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ALIREZA HASHEMI
5

6 UNITED STATES DISTRICT COURT
7 CENTRAL DISTRICT OF CALIFORNIA

8 ALIREZA HASHEMI,
9 Petitioner,

10 v.

11 KRISTI NOEM, SECRETARY,
DEPARTMENT OF HOMELAND
SECURITY; PAM BONDI,
12 ATTORNEY GENERAL; TODD
LYONS, ACTING DIRECTOR,
IMMIGRATION AND CUSTOMS
13 ENFORCEMENT; ERNESTO
SANTACRUZ JR., LOS ANGELES
FIELD OFFICE DIRECTOR,
14 IMMIGRATION AND CUSTOMS
ENFORCEMENT; DEPARTMENT OF
15 HOMELAND SECURITY;
EXECUTIVE OFFICE OF
16 IMMIGRATION REVIEW;
IMMIGRATION AND CUSTOMS
ENFORCEMENT,

17 Respondents.
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Case No.: 2:25-cv-10335-HDC-SV

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

VERIFIED

INTRODUCTION

1
2 1. Petitioner Alireza Hashemi is a 34-year-old immigrant who arrived in
3 the United States from Iran with his mother as a teenager and, after a period of
4 instability and being diagnosed with schizoaffective disorder in his early 20's,
5 received much-needed medical treatment and gained stability. Since then, he has
6 lived peaceably for many years here in Los Angeles with his partner and her two
7 young U.S. citizen daughters, and with his large extended family close by. He was
8 ordered deported in July 2017 but has remained free since the fall of 2017, subject to
9 an Order of Supervision. Mr. Hashemi has dutifully complied with his obligations
10 under that order.

11 2. On October 22, 2025, immigration authorities detained Mr. Hashemi
12 without notice at his scheduled routine immigration check-in. This is despite the fact
13 that at a check-in two weeks prior, he had been directed to sign up for electronic
14 monitoring and had immediately complied with that request. Respondents have failed
15 to provide Mr. Hashemi with any semblance of due process, providing him with no
16 notice of the specific reasons for his detention, let alone any showing that detention
17 is warranted based on danger or flight risk, which are the only two permissible bases
18 for immigration detention.

19 3. At the time of this filing and upon information and belief of undersigned
20 counsel, Mr. Hashemi is currently jailed at "B-18," an unofficial detention center in
21 the basement of the Federal Building at 300 North Los Angeles Street, Los Angeles,

1 California. Poor conditions at B-18 have been the subject of litigation in this district
2 both in 2009 and currently in 2025. B-18 does not have any medical facilities. Mr.
3 Hashemi has schizoaffective disorder-bipolar type. This type of schizoaffective
4 disorder is labeled bipolar type because the person experiences bouts of hypomania
5 or mania and bouts of major depression. Because of his detention, Mr. Hashemi does
6 not have access to all of his required medication and he is currently only able to take
7 one of four prescribed daily medications. In addition, upon information and belief,
8 he is due for an injection of his long-acting antipsychotic medication on November
9 14, 2025. Since being detained, he has not been seen by a doctor or psychiatrist and
10 his mental health has already begun to deteriorate.

11 4. This petition challenges Petitioner's ongoing unlawful detention by
12 Respondents. Respondents' actions violate the Due Process Clause of the Fifth
13 Amendment to the Constitution, and the Administrative Procedure Act and the
14 *Accardi* doctrine. Petitioner brings this action for habeas, injunctive, and declaratory
15 relief ordering Respondents to release him and to enjoin Respondents' unlawful
16 actions in the future.

17 5. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he
18 be immediately released from custody, allowing him to have access to the critical
19 medical treatment that he needs for his mental health and to be reunited with his
20 family who rely on him for support.

1 6. In the interim, Petitioner seeks an order from the Court that he not be
2 removed from this judicial district or removed from the United States, pending
3 disposition of his petition for writ of habeas corpus.

4 **JURISDICTION**

5 7. Petitioner is in the physical custody of Respondents in B-18, a facility
6 in the Federal Building in Los Angeles, California, within the Central District of
7 California.

8 8. This Court has subject matter jurisdiction under the habeas corpus
9 statutes, 28 U.S.C. § 2241 et seq., the Suspension Clause of the Constitution, and
10 under 28 U.S.C. § 1331 because this action arises under federal law, including the
11 Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., and the Administrative
12 Procedure Act, 5 U.S.C. § 551 et seq.

13 9. This Court may grant relief pursuant to 28 U.S.C. § 2241 et seq., the
14 Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C.
15 § 1651.

16 **VENUE**

17 10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
18 484, 493-500 (1973), venue lies in the United States District Court for the Central
19 District of California, the judicial district in which Petitioner currently is detained.

1 11. Venue also properly lies in the Central District of California under 28
2 U.S.C. § 1391 because this is a civil action in which Respondents are agencies and
3 officers of the United States, Petitioner was detained in this district when this Petition
4 was filed, and because a substantial part of the events or omissions giving rise to the
5 claims occurred in this district.

6 **REQUIREMENTS OF 28 U.S.C. § 2243**

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

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

18 14. Habeas corpus must remain a swift remedy. Importantly, “the statute
19 itself directs courts to give petitions for habeas corpus special, preferential
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1 consideration to insure expeditious hearing and determination.” *Yong v. INS*, 208
2 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted).

3 **PARTIES**

4 15. Petitioner Alireza Hashemi is a citizen of Iran who has been in detention
5 since October 22, 2025. Petitioner has resided in Los Angeles, California since 2008
6 and is currently detained at B-18 in the Federal Building in Los Angeles, California.

7 16. Respondent Kristi Noem is the Secretary of the Department of
8 Homeland Security (“DHS”) and is sued in her official capacity. The Secretary of
9 Homeland Security is charged with the administration and enforcement of
10 immigration laws. 8 U.S.C. § 1103(a). Ms. Noem also oversees Immigration &
11 Customs Enforcement (“ICE”), which is responsible for Petitioner’s detention. Ms.
12 Noem has ultimate custodial authority over Petitioner.

13 17. Respondent Pam Bondi is the Attorney General of the United States and
14 is sued in her official capacity as the head of the Department of Justice. The Attorney
15 General is responsible for the Department of Justice, of which the Executive Office
16 for Immigration Review (“EOIR”) and the immigration court system it operates is a
17 component agency. The Attorney General is responsible for the fair administration
18 of the laws of the United States.

19 18. Respondent Todd Lyons is the Acting Director of ICE and is sued in his
20 official capacity. Respondent Lyons leads ICE, which is the agency responsible for

1 Petitioner's detention of noncitizens, and the transfer or removal outside this judicial
2 district and the United States.

3 19. Respondent Ernesto Santacruz Jr. is the Los Angeles Field Office
4 Director of ICE and is sued in his official capacity. Respondent Santacruz is
5 responsible for the detention, transfer, and removal of noncitizens in the Los Angeles
6 district. Mr. Santacruz is also the immediate custodian at the facility where Petitioner
7 is detained.

8 20. Respondent DHS is the federal agency responsible for implementing
9 and enforcing the Immigration and Nationality Act ("INA"), including the detention,
10 transfer, and removal of noncitizens.

11 21. Respondent EOIR is the federal agency responsible for implementing
12 and enforcing the INA in removal proceedings, including for custody
13 redeterminations in bond hearings.

14 22. Respondent ICE is the federal agency responsible for the detention,
15 transfer, and removal of noncitizens.

16 **FACTS**

17 ***Petitioner's Immigration and Criminal History***

18 23. Petitioner is a 34-year-old immigrant who was born in Tehran, Iran.
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1 24. Petitioner came to the United States lawfully on a visa with his mother
2 in July 2008. A few days after their arrival, on July 10, 2008, Petitioner received
3 lawful permanent resident status.

4 25. In 2012, Petitioner was 21-years-old and was studying engineering at
5 Irvine Valley College. In 2012 and 2013, he began to have signs of mental health
6 instability and deterioration, and, for the first time, had several contacts with the
7 criminal justice system. On August 13, 2013, Petitioner pled guilty to a felony
8 violation of California Penal Code section 245(a)(4) (assault with force likely to
9 cause great bodily injury) in Orange County Superior Court. He was placed on
10 probation for a period of three years and served 120 days in the county jail. On that
11 same date, he was also convicted of a misdemeanor DUI (Cal. Vehicle Code §
12 23152(b)) and a misdemeanor shoplifting-related offense (Cal. Penal Code § 459-
13 460(b)). During his time on probation, Petitioner's struggles with his mental health
14 increased. Ultimately, on April 24, 2015, he was sentenced to two years in prison,
15 with credit for having already served the majority of the sentence imposed.

16 26. Following Petitioner's felony conviction, USCIS issued a Notice to
17 Appear at the Immigration Court in West Los Angeles on January 24, 2014. Because
18 he was then incarcerated in state prison, on December 7, 2015, Petitioner was brought
19 to Adelanto Detention Center to be detained during the pendency of his removal
20 proceedings.

1 27. On March 2, 2016, Petitioner was found to be mentally incompetent by
2 an Immigration Judge and, as a result, became a member of the *Franco* class—that
3 is, immigration detainees who are to be given counsel as a result of their serious
4 mental disorder. *See Franco-Gonzalez, et al. v. Holder, et al.*, [2014 WL 5475097](#), at
5 *3 (C.D. Cal. Oct. 29, 2014) (defining the “*Franco*” class and listing policies
6 governing class members).

7 28. Petitioner’s mental health deteriorated substantially while detained at
8 Adelanto Detention Center. Between May and August of 2016, he was transferred
9 eleven times to the Alvarado Parkway Institute, an in-patient acute psychiatric
10 hospital. Petitioner reported feeling physically uncomfortable in his body, having
11 paranoia and thoughts of self-harm, and losing a large amount of weight. Throughout
12 his detention, Petitioner was suffering from extreme hallucinations and delusions.
13 Even after receiving some medication, Petitioner remained extremely stressed and
14 unwell. This period of detention was severely traumatic for Petitioner.

15 29. Petitioner received a final order of removal on July 24, 2017.

16 30. On August 14, 2017, while still detained at the Adelanto Detention
17 Center, Petitioner was again transferred to the Alvarado Parkway Institute. It was
18 then that Petitioner was officially diagnosed within ICE custody with schizoaffective
19 disorder-bipolar type. Petitioner remained at Alvarado Parkway Institute for two
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1 weeks until August 28, 2017, and was then transferred back to Adelanto Detention
2 Center.

3 31. Due to the poor state of his mental health and because he was told by an
4 ICE officer that “he would not get deported to Iran,” Petitioner then signed a
5 document that he believed was a voluntary departure in order to leave detention. At
6 that time, Iran had routinely rejected receiving Iranian citizens with criminal histories
7 who were ordered removed from the United States. In late August 2017, he was
8 released from ICE custody on an Order of Supervision (“OSUP”).

9 ***Petitioner’s Post-Deportation Order History***

10 32. After being released from ICE detention in the fall of 2017, Petitioner
11 still did not have access to appropriate mental health treatment in the community. He
12 met his now-partner, Brenda, but on July 11, 2018, he pled guilty to a felony violation
13 of California Penal Code section 273.5(a), a domestic violence-related assault, in Los
14 Angeles Superior Court. Through this proceeding however, it was recognized that
15 Mr. Hashemi was struggling with his mental health and needed appropriate case
16 management and treatment. Consequently, as part of the terms of his probation, he
17 was placed in the Office of Diversion and Reentry (ODR) Housing Program. This
18 program serves individuals who have a serious mental health disorder and provides
19 this individual with treatment in the community and permanent supportive housing.
20 Petitioner was assigned to work with The People Concern, a non-profit organization

1 that assisted Petitioner with his mental health and supportive treatment needs.
2 Petitioner successfully completed the ODR program, through which he was
3 connected with appropriate medical treatment and moved into permanent supportive
4 housing. In recognition of his successful completion, on July 21, 2022, Petitioner's
5 felony conviction was reduced to a misdemeanor and dismissed pursuant to
6 California state law.

7 33. Today, Petitioner lives with his partner, Brenda, and their two young
8 U.S. citizen daughters, F [REDACTED] (age 11) and V [REDACTED] (age 8). Petitioner's mental health
9 is stable and he receives regular medication and mental health care. Petitioner and
10 Brenda have focused on working and raising Brenda's two young daughters, who
11 Petitioner considers to be his daughters as well. Both girls consider Petitioner to be
12 their father. He assists with their daily care and takes F [REDACTED] to Catholic school each
13 day. On or about 2022, Petitioner converted to Catholicism, as Brenda is Catholic
14 and it is their family's religion. Petitioner has worked steadily since his release, and
15 for the past two years, has worked as a driver for Uber.

16 34. In August 2025, Petitioner was accepted as a client of the Criminal
17 Justice Clinic of UC Irvine School of Law, a *pro bono* legal clinic that is currently
18 pursuing post-conviction relief for the state criminal conviction that led to the
19 grounds for Petitioner's deportation. Petitioner is also currently represented by
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1 Immigrant Defenders, a non-profit legal organization that is seeking to reopen
2 Petitioner's removal proceedings.

3 ***Petitioner's Arrest and Detention***

4 35. Since his release from ICE detention in the fall of 2017, Petitioner has
5 materially complied with the terms of the OSUP.

6 36. On July 1, 2025, Petitioner missed his check-in appointment. He was
7 not feeling well and his anxiety was high because of the news about immigrants being
8 detained at their ICE check-ins and the ICE raids in the streets of Los Angeles. He
9 emailed his deportation officer and left two phone messages saying he was not feeling
10 well enough to come in and to let him know what he should do.

11 37. On October 6, 2025, Petitioner received an email from ICE saying he
12 had to report to ICE by Friday, October 10, 2025. Petitioner went early, and reported
13 in-person on Wednesday, October 8, 2025. At that check-in, Petitioner received a
14 new OSUP in which he was directed to enroll in the Alternatives to Detention (ATD)
15 program to be fitted with a GPS monitoring device. Petitioner complied and that same
16 day was fitted with the GPS device. Petitioner was also told to next report on October
17 22, 2025.

18 38. On October 22, 2025, Petitioner reported as instructed to the Federal
19 Building in downtown Los Angeles. After several hours of waiting, and without any
20 prior notice, he was told he was being detained and he was moved to the basement

1 facility called B-18. A Deportation Officer handed him a generic *Notice of*
2 *Revocation of Release*. Although the letter listed Petitioner's name and A number
3 and the date of October 22, 2025, the body of the letter was a form letter and listed
4 no information specific to Petitioner, including no new allegations that would warrant
5 a re-detention. Upon information and belief, Petitioner currently remains in custody
6 in B-18.

7 39. During this process, Petitioner was repeatedly asked to sign documents
8 without counsel present. Petitioner refused to sign as he did not understand what he
9 was being asked to sign.

10 40. During this same October 22, 2025 appointment, a clinical law student
11 from the Criminal Justice Clinic of UC Irvine School of Law, current counsel,
12 accompanied Petitioner and was waiting outside of the building for Petitioner to
13 return. He had arrived with Petitioner at approximately 8:00am for the appointment.
14 Petitioner went inside the federal building and the law student was instructed to wait
15 outside. After waiting for approximately five hours, the law student went inside and
16 asked an officer if the Petitioner had been detained. The officer was not able to give
17 him a certain answer. At approximately 3:00pm, the law student received a phone
18 call from Brenda, Petitioner's partner. The Petitioner had been able to make one
19 phone call to Brenda informing her that he had been detained. It was at this point that
20 counsel learned that Petitioner had been detained.

1 41. Since the beginning of his detention, no ICE official has explained to
2 Petitioner the reason for his detention, the timeline by which they plan to deport him,
3 nor to what country they plan to deport him to.

4 ***Petitioner Fears Being Deported to a Third Country***

5 42. Since January 2025, ICE has been deporting individuals to third
6 countries that are not their country of origin without adequate due process. *See*
7 *D.V.D. v. U.S. Dept. of Homeland Security*, 1:25-cv-10676-BEM, [Doc. 118](#) (D. Mass.
8 May 21, 2025). According to news reports, these deportations to third countries
9 included a group of Iranians who were converts to Christianity, a group which faces
10 persecution in Iran.

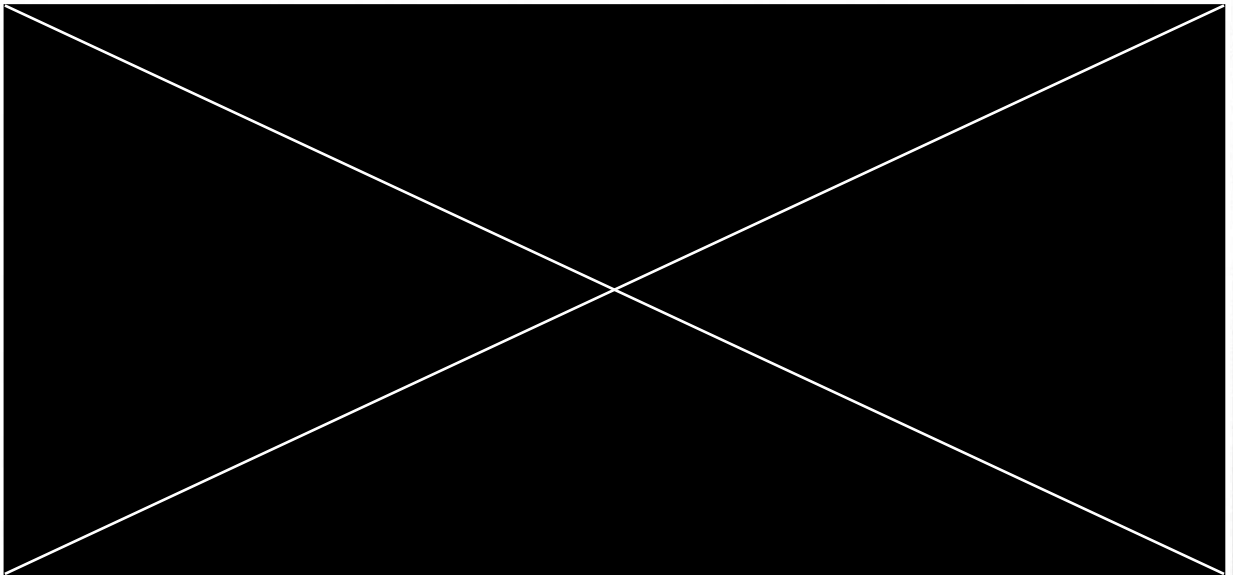
11 43. In addition to other procedural due process rights, if ICE intends to
12 deport Petitioner to a third country, he should be afforded notice and a hearing before
13 an Immigration Judge to argue why he should be entitled to Withholding of Removal
14 or protection under the Convention Against Torture (“CAT”), based on the country
15 conditions and any fear he may have of his safety there.

16 ***Petitioner’s Detention at B-18: Lack of Adequate Medical Care***

17 44. B-18 is an unofficial detention facility located in the basement of the
18 federal building in downtown Los Angeles. Despite its original designation as a
19 temporary space for detentions lasting less than 12 hours, it is now used as a more
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1 permanent detention facility. It has been widely reported as having unsanitary
2 conditions, being overcrowded, and offering no access to medical care.

3 45. Petitioner has schizoaffective disorder-bipolar type. He currently takes



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11 46. After being detained on Wednesday, October 22, 2025, Petitioner
12 missed his evening dose of Lamotrigine. In addition, he was due to pick up refills of
13 all his daily medications the next day, October 23, 2025, from his local CVS
14 pharmacy. Because he was detained, his mother went instead. She was not able to
15 pick up Petitioner's Lorazepam prescription because it is a regulated controlled
16 substance and she did not have Petitioner's ID. She was only able to pick up the three
17 other medications: Lamotrigine, Escitalopram, and Bupropion. However, Petitioner
18 is only able to take the Lamotrigine and the Bupropion if he *also* takes the Lorazepam
19 at the same time. He needs the Lorazepam to counter the negative side effects of the

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1 other two medications. Since he does not currently have his Lorazepam, he is not
2 able to take the Lamotrigine and Bupropion.

3 47. Because of Petitioner's detention, he missed his medication on the night
4 of Wednesday, October 22, 2025 and the morning of Thursday, October 23, 2025.
5 His mother brought three of the four medications to B-18 on Thursday, October 23,
6 2025. Since Friday, October 24, 2025, Petitioner has only taken the daily dose of
7 Escitalopram. He is currently only able to take one of the four daily prescribed
8 medications. As a result, Petitioner's mental health is deteriorating.

9 48. On Friday, October 24, 2025, Petitioner began shaking, experiencing
10 heavy anxiety, and having intrusive thoughts. His traumatic experiences in ICE
11 detention in 2015 to 2017 have resurfaced, causing Petitioner extreme anxiety and
12 stress. Although Petitioner was moved on Friday, October 24, 2025 to a single cell
13 in B-18, he remains highly anxious and he can tell he is not properly medicated. He
14 has not been seen by a doctor or psychiatrist. Petitioner fears he will miss his next
15 injection as that is critical for his mental health and well-being.

16 49. The confines of Petitioner's detention currently prevent him from
17 accessing his critical medications for his serious mental disorder. There is no
18 indication that Respondents have any intentions of providing Respondent with the
19 necessary medication or psychiatric care.

20 ///

Petitioner is Not a Danger or Flight Risk

50. Respondents have provided no evidence of an individualized finding that Petitioner is a flight risk or danger to society. The facts indicate the opposite. Since his last criminal conviction in 2018 and his subsequent access to supportive services and mental health treatment, Petitioner has had no further contacts with law enforcement. Petitioner has been materially complying with ICE check-ins since late 2017, as well as the other conditions set forth in the OSUP he was issued at that time.

51. Furthermore, Petitioner's home with his long-time partner, Brenda, and their two young U.S. citizen daughters, is in Los Angeles. In addition, his mother lives in Orange County and his large extended family of over forty members, who are both citizens and LPRs, live throughout the Southern California region.

52. Petitioner has representation in this habeas proceeding by counsel located in Irvine, California. This same counsel is also representing Petitioner in post-conviction relief proceedings in Los Angeles and Orange County Superior Court. Petitioner also has *pro bono* counsel assisting him in his immigration matters who is located in Los Angeles, California.

53. Despite not being a danger or flight risk, Petitioner remains in detention. Petitioner now faces imminent transfer out of this judicial district and removal from the United States.

54. These facts are verified with the attached Declarations of Alireza Hashemi, Declaration of E. Katharine Tinto, Declaration of Brenda Clemente, Declaration of Mansoureh Saraf, Expert Declaration of Dr. Mahesh, and the attached Exhibits.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Fifth Amendment to the U.S. Constitution

Procedural Due Process

55. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

56. Respondents have deprived Petitioner of his liberty without procedural protections required by the Due Process Clause when they re-arrested and detained Petitioner in violation of the governing regulations.

57. 8 U.S.C. § 1231 governs the detention and removal of noncitizens following a final order of removal. A noncitizen who has been ordered removed but has been released “shall be subject to supervision under regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3); *see also id.* § 1231(a)(6).

58. Title 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 are the regulations that govern the detention and release of removable noncitizens. These regulations also establish the procedures that must be followed if a noncitizen's order of supervision

1 is revoked. *See* 8 C.F.R. § 241.4(l); *id.* § 241.13(i). Government agencies are required
2 to follow their own regulations. *United States ex rel Accardi v. Shaughnessy*, 347
3 U.S. 260, 268 (1954); *United States v. Ramos*, 623 F.3d 672, 683 (9th Cir. 2010)

4 59. These regulations permit an official to “return[s] [the person] to
5 custody” because they “violate[d] any of the conditions of release.” 8 C.F.R.
6 § 241.13(i)(1); *id.* § 241.4(l)(1). Otherwise, they permit revocation of release only if
7 the appropriate official (1) “determines that there is a significant likelihood that the
8 alien may be removed in the reasonably foreseeable future,” *id.* § 241.13(i)(2), and
9 (2) makes that finding “on account of changed circumstances.” *Id.*

10 60. Pursuant to 8 C.F.R. § 241.4(l) and § 241.13(i), a noncitizen released on
11 an Order of Supervision must be provided notice of the reasons for the revocation.
12 *See* 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(3). Furthermore, the governing regulations
13 require the reasons to be given “upon revocation.” 8 C.F.R. § 241.4(l)(1); *id.* §
14 241.13(i)(3). An “initial informal interview” is also required upon detention. 8 C.F.R.
15 § 241.4(l)(1); *id.* § 241.13(i)(3). The purpose of the informal interview is “to afford
16 [the noncitizen] an opportunity to respond to the reasons for revocation stated in the
17 notification.” 8 C.F.R. § 241.4(l)(1); *id.* § 241.13(i)(3).

18 61. None of the requirements of the governing regulations were followed
19 this matter. The Notice of Revocation given to Mr. Hashemi lists no specific reasons
20

1 for the revocation of his OSUP. The Notice contains no factual allegations of what
2 led Respondents to re-detain Mr. Hashemi.

3 62. Numerous courts have found that ICE's failure to comply with
4 applicable regulations violates the noncitizen's due process rights. *See, e.g., Bui v.*
5 *Warden of Otay Mesa Detention Facility*, [2025 WL 2988356](#), at *5 (S.D. Cal. Oct.
6 23, 2025); *Constantinovici v. Bondi*, [2025 WL 2898985](#), at *7 (S.D. Cal. Oct. 10,
7 2025); *Phan v. Noem*, [2025 WL 2898977](#), at *5 (S.D. Cal. Oct. 10, 2025); *Esmail v.*
8 *Noem*, [2025 WL 3030589](#), at *3 (C.D. Cal. Sept. 12, 2025); *Diaz v. Wofford*, [2025](#)
9 [WL 2581575](#), at *9 (E.D. Cal. Sept. 5, 2025); *Delkash v. Noem*, [2025 WL 2683988](#),
10 at *6 (C.D. Cal. Aug. 28, 2025); *M.S.L. v. Bostick*, [2025 WL 2430267](#), at *12 (D. Or.
11 Aug. 21, 2025); *Yang v. Kaiser*, [2025 WL 2791778](#), at *5 (E.D. Cal. Aug. 20, 2025);
12 *Phan*, [2025 WL 1993735](#), at *4; *Ceesay v. Kurzdorfer*, [781 F. Supp. 3d 137, 166](#)
13 (W.D.N.Y. 2025).

14 63. Respondents' detention of Petitioner without notice and a hearing
15 violates his right to procedural due process, constituting a violation of the Fifth
16 Amendment.

17 **COUNT TWO**

18 **Violation of the Fifth Amendment to the U.S. Constitution**

19 ***Substantive Due Process***

1 64. Petitioner repeats, re-alleges, and incorporates by reference each and
2 every allegation in the preceding paragraphs as if fully set forth herein.

3 65. Respondents have deprived Petitioner of his liberty without any
4 legitimate purpose in violation of his substantive due process rights under the Fifth
5 Amendment.

6 66. The Due Process Clause applies to all “person[s],” including noncitizens
7 within the United States, “whether their presence here is lawful, unlawful, temporary,
8 or permanent.” *Zadvydas*, 533 U.S. at 693; *Trump v. J. G. G.*, 604 U.S. 670, 673
9 (2025) (“It is well established that the Fifth Amendment entitles aliens to due process
10 of law in the context of removal proceedings.”) (quoting and citing *Reno v. Flores*,
11 507 U.S. 292 (1993)).

12 67. Like any civil detention, immigration detention violates the Due Process
13 Clause if it is not reasonably related to its statutory purpose. *Zadvydas*, 533 U.S. at
14 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)); *see also Demore v. Kim*,
15 538 U.S. 510, 527 (2003) (stating that immigration detention must “bear[] a
16 reasonable relation to the purpose for which the individual was committed”) (citing
17 *Zadvydas*, 533 U.S. at 690). At a bare minimum, “the Due Process Clause includes
18 protection against unlawful or arbitrary personal restraint or detention.” *Zadvydas*,
19 533 U.S. at 718 (Kennedy, J., dissenting).

1 68. In the immigration context, the Supreme Court has recognized only two
2 valid purposes for civil detention: (1) to mitigate the risk of flight and (2) prevent
3 danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528.

4 69. Petitioner presents neither a flight risk nor a danger. Respondents have
5 not indicated that they have any plans to imminently deport him and, therefore, his
6 detention is not reasonably related to any legitimate purpose and violates the Due
7 Process Clause.

8 70. DHS had already considered whether Petitioner was a flight risk or a
9 danger to a community before he was released from ICE detention in 2017.

10 71. Now, Respondents cannot contend Petitioner presents a flight risk, as he
11 has appeared for virtually all ICE appointments that he has been required to attend
12 since 2017. When Petitioner missed one appointment in July 2025 due to his mental
13 health, he provided ample notice to his deportation officer. Furthermore, when
14 Petitioner was then told to report to ICE in early October he did so promptly, and
15 complied with the new requirement to receive an GPS ankle monitor.

16 72. Petitioner presents no danger to anyone. While he has past involvement
17 in the criminal legal system, his previous convictions are the results of untreated
18 mental health problems. After receiving treatment and community support, Petitioner
19 has achieved a stable and lawful life in California. Where, as here, an individual has
20 lived for years and materially complied with all supervision requirements ICE has

1 imposed on him, his detention serves no purpose and therefore violates the Fifth
2 Amendment. *Zadvydas*, 533 U.S. at 690.

3 73. At a minimum, suddenly arresting and jailing someone under the
4 circumstances present here is paradigmatically arbitrary, and therefore a violation of
5 even the most basic protections of the Due Process Clause. *Zadvydas*, 533 U.S. at
6 718 (Kennedy, J., dissenting).

7 **COUNT THREE**

8 **Violation of the Fifth Amendment to the U.S. Constitution**

9 ***Substantive Due Process – Health and Safety***

10 74. Petitioner repeats, re-alleges, and incorporates by reference each and
11 every allegation in the preceding paragraphs as if fully set forth herein.

12 75. Respondents have deprived Petitioner of his liberty interest in health and
13 safety without any legitimate purpose in violation of his substantive due process
14 rights under the Fifth Amendment.

15 76. The government may not deprive a person of life, liberty, or property
16 without due process of law. U.S. Const. amend. V.

17 77. The Fifth Amendment demands a higher standard of care for conditions
18 of confinement for civil detainees than for people serving criminal sentences in
19 prison, or even those in pretrial detention. *See Jones v. Blanas*, 393 F. 3d 918, 932-
20 33 (9th Cir. 2004) (stating that people detained under civil rather than criminal

1 process are “entitled to more considerate treatment than...criminally detained
2 counterparts”).

3 78. Relatedly, the Fifth Amendment protects people in civil detention from
4 conditions that “amount to punishment of the detainee.” *Bell v. Wolfish*, 441 U.S.
5 520, 533 (1979). “This standard differs significantly from the standard relevant to
6 convicted prisoners, who may be subject to punishment so long as it does not violate
7 the Eighth Amendment’s bar against cruel and unusual punishment.” *Pierce v.*
8 *County of Orange*, 526 F.3d 1190, 1205 (9th Cir. 2008).

9 79. When the government “takes a person into its custody and holds him
10 there against his will, the Constitution imposes upon it a corresponding duty to
11 assume some responsibility for his safety and general well-being.” *DeShaney v.*
12 *Winnebago Cty. Dep’t of Soc. Servs.*, 489 U.S. 189, 199–200 (1989).

13 80. Respondents’ refusal to provide Petitioner adequate health and safety,
14 including access to all of his prescription medications, adequate medical care and
15 monitoring, nutritious food, and a habitable environment in light of his serious mental
16 health issues violates Petitioner’s due process rights.

17 81. Petitioner has schizoaffective disorder-bipolar type and takes several
18 medications on a daily basis. Yet Respondents have not provided Petitioner access to
19 all of his necessary medications nor ensured that he will be able to receive critical
20 medication in the near future. B-18 has no medical facilities and because of his

1 detention, Petitioner cannot take medications that are essential to treat his
2 schizoaffective disorder-bipolar type. Furthermore, Petitioner's detention will cause
3 him to miss his next three-month injection for his schizoaffective disorder.

4 82. As a result of Respondents' failure to provide for Petitioner's health and
5 safety, Petitioner has already suffered negative health effects, which will only worsen
6 if Respondents are not held to account. Petitioner is already experiencing shaking,
7 heavy anxiety, and intrusive thoughts. If Respondents continue to deny his access to
8 his medical treatment, Petitioner may experience serious and life-threatening
9 complications.

10 83. Respondents' refusal to provide Petitioner with adequate health and
11 safety needs is putting Petitioner at risk of life-threatening consequences, and is a
12 breach of their duty to provide for his "safety and general well-being" as required by
13 the Constitution. *DeShaney*, 489 U.S. at 199-200.

14 84. These practices put individuals like Petitioner at risk and subject them
15 to worse conditions than they would face in criminal detention. As a result of these
16 violations, Petitioner's ongoing detention violates substantive due process under the
17 Fifth Amendment.

18 **COUNT FOUR**

19 **Violation of the Administrative Procedure Act**

1 85. Petitioner repeats, re-alleges, and incorporates by reference each and
2 every allegation in the preceding paragraphs as if fully set forth herein.

3 86. Under the Administrative Procedures Act (“APA”), a court “shall...hold
4 unlawful and set aside agency action, findings, and conclusions” that are arbitrary
5 and capricious. 5 U.S.C. § 706(2)(A).

6 87. An action is arbitrary and capricious if the agency “entirely failed to
7 consider an important aspect of the problem, offered an explanation for its decision
8 that runs counter to the evidence before the agency, or is so implausible that it could
9 not be ascribed to a difference in view or the product of agency expertise.” *Nat’l*
10 *Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (citation
11 omitted).

12 88. It is blackletter law that an agency must provide a “reasoned
13 explanation” for its actions. *Dep’t of Homeland Sec. v. Regents of the Univ. of*
14 *California*, 591 U.S. 1, 35 (2020). Indeed, an agency must articulate “a satisfactory
15 explanation” for its action, “including a rational connection between the facts found
16 and the choice made.” *Dep’t of Com. v. New York*, 588 U.S. 752, 773 (2019) (citation
17 omitted).

18 89. Furthermore, Petitioner has a right to set aside agency action that
19 violated agency procedures, rules, or instructions as arbitrary and capricious under
20 the *Accardi* doctrine. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260,

1 226 (1954) (“If petitioner can prove the allegation [that agency failed to follow its
2 rules in a hearing] he should receive a new hearing”). Under this doctrine, agencies
3 are bound to follow their own rules that affect the fundamental rights of individuals,
4 even those that limit otherwise discretionary decisions. *See id.* (holding that BIA
5 must follow its own regulations in its exercise of discretion); *Morton v. Ruiz*, 415
6 U.S. 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent
7 upon agencies to follow their own procedures . . . even where the internal procedures
8 are possibly more rigorous than otherwise would be required.”).

9 90. Respondents’ failure to follow its own regulations in 8 C.F.R. §§
10 241.4(l), 241.13(i) was in violation of the *Accardi* doctrine and was arbitrary and
11 capricious, constituting a violation of the APA. Moreover, there is no evidence
12 justifying Mr. Hashemi’s re-detention. An agency decision that “runs counter to the
13 evidence before the agency” is arbitrary and capricious. *Motor Vehicle Mfrs. Ass’n*
14 *of U.S., Inc.*, 463 U.S. at 43. Thus, Respondents’ revocation of Petitioner’s OSUP
15 was arbitrary and capricious and should be held unlawful and set aside.

16 **PRAYER FOR RELIEF**

17 Wherefore, Petitioner prays that this Court grant the following relief:

- 18 (1) Assume jurisdiction over this matter;
- 19 (2) Order that Petitioner shall not be transferred outside of this judicial
20 district while this petition is pending;

1 (3) Issue an Order to Show Cause ordering Respondents to show cause
2 within three days why this petition should not be granted;

3 (4) Issue a writ of habeas corpus ordering that Respondents:

4 a. release Petitioner from custody and reinstate his OSUP with the
5 same conditions in place at the time of his unlawful re-detention;
6 and/or

7 b. be enjoined from re-detaining Petitioner under 8 U.S.C.
8 § 1231(a)(6) unless and until Respondents obtain a travel
9 document for his removal;

10 c. be enjoined from re-detaining Petitioner without first following
11 due process and all procedures set forth in 8 C.F.R. §§ 241.4,
12 241.13, and any other applicable statutory and regulatory
13 procedures;

14 d. be enjoined from removing Petitioner to a third country absent
15 notice and an opportunity for him to apply for protection under
16 the Convention Against Torture;

17 (5) Award Petitioner's attorney reasonable fees and costs under the Equal
18 Access to Justice Act, as amended, 28 U.S.C. § 2412, and on any other basis justified
19 under law; and

20 (6) Grant any further relief that this Court may deem fit and proper.

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Dated: November 24, 2025 Respectfully Submitted,

/s/ Eda Katharine Tinto

E. Katharine Tinto, Esquire
California Bar No. 223654
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VERIFICATION

I am submitting this verification on behalf of Petitioner because I am his attorney in the instant habeas petition. As his attorney, I hereby verify that the factual statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed on November 24, 2025 in Los Angeles, California.

/s/ Eda Katharine Tinto

E. Katharine Tinto, Esquire
Attorney for Petitioner Alireza Hashemi

1 **CERTIFICATION OF COMPLAINE WITH LOCAL RULE 11-6.2**

2 The undersigned, counsel of record for Petitioner, certifies that this First
3 Amended Petition contains 5,927 words, which complies with word limit of Local
4 Rule 11-6.1.

5 Dated: November 24, 2025

Respectfully Submitted,

6 /s/ Eda Katharine Tinto

7 E. Katharine Tinto, Esquire
8 Attorney for Petitioner Alireza Hashemi