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Attorney for Petitioners

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Santa Jeronimo de Ramos and [redacted]

Petitioners-Plaintiffs,

v.

Sergio ALBARRAN, Acting Field Office Director of the San Francisco Immigration and Customs Enforcement Office

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

Markwayne MULLINS, in his Official Capacity, Secretary, U.S. Department of Homeland Security; and

Todd BLANCHE, in his Official Capacity, Attorney General of the United States;

Respondents-Defendants.

Case No.

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

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

INTRODUCTION

1. Petitioners, Santa Jeronimo de Ramos and her minor daughter [redacted] Ramos Jeronimo, by and through their undersigned counsel, hereby file this petition for writ of habeas corpus and complaint for declaratory and injunctive relief to prevent the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) from detaining them in an immigration jail pending resolution of their removal case and deporting them without first providing them a due process hearing where the government bears the burden to demonstrate to a neutral adjudicator that they are a danger to the community or a flight risk by clear and convincing evidence.

2. Ms. Jeronimo de Ramos and her daughter also seek an order enjoining DHS from continuing to violate the undisturbed release on recognizance determination that the Department of Homeland Security, Sasabe Arizona, issued on June 26, 2023.

3. Petitioners seek the immediate enjoinment of their imminent detention and deportation without a hearing and without demonstrating that they are a flight risk or danger to the community, as required by the Due Process clause of the Fifth Amendment.

4. This mass detention strategy is part of a new, nationwide DHS strategy of sweeping up people who attend their immigration court hearings or their ICE appointments, detaining them, and seeking to re-route them to fast-track deportations. Since mid-May of 2025, DHS has implemented a coordinated practice of leveraging immigration detention to strip people like Petitioner of their substantive and procedural rights and pressure them into deportation.

5. Immigration detention is civil and thus is permissible for only two reasons: to ensure a noncitizen's appearance at immigration hearings and to prevent danger to the community. However, DHS has not said it will not detain petitioners, who demonstrably pose no risk of

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absconding from their ongoing proceedings nor being a danger to the community, for either of these reasons. Instead, as part of its broader enforcement campaign, DHS intends to detain petitioners to strip them of their procedural rights, force them to forfeit their applications for relief, and pressure them into fast-track removal.

6. Petitioners are citizens and nationals of Guatemala. Petitioners came to the United States on or about June 25, 2023, seeking asylum and refuge in the United States from race and gender based persecution in their home country. Petitioners initially came into immigration custody upon their arrival in the United States near Sasabe, Arizona. Ms. Jeronimo de Ramos and her daughter were detained by immigration authorities and released on an Order of Supervision on June 26, 2023. Petitioners lost their asylum case before IJ Seminerio based on alleged credibility grounds. Undersigned counsel timely filed an appeal with the Board of Immigration Appeals, which was subsequently dismissed. On January 22, 2025 Petitioner through counsel timely filed a Petition for Review with the Ninth Circuit Court of Appeals, which remains pending as of today. Oral arguments were submitted on December 5, 2025 and no mandate has yet issued.

7. Following their release in 2023, Ms. Jeronimo de Ramos appeared at the San Francisco local ICE office at 630 Sansome, San Francisco, CA, 94111 each time as requested. She now has an ankle monitor and is regularly reporting to ISAP. Her daughter has an Order of Supervision, but has never been required to report to ICE thus far as she is a minor.

8. Petitioner has lived in the United States for nearly 3 years. She has a 12 year old daughter, a 6th grader at [redacted] in Oakland, California, who relies on her for emotional and financial support. [redacted] was born on [redacted], and has been diagnosed with painful ganglia, for which she recently underwent surgery and has a follow up appointment on May 26, 2026 at UCSF Children's Hospital in Oakland, California.

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9. Ms. Jeronimo de Ramos also suffers from debilitating migraines due to her PTSD and is scheduled for a follow up medical appointment on or about May 31, 2026 at Highland Hospital in Oakland, California. Ms. Jeronimo de Ramos has work authorization and is currently employed as cleaner for the First Choice Co. in Pleasanton, California.

10. On May 4, 2026, in compliance with instructions from ICE, Ms. Jeronimo de Ramos presented herself for a scheduled check-in at the San Francisco ICE Field Office located at 630 Sansome Street, San Francisco, California. She was told that she would be taken off regular reporting. Ms. Jeronimo de Ramos informed ICE that her daughter had recently had arm surgery and was in the process of recovery and needed medical attention.

11. She then received calls from the Intensive Supervision Program ("ISAP") on May 8th, 2026 and May 11, 2026 and was told to report to 630 Sansome on May 15, 2026 at 8:00AM with her daughter and her daughter's passport. ISAP nor ICE provided any reason for the sudden, unscheduled check-in, nor the reason for Petitioner's daughter's presence, nor have they informed counsel of the reason for the appointment by phone or mail.

12. Petitioners' detention and/or deportation will cause immediate, tremendous, and ongoing harm, which includes hygiene, sleep, and nutrition deprivation, family separation, emotional and economic harm to minor children, loss of employment, and psychological harm.

13. Petitioners are currently awaiting a decision on their Ninth Circuit Petition for Review. Petitioners are not a danger nor a flight risk, as evidenced by their release from the Department's custody on their own recognizance on June 26, 2023.

14. By statute and regulation, as interpreted by the Board of Immigration Appeals (BIA), ICE has the authority to re-arrest a noncitizen where there has been a material change in circumstances since the individual's release. 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9); *Matter of Sugay*, 17

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I&N Dec. 647, 640 (BIA 1981). The government has further clarified in litigation that any change in circumstances must be "material." *Saravia v. Barr*, 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) (emphasis added). That authority, however, is proscribed by the Due Process Clause because it is well-established that individuals released from incarceration have a liberty interest in their freedom. In turn, to protect that interest, on the particular facts of petitioner's case, due process requires notice and a hearing, *before any re-arrest*, at which she is afforded the opportunity to advance her arguments as to why her release should not be revoked.

15. That basic principle—that individuals placed at liberty are entitled to process before the government imprisons them—has particular meaning here. The Department previously determined that petitioners need not be incarcerated to prevent flight or to protect the community, and no material circumstances have changed that would justify re-arrest. Therefore, at a minimum, to lawfully re-arrest petitioners, the government must first establish, by clear and convincing evidence and before a neutral decision maker, that they are a danger to the community or a flight risk, such that their reincarceration is necessary. ICE's intended re-arrest of petitioners on May 15, 2026 will violate these regulations, laws, and due process.

16. On May 11, 2026, the undersigned emailed Pamela Johann at the U.S. Attorney's Office about the purpose of Petitioner's May 15, 2026 check-in. To date, the office has not stated that ERO does not intend to remove Petitioner and her daughter from the United States on May 15, 2026.

17. On May 11, 2026, the undersigned emailed the ICE San Francisco office to inquire as to whether or not Petitioners will be removed from the United States on May 15, 2026. To date, the undersigned has not received confirmation that petitioners will not be removed on May 15, 2026.

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18. On May 13, 2026, Petitioner through counsel notified the U.S. Attorney's Office that petitioner would be filing the petition by email to the U.S. Attorney's Office email address for habeas petition filings.

19. Petitioners respectfully seek a writ of habeas corpus ordering the government to immediately enjoin their immediate detention and deportation, prohibiting their re-arrest without a hearing to contest that re-arrest before a neutral decisionmaker. In addition, to preserve this Court's jurisdiction, Petitioner also requests that this Court order the government not to transfer Petitioners outside of the District or deport them for the duration of this proceeding.

CUSTODY

20. Due to additional conditions of release set by ICE, Petitioner Jeronimo de Ramos is also participating in ISAP, a monitoring program for immigrants in removal proceedings who have been released from custody. The program is operated by a private contractor, BI Incorporated. Pursuant to her contract with ISAP, among other restrictions, Petitioner Jeronimo de Ramos is currently wearing an ankle monitor and her daughter is on an Order of Supervision. Petitioner is also subject to regular ISAP and ICE check-ins. Such stringent requirements "impose[] conditions which significantly confine and restrain her freedom; this is enough to keep her in the 'custody' of [the DHS] within the meaning of the habeas corpus statute." *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION AND VENUE

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

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Procedure Act).

22. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because the Respondents are employees or officers of the United States, acting in their official capacity; because a substantial part of the events or omissions giving rise to the claim occurred in the Northern District of California; because Petitioners are under the jurisdiction of the San Francisco ICE Field Office, which is in the jurisdiction of the Northern District of California; and because there is no real property involved in this action.

INTRADISTRICT ASSIGNMENT

23. Any decision to re-arrest and re-incarcerate Petitioners will be made by the San Francisco Field Office of ICE. Moreover, she is subject to an ISAP program operated out of San Francisco, California. Therefore, the assignment to the San Francisco Division of this Court is proper under N.D. Local Rule 3-2(d).

REQUIREMENTS OF 28 U.S.C. § 2243

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

25. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and

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imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

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

EXHAUSTION OF ADMINISTRATIVE REMEDIES

27. 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)). Petitioner asserts that exhaustion should be waived because administrative remedies are (1) futile and (2) her continued detention results in irreparable harm.

28. It would be futile for petitioners to seek a bond hearing from an Immigration Judge if detained. Their request would be summarily denied based on the administration's current interpretation of the BIA's recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (B.I.A. 2025) and *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025). They are also ineligible for *Maldonado Bautista* class membership because they were detained and released at the border. Furthermore, INA 241(a) prohibits non-citizens with prior removal orders from seeking bond

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hearings while detained.

29. Further, no statutory exhaustion requirements apply to petitioner's claim of unlawful custody in violation of their due process rights, and there are no administrative remedies that they need to exhaust. *Reno v Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review" constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).

PARTIES

30. Petitioners are citizens and nationals of Guatemala. They came here in June of 2023 seeking asylum and refuge in the United States. Ms. Jeronimo de Ramos is gainfully employed and spends her free time with her husband and minor daughter, who is a 6th grader at [redacted] in Oakland, California.

31. Respondent Sergio ALBARRAN is the Acting Field Office Director of the San Francisco ICE Field Office. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's San Francisco Area of Responsibility, including the detention of Petitioner. Respondent Albarran maintains an office and regularly conducts business in this district. Respondent Albarran is sued in his official capacity.

32. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is responsible for the administration and enforcement of the immigration laws, including the removal of noncitizens. In his official capacity as head of ICE, he is the legal custodian of Petitioner.

33. Respondent Markwayne MULLINS is the Secretary of DHS and is named in his official capacity. DHS is the federal agency that encompasses ICE, which is responsible for administering and enforcing the INA and all other laws related to the immigration of noncitizens. In his capacity as Secretary, Respondent MULLINS has responsibility for the administration and enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a). Respondent Noem is the ultimate legal custodian of Petitioner.

34. Respondent Todd BLANCHE is the Attorney General of the United States and the most senior official in the U.S. Department of Justice (DOJ) and is named in his official capacity. He has the authority to interpret immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA.

STATEMENT OF FACTS

35. Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign targeting people who are in regular removal proceedings in immigration court, many of whom have pending applications for asylum or other relief. This "coordinated operation" is "aimed at dramatically accelerating deportations" by arresting people at the courthouse or at the ICE office and placing them into expedited removal.[1] The Trump administration implemented a policy to drastically increase immigration arrests to a target of at least 3,000 per day. According to White

[1] Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in Trump's Deportation Push*, Wash. Post, May 23, 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.

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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.

36. 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.

37. 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.

38. 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).

39. Petitioner is a citizen and national of Guatemala. She came to the United States with her daughter on or about June 25, 2023. Petitioner initially came into immigration custody upon arrival near Sasabe, Arizona. She and her daughter were detained by immigration authorities and released on an Order of Supervision on June 26, 2023. Petitioner lost her asylum case and through undersigned counsel timely filed an appeal with the Board of Immigration Appeals. On January

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22, 2025 Petitioner through counsel timely filed a Petition for Review with the Ninth Circuit Court of Appeals, which remains pending as of today. Oral arguments were submitted on December 5, 2025 and no mandate has yet issued.

40. Following her release from immigration custody at the U.S. border, petitioner appeared at the San Francisco local ICE office at 630 Sansome, San Francisco, CA, 94111 each time as requested. She also currently has an ankle monitor and is regularly reporting to ISAP.

41. Petitioner has lived in the United States for nearly 3 years. She has a 12 year old daughter, a 6th grader at [redacted] in Oakland, California, who relies on her for emotional and financial support. [redacted] was born on [redacted], and has been diagnosed with painful ganglia, for which she recently underwent surgery and has a follow up appointment on May 26, 2026 at UCSF Children's Hospital in Oakland, California.

42. Ms. Jeronimo de Ramos also suffers from debilitating migraines due to her PTSD and is scheduled for a follow up medical appointment on or about May 31, 2026 at Highland Hospital in Oakland, California. Ms. Jeronimo de Ramos has work authorization and is currently employed as cleaner for the First Choice Co. in Pleasanton, California.

43. On May 4, 2026, in compliance with instructions from ICE, Ms. Jeronimo de Ramos presented herself for a scheduled check-in at the San Francisco ICE Field Office located at 630 Sansome Street, San Francisco, California. She was told that she would be taken off regular reporting. She then received calls on May 8th, 2026 and May 11, 2026 from ICE and was told to report to 630 Sansome on May 15, 2026 at 8:00AM with her daughter and her daughter's passport. ICE provided no known reason for the sudden, unscheduled check-in, nor the reason for Petitioner's daughter's presence, nor have they informed counsel of the reason for the appointment

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by phone or mail.

44. Petitioners' detention will cause immediate, tremendous, and ongoing harm, which includes hygiene, sleep, and nutrition deprivation, family separation, emotional and economic harm to minor children, loss of employment, and psychological harm.

45. She is currently awaiting a decision on her Ninth Circuit Petition for Review.

46. On May 11, 2026, the undersigned emailed the U.S. Attorney's Office about the purpose of Petitioner's May 15, 2026 check-in. To date, the office has not stated that ERO does not intend to remove Petitioner and her daughter from the United States on May 15, 2026.

47. On May 11, 2026, the undersigned emailed the ICE San Francisco office to inquire as to whether or not Petitioners will be removed from the United States on May 15, 2026. To date, the undersigned has not received confirmation that petitioners will not be removed on May 15, 2026.

48. On May 13, 2026, Petitioner through counsel notified the U.S. Attorney's Office that petitioner would be filing the petition and TRO motion by email to the U.S. Attorney's Office email address for habeas petition filings.

49. Petitioners are not a flight risk, as evidenced by their perfect compliance with in-person reporting requirements and deep ties to the community and family. They are not a danger to the community. Their imminent detention and deportation serves no legitimate purpose.

50. This case has substantial factual and legal support to be granted, enjoining DHS from detaining petitioners pending a hearing before a neutral adjudicator, to substantiate a material change in circumstances indicating that they are either a flight risk or a danger to the community.

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51. Intervention from this Court is therefore required to ensure that petitioners are not detained and deported without a pre-deprivation hearing before a neutral arbiter to determine whether their re-arrest comports with the Due Process Clause of the Fifth Amendment.

LEGAL BACKGROUND

Statutory Framework

52. Petitioner's removal proceedings before the Ninth Circuit Court of Appeals and the San Francisco Immigration Judge are governed by section 240 of the Immigration and Nationality Act ("section 240 proceedings"). Section 240 proceedings provide important statutory protections, including hearings before an Immigration Judge. See 8 U.S.C. § 1229a(a)(1), (a)(4).

Right to a Hearing Prior to Re-incarceration

53. In petitioner's particular circumstances, the Due Process Clause of the Constitution makes it unlawful for Respondents to re-arrest them without first providing a pre-deprivation hearing before a neutral decision maker to determine whether circumstances have materially changed since their release from custody in June of 2023, such that detention would now be warranted on the basis that they are a danger or a flight risk by clear and convincing evidence.

54. The statute and regulations grant ICE the ability to unilaterally revoke any noncitizen's immigration bond determination or parole, 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," 8 U.S.C. 1226(b), in *Matter of Sugay*, 17 I&N Dec. at 640, the BIA has 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 judge, no change should be made by [the DHS] absent a change of circumstance." *Id.* In practice, DHS "requires a showing of changed circumstances both where the prior bond

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determination was made by an immigration judge *and* where the previous release decision was made by a DHS officer." *Saravia*, 280 F. Supp. 3d at 1197 (emphasis added). The Ninth Circuit has also assumed that, under *Matter of Sugay*, ICE has no authority to re-detain an individual absent changed circumstances. *Panosyan v. Mayorkas*, 854 F. App'x 787, 788 (9th Cir. 2021) ("Thus, absent changed circumstances … ICE cannot redetain Panosyan.").

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

56. ICE's power to re-arrest a noncitizen who is at liberty following a release from custody is also constrained by the demands of due process. *See Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) ("the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process"). *See also Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (Due Process requires pre-deprivation hearing before revocation of probation); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in parole context). Petitioner's release from custody in April of 2025 and ties to his family and community provide him with a protected liberty interest. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. Nov. 22, 2019)

57. Federal district courts in California have repeatedly recognized that the demands of due process and the limitations on DHS's authority to revoke a noncitizen's release from custody set out in DHS's stated practice and *Matter of Sugay* both require a pre-deprivation hearing for a noncitizen on ICE's supervision, like petitioner. *before* ICE re-detains him. *See, e.g., Meza v.*

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Bonnar, 2018 WL 2554572 (N.D. Cal. June 4, 2018); *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021); *Romero v. Kaiser*, No. 22-cv-02508-TSH, 2022 WL 1443250, at *3-4 (N.D. Cal. May 6, 2022) (Petitioner would suffer irreparable harm if re-detained, and required notice and a hearing before any re-detention); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL 1382859, at *3 (N.D. Cal. May 12, 2025) (temporary injunction warranted preventing re-arrest at plaintiff's ICE interview when he had been on bond for more than five years). *See also Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, *4 (E.D. Cal. Mar. 3, 2025) (holding the Constitution requires a hearing before any re-arrest).

Petitioner's Protected Liberty Interest in Her Conditional Release

58. The Due Process Clause protects petitioner's liberty from immigration custody: "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 v. Davis*, 533 U.S. 678, 690 (2001).

59. Since June 26, 2023, petitioner exercised that freedom under the Department's order releasing her from custody. As she was released from custody, she retains a weighty liberty interest under the Due Process Clause of the Fifth Amendment in avoiding unlawful re-incarceration. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey*, 408 U.S. at 482-483. Respondents created a reasonable expectation that petitioner would be permitted to live and work in the United States without being subject to arbitrary arrest and removal.

60. This reasonable expectation creates constitutionally-protected liberty and property interests. *Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972) (reliance on policies and practices may establish a legitimate claim of entitlement to a constitutionally-protected interest); *see also Texas v. United States*, 809 F.3d 134, 174 (2015), affirmed by an equally divided court, 136 S. Ct. 2271 (2016) (explaining that "DACA involve[s] issuing benefits" to certain applicants). These benefits are entitled to constitutional protections no matter how they may be characterized by Respondents. *See, e.g., Newman v. Sathyavaglswaran*, 287 F.3d 786, 797 (9th Cir. 2002) ("[T]he identification of property interests under constitutional law turns on the substance of the interest recognized, not the name given that interest by the state or other independent source.") (internal quotations omitted).

61. In *Morrissey*, the Supreme Court examined the "nature of the interest" that a parolee has in "his continued liberty." 408 U.S. at 481-82. The Court noted that, "subject to the conditions of his parole, [a parolee] can be gainfully employed and is free to be with family and friends and to form the other enduring attachments of normal life." *Id.* at 482. The Court further noted that "the parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Id.* The Court explained that "the liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a grievous loss on the parolee and often others." *Id.* In turn, "[b]y whatever name, the liberty is valuable and must be seen within the protection of the [Fifth] Amendment." *Morrissey*, 408 U.S. at 482.

62. This basic principle—that individuals have a liberty interest in their conditional release—has been reinforced by both the Supreme Court and the circuit courts on numerous occasions. *See, e.g.*, *Young v. Harper*, 520 U.S. at 152 (holding that individuals placed in a pre-parole

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program created to reduce prison overcrowding have a protected liberty interest requiring pre-deprivation process); *Gagnon v. Scarpelli*, 411 U.S. at 781-82 (holding that individuals released on felony probation have a protected liberty interest requiring pre-deprivation process). As the First Circuit has explained, when analyzing the issue of whether a specific conditional release rises to the level of a protected liberty interest, "[c]ourts have resolved the issue by comparing the specific conditional release in the case before them with the liberty interest in parole as characterized by *Morrissey*." *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and citation omitted). *See also, e.g., Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) ("a person who is in fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due process before he is re-incarcerated") (citing *Young*, 520 U.S. at 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at 482).

63. In fact, it is well-established that an individual maintains a protectable liberty interest even where the individual obtains liberty through a mistake of law or fact. *See id.*; *Gonzalez-Fuentes*, 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982) (noting that due process considerations support the notion that an inmate released on parole by mistake, because he was serving a sentence that did not carry a possibility of parole, could not be re-incarcerated because the mistaken release was not his fault, and he had appropriately adjusted to society, so it "would be inconsistent with fundamental principles of liberty and justice" to return him to prison) (internal quotation marks and citation omitted).

64. Here, when this Court "'compar[es] the specific release in [petitioner's case], with the liberty interest in parole as characterized by *Morrissey*,'" it is clear that they are strikingly similar. *See Gonzalez-Fuentes*, 607 F.3d at 887. Just as in *Morrissey*, petitioner's non-detention

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"enables him to do a wide range of things open to persons'" including be together as a family, continue working, attending important medical appointments and school, and "be with family and friends and to form the other enduring attachments of normal life." *Morrissey*, 408 U.S. at 482.

Petitioner's Liberty Interest Mandates a Hearing Before any Re-Arrest and Revocation of Release from Custody

65. Petitioner asserts that, here, (1) where their detention would be civil; (2) where they have been at liberty since June 2023; (3) where no change in circumstances exist that would justify their lawful detention; and (4) where the only circumstance was ICE's move to arrest as many people as possible because of the new administration, due process mandates that not be detained and receive notice and a hearing before a neutral adjudicator *prior* to any re-arrest or revocation of their custody release.

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

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

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

68. Because, in this case, ICE is required to provide petitioner with notice and a hearing *prior* to any re-incarceration and revocation of her liberty. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinermon*, 494 U.S. at 985; *see also Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir. 1984) (holding that individuals awaiting involuntary civil commitment proceedings may not constitutionally be held in jail pending the determination as to whether they can ultimately be

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recommitted). Under *Mathews*, "the balance weighs heavily in favor of petitioner liberty" and requires a pre-deprivation hearing before a neutral adjudicator.

Petitioner's Private Interest in Their Liberty is Profound

69. 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 him to constitutional due process before he is re-incarcerated—apply with even greater force to individuals like petitioner, 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, petitioners retain a truly weighty liberty interest even though they are under conditional release.

70. What is at stake in this case for petitioners is one of the most profound individual interests recognized by our legal system: whether ICE may unilaterally nullify a prior decision releasing them from custody and to take away—without a lawful basis—their physical freedom, i.e., their "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*,

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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).

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

The Government's Interest in Re-Incarcerating Petitioners Without a Hearing is Low and the Burden on the Government to Refrain from Re-Arresting Them Unless and Until They are Provided a Hearing That Comports with Due Process is Minimal

72. The government's interest in detaining petitioners without a due process hearing is low, and when weighed against petitioner's significant private interest in their liberty, the scale tips sharply in favor of enjoining Respondents to refrain from re-arresting petitioners unless and until the government demonstrates by clear and convincing evidence that they are a flight risk or danger to the community. It becomes abundantly clear that the *Mathews* test favors petitioner when the Court considers that the process they seeks—notice and a hearing regarding whether they have violated any conditions of their release, and, if so, providing petitioners with a hearing before this Court (or a neutral decisionmaker) to determine whether there is clear and convincing evidence that petitioners are 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 petitioner.

73. 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*

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Zadvydas, 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any lawful basis for detaining petitioners. Petitioners have lived at liberty complying with the conditions of their release since June 26, 2023.

74. ICE determined petitioners not to be a danger to the community or a flight risk in June 2023 and has done nothing to undermine that determination. To the contrary, they complied with the terms of their 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).

75. It is difficult to see how the government's interest in ensuring their presence at the moment of removal has materially changed since they were released in June of 2023, when they have appeared at every ISAP and ICE appointment. The government's interest in detaining petitioner. at this time is therefore low. That ICE has a new policy to make a minimum number of arrests each day under the new administration does not constitute a material change in circumstances or increase the government's interest in detaining them.[2]

76. Moreover, the "fiscal and administrative burdens" that their immediate release and a lawful pre-detention hearing would impose is nonexistent in this case. *See Mathews*, 424 U.S. at

[2] *See* "Trump officials issue quotas to ICE officers to ramp up arrests," *Washington Post* (January 26, 2025), available at: https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/.; "Stephen Miller's Order Likely Sparked Immigration Arrests And Protests," Forbes (June 9, 2025), https://www.forbes.com/sites/stuartanderson/2025/06/09/stephen-millers-order-likely-sparked-immigration-arrests-and-protests/ ("At the end of May 2025, 'Stephen Miller, a senior White House official, told Fox News that the White House was looking for ICE to arrest 3,000 people a day, a major increase in enforcement. The agency had arrested more than 66,000 people in the first 100 days of the Trump administration, an average of about 660 arrests a day,' reported the New York Times. Arresting 3,000 people daily would surpass 1 million arrests in a calendar year.").

334-35. Petitioner does not seek a unique or expensive form of process, but rather a routine hearing regarding whether their order of release should be revoked and whether they should be re-incarcerated.

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

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

79. Releasing petitioner from unlawful custody and enjoining their re-arrest until ICE (1) moves for a pre-deprivation bond hearing before an Immigration Judge and (2) demonstrates by clear and convincing evidence that petitioner is a flight risk or danger to the community. *Hernandez*, 872 F.3d at 996.

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

80. Providing petitioner a pre-deprivation hearing would decrease the risk of petitioners being erroneously deprived of their liberty. Before petitioner can be lawfully detained, they 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 prior custody determination should be altered or revoked because clear and convincing evidence exists to establish that petitioner.

81. On May 15, 2026 petitioners will not receive this protection. Instead, they will be detained by ICE, without notice, despite there having been no material changes in their circumstances.

82. By contrast, the procedure petitioner 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 their 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).

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

FIRST CAUSE OF ACTION

Procedural Due Process

U.S. Const. amend. V

84. Petitioners re-allege and incorporate herein by reference, as is set forth fully herein, the allegations in all the preceding paragraphs.

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

86. Petitioner has a vested liberty interest in their lawful conditional release. Due Process does not permit the government to strip them of that liberty without a hearing before this Court. *See Morrissey*, 408 U.S. at 487-488.

87. The Court must therefore order that ICE refrain from detaining and deporting petitioners.

88. Prior to any re-arrest, the government must provide them with a hearing before a neutral adjudicator. At the hearing, the neutral adjudicator would evaluate, *inter alia,* whether clear and convincing evidence demonstrates, taking into consideration alternatives to detention, that petitioners are a danger to the community or a flight risk, such that their reincarceration is warranted. During any custody determination hearing that occurs, this Court or, alternatively, a

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neutral adjudicator must consider alternatives to detention when determining whether petitioner's re-incarceration is warranted.

SECOND CAUSE OF ACTION

Substantive Due Process

U.S. Const. amend. V

89. Petitioners re-allege and incorporate herein by reference, as is set forth fully herein, the allegations in all the preceding paragraphs.

90. The Due Process Clause of the Fifth Amendment forbids the government from depriving individuals of their right to be free from unjustified deprivations of liberty. U.S. Const. amend. V.

91. Petitioners have a vested liberty interest in their conditional release. Due Process does not permit the government to strip them of that liberty without it being tethered to one of the two constitutional bases for civil detention: to mitigate against the risk of flight or to protect the community from danger. Since June 26, 2023, petitioners have attended all of their court hearings and appointments, thus demonstrating that they are neither a flight risk nor a danger. Re-arresting them now would be punitive and violate their constitutional right to be free from the unjustified deprivation of their liberty.

92. For these reasons, petitioner's continued unlawful custody and any subsequent re-arrest without first being provided a pre-deprivation hearing would violate the Constitution.

93. The Court must order the government to not re-arrest them in any subsequent action without a hearing before a neutral adjudicator. At the hearing, the neutral adjudicator would evaluate, *inter alia,* whether clear and convincing evidence demonstrates, taking into consideration alternatives to detention, that petitioner is a danger to the community or a flight

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risk, such that their reincarceration is warranted. During any custody determination hearing that occurs, this Court or, in the alternative, a neutral adjudicator must consider alternatives to detention when determining whether petitioner reincarceration is warranted.

PRAYER FOR RELIEF

WHEREFORE, petitioner prays that this Court grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Enjoin the re-arrest and deportation of petitioner unless and until a hearing can be held before a neutral adjudicator to determine whether their re-incarceration would be lawful because the government has shown that they are a danger or a flight risk by clear and convincing evidence;

(3) Declare that petitioners cannot be re-arrested unless and until they are afforded a hearing on the question of whether their re-incarceration would be lawful—i.e., whether the government has demonstrated to a neutral adjudicator that he is a danger or a flight risk by clear and convincing evidence;

(4) Award reasonable costs and attorney fees; and

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

Dated: May 14, 2026

Respectfully submitted,
/s/ *Aliya Karmali*
Aliya Karmali
Attorney for Petitioner

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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 May 14, 2026, in Oakland, CA.

Respectfully submitted,

/s/ *Aliya Karmali*
Aliya Karmali
Attorney for Petitioners

A declaration is attached hereto