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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

M.A.M.G. and L.H.M.F.[1],

Petitioner,

v.

SERGIO ALBARRAN, Field Office Director of the San Francisco Immigration and Customs Enforcement Office; TODD LYONS, Acting Director of United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of the United States Department of Homeland Security, TODD BLANCHE, Acting Attorney General of the United States, acting in their official capacities,

Respondents.

CASE No.

PETITION FOR WRIT OF HABEAS CORPUS

[1] Petitioners respectfully request that the Court use their initials, rather than their full names, in any opinion in this case due to the sensitive nature of their asylum claims, as explained further in their Administrative Motion to File Under Seal. *See* Memorandum Re: Privacy Concern Regarding Social Security & Immigration Opinions, May 1, 2018, available at: https://www.uscourts.gov/sites/default/files/18-cv-l-suggestion_cacm_0.pdf.

INTRODUCTION

1. This Petition challenges the U.S. Immigration and Customs Enforcement's decision to arbitrarily place GPS ankle monitors on Petitioners M.A.M.G. and L.H.M.F.

2. A court in this district recently issued a decision on a case with similar facts and found that ICE's decision to subject the petitioner to additional monitoring requirements, including an ankle monitor, violated his due process rights. *See Harrington v. Albarran*, No. 26-cv-01889-JST, 2026 U.S. Dist. LEXIS 61204, at *10 (N.D. Cal. March 23, 2026).

3. Here, Petitioners M.A.M.G. and L.H.M.F. are two asylum seekers living in San Francisco with their young children awaiting the outcome of their asylum proceedings. They entered the United States in 2022 and 2023, respectively, and were released on their own recognizance by Department of Homeland Security (DHS) officials under 8 U.S.C. § 1226(a). They have no criminal history and have complied with all of their immigration court and ICE requirements to the best of their abilities.

4. Petitioners M.A.M.G. and L.H.M.F. were called in for ICE appointments in April and March 2026, respectively. Petitioners dutifully arrived for their appointments. Without warning, ICE placed ankle monitors on them.

5. Generally, "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 added. 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. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

6. Here, there are no credible arguments that Petitioners, who were arrested *while attending their ICE check-ins*, are flight risks or dangers. ICE's decision to place ankle monitors on them is thus unconstitutional. *See id.*

7. The ankle monitors are causing Petitioners physical and emotional harm. The

devices rub against their skin and cause open wounds that do not heal, frighten their children when a loud man's voice wakes them in the night to alert that the battery needs to be charged, prevent them from carrying out daily activities, and cause symptoms of depression.

8. Petitioners are also especially vulnerable to harm from the ankle monitors as survivors of trauma. In 2023, M.A.M.G.'s brother-in-law and 4-year-old niece were murdered in Peru by gang members. That same year, L.H.M.F. was gang raped in Guatemala by two gang members who forced their way into her home.

9. Petitioners respectfully seek a writ of habeas corpus ordering the government to immediately remove Petitioners' ankle monitors and prohibit the government from imposing further restraints on Petitioners' liberty unless it 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 Petitioners are a flight risk or danger to the community.

JURISDICTION AND VENUE

10. 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 Fifth Amendment to the U.S. Constitution.

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

PARTIES

12. Petitioner M.A.M.G is a woman from Peru. She has a pending application for asylum, withholding of removal, and protection under the Convention Against Torture. Her next immigration court hearing is February 16, 2026.

13. Petitioner L.H.M.F. is a woman from Guatemala. She has a pending petition for review challenging the denial of her application for asylum, withholding of removal, and

protection under the Convention Against Torture at Ninth Circuit Court of Appeals. The Ninth Circuit has issued her a temporary stay of removal.

14. Respondent Sergio Albarran is the Field Office Director of the San Francisco Immigration and Customs Enforcement Office. 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. He maintains an office and regularly conducts business in this district. He is sued in his official capacity.

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

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

17. Respondent Todd Blanche is the Acting Attorney General of the United States and the most senior official at the Department of Justice. In that capacity and through his agents, he is responsible for overseeing the implementation and enforcement of the federal immigration laws. The Attorney General delegates this responsibility to the Executive Office for Immigration Review, which administers the immigration courts and the BIA. Respondent Blanche is sued in his official capacity.

EXHAUSTION

18. There is no requirement to exhaust because no other forum exists in which Petitioners can raise their claims. There is no statutory exhaustion requirement prior to challenging the constitutionality of restraints on liberty. Prudential exhaustion is not required here because it would be futile, and Petitioners will "suffer irreparable harm if unable to secure immediate judicial consideration of [their] claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Any further exhaustion requirements would be unreasonable.

LEGAL BACKGROUND

A. The Constitution Protects Noncitizens Like Petitioners from Arbitrary Restrains on Liberty.

19. The Due Process Clause applies to "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

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

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

22. Substantive due process thus requires that all forms of civil detention—including

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

23. *Second*, the procedural component of the Due Process Clause prohibits the government from imposing even permissible physical restraints without adequate procedural safeguards.

24. Generally, "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). This is so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d at 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

25. After an initial release from custody on conditions, even a person paroled following a conviction for a criminal offense for which they may lawfully have remained incarcerated has a protected liberty interest in that conditional release. *Morrissey* at 408 U.S. at 482. As the Supreme Court recognized, "[t]he 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.* "By whatever name, the liberty is valuable and must be seen within the protection of the [Constitution]." *Id.*

26. This reasoning applies with equal if not greater force to people released from civil immigration detention at the border, like Petitioners. After all, noncitizens living in the United States like Petitioners have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. And, "[g]iven the civil context [of immigration

detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

B. Due Process is Required Before ICE May Impose Additional Restraints on Liberty

27. DHS has the authority to release to release certain noncitizens on an Order of Recognizance (formally called "conditional parole") while their removal proceedings are pending before an immigration judge. 8 U.S.C. § 1226(a)(2); *Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) ("It is apparent that the INS used the phrase 'release on recognizance' as another name for 'conditional parole' under § 1226(a).").

28. DHS may only release a noncitizen on an Order of Recognizance if "such release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceedings." 8 C.F.R. § 236.1(c)(8). As such, release on an Order of Recognizance "reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

29. After a determination has been made that an individual is not a flight risk or danger, DHS may not re-arrest them "absent a change of circumstance." *See Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981); *see also Saravia v. Sessions*, 280 F. Supp. 3d at 1176 ("O]nce a noncitizen has been released, the law prohibits federal agents from rearresting him merely because he is subject to removal proceedings. Rather, the federal agents must be able to present evidence of materially changed circumstances — namely, evidence that the noncitizen is in fact dangerous or has become a flight risk, or is now subject to a final order of removal.").

30. This requirement extends to additional restraints on liberty, such as ankle monitors. *See Jones v. Cunningham*, 371 U.S. 236, 239, 83 S. Ct. 373, 9 L. Ed. 2d 285 (1963). Courts have repeatedly rejected the government's argument that requiring people to wear ankle

monitors does not constitute "in custody" for habeas jurisdiction. *See Kegel v. Rose*, No. 26-1213, 2026 U.S. Dist. LEXIS 82736, at *8 (E.D. Pa., April 15, 2026); *Lazaro v. Baker*, No. 8:25-cv-3162-PX, 2026 U.S. Dist. LEXIS 101011, at *4 (D. Md., May 7, 2026).

31. As such, "'[c]ustody' is not limited to physical imprisonment and a court may afford habeas relief to an individual" who is subject to "restraints not shared by the public generally." *See Harrington v. Albarran*, No. 26-cv-01889-JST, 2026 U.S. Dist. LEXIS 61204, at *10 (N.D. Cal. March 23, 2026) (citing *Jones v. Cunningham*, 371 U.S. 236, 240, 83 S. Ct. 373, 9 L. Ed. 2d 285 (1963)).

32. Before imposing new release conditions on a noncitizen such as an ankle monitor, the government must provide them "with a constitutionally protected pre-deprivation hearing." *Arcos v. Semaia*, No. 2:26-cv-01975-AYP, 2026 U.S. Dist. LEXIS 135381, at *15 (C.D. Cal., June 17, 2026). The point of the hearing is to "determine whether those measures are warranted." *Harrington,* No. 26-cv-01889-JST, at *10. The government's failure to do so, as here, violates due process. *See id.*

FACTUAL ALLEGATIONS

A. ICE Arbitrarily Subjects Petitioners to Ankle Monitors

M.A.M.G.

33. Petitioner M.A.M.G., her partner, and their two young children fled to the United States from Peru in 2022 after [redacted] M.A.M.G. filed a timely asylum application in 2023, and it is pending. Her next immigration court date is scheduled for February 16, 2027.

34. M.A.M.G. has complied with all of her immigration and ICE obligations to the best of her abilities since arriving in the United States.

35. M.A.M.G. appeared in-person for an ICE appointment at 630 Sansome in San Francisco on April 15, 2026. A few days later, she found out she missed an appointment at the Tehama office. She was not near her phone when they called. The following morning, she answered their call and learned that she had missed the appointment. She went to the Tehama office that same day. ICE placed an ankle monitor on her.

36. The ankle monitor is heavy and rubs against her skin, causing open cuts, blisters, and bruises that bleed and do not heal. She applies ointment and bandages the area, but nothing helps. The burning extends up her left leg up to her knee, and she experience pain in what feels like her tendon, along with constant cramps in her leg and ankle.

37. Her job requires her to walk frequently. She has had to purchase long, wide-leg pants to hide the monitor at work because she does not feel comfortable wearing it around her employers. She lives in constant fear that she will lose her job when they find out.

38. She is a single mother and the sole provider for her two children. She has been diagnosed with anxiety, and the ankle monitor has only made it worse. She has experienced panic attacks, sweaty hands, and has tachycardia. At night, her heart races so badly that she cannot sleep. She has nightmares and cannot take sleeping pills because she needs to be alert in the mornings to take her children to school and get to work.

39. Her hair is falling out, and she has no appetite. She is not eating well. She has lost all interest in doing things. The ankle monitor has a loud male voice that says when it needs to be charged, which wakes and frightens her children. She cries often.

L.H.M.F.

40. Petitioner L.H.M.F. and her three young children fled to the United States from Guatemala in 2023 after [redacted] She timely applied for asylum. An Immigration Judge held a hearing on that application on February 27, 2025. He

found she testified credibly but did not present sufficient evidence of nexus between the harm she suffered and a protected ground. The Board of Immigration Appeals affirmed the decision, and L.H.M.F. filed a petition for review in the Ninth Circuit Court of Appeals, which is currently pending. The Ninth Circuit issued her a temporary stay of removal while the petition for review and stay request are pending.

41. L.H.M.F. has complied with all of her immigration and ICE obligations to the best of her abilities since arriving in the United States.

42. As part of her conditions of release, she was required to upload photos to a phone application. On March 10, 2026, she was unable to do so because her phone was broken. She took her phone to the repair shop to get fixed. As soon as she got her phone back, ICE contacted her to report to 630 Sansome Street in San Francisco for a check-in. She went as soon as she was able to on March 24, 2026. At that appointment, ICE placed an ankle monitor on her.

43. The ankle monitor rubs against her skin, causing friction burns, open wounds, blisters, and bruising. The wounds bleed and cause her socks to stick to her skin. Her leg goes numb from the device, and she experiences severe cramps in her calf. She has lost strength in that leg, which has caused her to trip. When she is out in public, people sometimes walk close to her and accidentally hit the monitor because it sticks out from her leg.

44. She has stopped going to the gym because it causes her pain and stress. She feels anxious constantly. She sometimes wakes up at night desperately trying to scratch the area around the monitor. She has lost her appetite and has lost weight. She has no will to do the things she needs to do. Some days she does not want to leave the house at all because of the pain and the burden of adjusting her entire day around this device.

45. She has had to change the way she dresses to hide the ankle monitor because she does not want people to stare or to judge her or her children. Her daughter's graduation is coming up, and she cannot wear a dress or feel like herself. She feels like a criminal, even

though she has done nothing wrong.

46. The monitor wakes up her children and her with a loud male voice saying it needs to be charged. She feels immense despair not knowing when it will be removed.

B. As a Result of the Ankle Monitors, Petitioners are Suffering Ongoing and Irreparable Harm.

47. For the above reasons, the ankle monitors are causing Petitioners significant harm. Petitioners are subject to these restrictions of liberty without any permissible justification. The government previously released them on their own recognizance because they did not pose sufficient risk of flight or danger to the community to warrant detention.

48. None of that has changed. Petitioners have no criminal history, and there is no basis to believe that they pose any public-safety or flight risk. The ankles monitors were placed on them *while they were appearing for ICE check-ins*. Petitioners are actively seeking to comply with their ICE and immigration obligations.

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CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution (Substantive Due Process)

51. Petitioners repeat and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

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

53. Restraints on liberty are constitutionally permissible only when they further the government's legitimate goals of ensuring the noncitizen's appearance during removal

proceedings and preventing danger to the community. *See id.*

54. Petitioners were previously released on their own recognizance ("conditional parole") by Respondents. This previous release constituted a determination by Respondents that they were neither dangerous to the community nor a flight risk.

55. Petitioners have not become a danger or flight risk since their release from custody. The ankle monitors do not serve a legitimate goal. Accordingly, the restraint on their liberty violates the Due Process Clause.

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution (Procedural Due Process)

56. Petitioners repeat and re-allege the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

57. The Fifth Amendment guarantees noncitizens present in the country with due process rights, including the right to not be deprived of a liberty or property interest without notice and a hearing before a neutral decision-maker.

58. Petitioners have already been determined not to pose a flight risk or danger to the community. They have a protected liberty interest in their continued freedom from custody and are entitled to due process before the government can restrain their liberty. The Due Process Clause prohibits ICE from placing ankle monitors on them without a pre-deprivation hearing before a neutral decision-maker in which the government bears the burden of demonstrating that they pose a flight risk or danger to the community.

PRAYER FOR RELIEF

Petitioners respectfully request that this Court:

1. Assume jurisdiction over this matter;

2. Issue a writ of habeas corpus ordering Respondents to immediately remove Petitioners' ankle monitors;

3. Declare that the ankle monitors amount to a restraint on liberty in violation of the Due Process Clause of the Fifth Amendment.

4. Enjoin Respondents from placing further restraints on Petitioners' liberty unless it 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 Petitioners are a flight risk or danger to the community;

5. Award Petitioner their 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

6. Grant such further relief as the Court deems just and proper.

Date: June 19, 2026

Respectfully Submitted,

/s/ Jordan Weiner

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Attorney for Petitioners

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I, Jordan Weiner, am submitting this verification on behalf of the Petitioners because I am Petitioners' attorney. I 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 June 19, 2026, at San Francisco, California.

/s/Jordan Weiner
Attorney for Petitioners