding to release Petitioner, Respondents have re-detained Petitioner without prior notice, hearing, change in circumstances.

1 85. Petitioner's continued detention without prior hearing constitutes an ongoing violation of
2 petitioner's Constitutional right to under the Due Process Clause.

3
4 **THIRD CLAIM FOR RELIEF**

5 **Violation of the Fourth Amendment to the United States Constitution**
6 **(Unlawful Arrest)**

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

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

11
12 88. As a corollary to that right, the Fourth Amendment prohibits government officials from
13 conducting repeated arrests on the same probable cause. It is axiomatic that seizures
14 have purposes. When those purposes are spent, further seizure is unreasonable [T]he
15 primary purpose of an arrest is to ensure the arrestee appears to answer charges...Once
16 the arrestee appears before the court, the purpose of the initial seizure has been
17 accomplished. Further seizure requires a court order or new cause; the original probable
18 cause determination is no justification. *Williams v. Dart*, 967 F.3d 625, 634 (7th Cir.
19 2020) (cleaned up); *see also United States v. Kordosky*, No. 88-CR-52-C, 1988 WL
20 238041, at *7 n.14 (W.D. Wis. Sept. 12, 1988) ("Absent some compelling justification,
21 the repeated seizure of a person on the same probable cause cannot, by any standard, be
22 regarded as reasonable under the Fourth Amendment.").

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

1 *States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971).

2
3 90. DHS agents apprehended petitioner on December 24, 2021 after he entered the United
4 States and released him on his own recognizance under Section 1226. Petitioner
5 diligently pursued an application for asylum with the USCIS initially.

6 91. On or about February 21, 2026 Respondent DHS re-arrested Petitioner despite the
7 absence of any changed circumstances or new facts suggesting that Petitioner posed a
8 danger or flight risk. Petitioner had complied with all reporting requirements,
9 previously appeared for a scheduled interview, and was taken into custody on the road
10 while he was driving home.

11 92. Petitioner's re-arrest and detention by Respondents after his prior release based on the
12 same immigration law violation and absence of any change in circumstances is a
13 violation of Petitioner's right to be free from unreasonable seizure under the Fourth
14 Amendment.

15 **FOURTH CLAIM FOR RELIEF**

16 **Violation of the Immigration & Nationality Act**

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

20 94. Respondent's claim Petitioner is detained pursuant to § 1225(b).

21
22 95. § 1225(b) does not authorize detention where a noncitizen is not an 'arriving alien' or
23 applicant for admission or when a concitizen has been paroled into the United States.

24 96. Respondents do not claim any other source of lawful authority to detain Petitioner.

25
26 97. Petitioner's arrest and detention pursuant § 1225(b) is unlawful.

27 **VIII. PRAYER FOR RELIEF**

28 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 to the conditions of release that existed prior to his rearrest;
3. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment, and the Immigration and Nationality Act.
4. 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;
5. Order that Respondents may not re-detain Petitioner while Section 240 proceedings are ongoing, including during any direct appeal from dismissal of proceedings by the IJ absent a change in circumstances;
6. Award Petitioner 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.

Respectfully submitted this 9th day of March 2026,

/s/ Laxman Adhikari

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