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Maconel-Arguello

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JACQUELINE ANTONIA MACONEL-
ARGUELLO,

Petitioner,

Case No.:

- against -

CHRISTOPHER CHESTNUT, in his official
capacity as Warden California City Correctional
Facility;

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS**

POLLY KAISER, Acting Field Office Director
of the San Francisco Immigration and Customs
Enforcement Office

TODD M. LYONS, in his official capacity as
Acting Director, U.S. Immigration and Customs
Enforcement;

KRISTI NOEM, in her official capacity as
Secretary, U.S. Department of Homeland Security;

PAMELA BONDI, in her official capacity as
Attorney General of the United States.

Respondents.

INTRODUCTION

1. Petitioner Jaqueline Antonia Maconel-Arguello (“Ms. Maconel-Arguello” or “Petitioner”) is a 38-year-old woman from Nicaragua who has fled severe political repression and violence at the hands of Nicaraguan authorities. She has already been found to possess a credible fear of persecution on account of her political opinion by a U.S. asylum officer and has a defensive asylum application pending in immigration court. She has no criminal history. Filed concurrently with this Writ of Habeas Corpus are Exhibit A-F to the Declaration of Julio J. Ramos in Support of the Writ of Habeas Corpus relied upon to make the factual assertions in this writ petition.

2. In October 2022, after establishing a credible fear, Petitioner was released from immigration custody on parole under Immigration and Nationality Act (“INA”) § 212(d)(5)(A). For nearly three years she lived and worked in Seaside, California, complied with immigration supervision through ICE’s ISAP/SmartLINK program, and supported her children and her mother in Nicaragua.

3. Consistent with that determination, Petitioner has been in removal proceedings before the immigration court and timely filed a defensive Form I-589 Application for Asylum and for Withholding of Removal within one year of her entry into the United States. USCIS issued a “Defensive Receipt Notice” acknowledging her asylum application in immigration court, and Petitioner obtained a valid employment authorization document as an asylum applicant.

4. For nearly three years, Petitioner complied with supervision through ICE’s ISAP/SmartLINK program. She attended her scheduled check-ins and used the SmartLINK

1 mobile application as directed. She never absconded, never missed an immigration court hearing,
2 and was never charged with any crime. Community members describe her as hardworking,
3 honest, and devoted to her children and her mother in Nicaragua.
4

5 5. On October 28, 2025, Petitioner appeared punctually for a routine ISAP check-in
6 at the BI/ISAP office in San José, California. Without prior notice, and without any opportunity
7 to contest alleged “administrative violations” related to SmartLINK photo submissions, she was
8 handcuffed and taken back into immigration detention. She was later transferred to California
9 City Corrections Center in this District, where she remains detained today.
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11 6. Despite her positive credible fear determination, pending defensive asylum
12 application, valid employment authorization, clean criminal record, and deep community ties,
13 Petitioner has not been afforded any custody redetermination hearing before an Immigration
14 Judge, or any other neutral decision-maker, since her re-detention.
15

16 7. Petitioner now seeks a writ of habeas corpus under 28 *U.S.C.* § 2241 to remedy
17 this unlawful and unconstitutional deprivation of liberty. She respectfully requests that this Court
18 order her immediate release from civil immigration detention or, at a minimum, require
19 Respondents to provide her with a prompt custody hearing before an Immigration Judge at which
20 the government bears the burden of justifying her continued detention.
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23 **JURISDICTION AND VENUE**

24 8. Subject-matter jurisdiction. This Court has jurisdiction under 28 *U.S.C.* § 2241
25 because Petitioner is in federal immigration custody within this District and challenges the
26 legality of that custody. The Court also has jurisdiction under 28 *U.S.C.* § 1331 (federal question),
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1 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), as
2 reinforced by Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), the Fifth
3 Amendment’s Due Process Clause, and the Administrative Procedure Act, 5 U.S.C. §§ 701–706.
4 Petitioner brings a detention-only habeas challenge to the fact and conditions of her civil
5 immigration confinement; she does not ask this Court to adjudicate the validity of any final order
6 of removal. The REAL ID Act’s jurisdiction-channeling provisions do not eliminate habeas
7 review over such detention claims. *See, e.g., Nadarajah v. Gonzales*, 443 F.3d 1069, 1075–76
8 (9th Cir. 2006); *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001); *Jennings v. Rodriguez*, 138 S.
9 Ct. 830, 839–42 (2018).

12 9. Immediate custodian and district of confinement. Petitioner is currently held by
13 ICE at California City Corrections Center, located at 22844 Virginia Boulevard, California City,
14 California 93505, in Kern County. Her immediate physical custodian is the Warden of that
15 facility. Because Petitioner is confined within the Eastern District of California, and because her
16 immediate custodian is located here, the “core” habeas rule is satisfied and this Court is the proper
17 forum to hear her challenge. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434–47 (2004); *Brittingham*
18 *v. United States*, 982 F.2d 378, 379 (9th Cir. 1992).

21 10. Venue. Venue lies in this District under 28 U.S.C. § 2241(a) and 28 U.S.C. §
22 1391(e)(1) because Petitioner is confined at a facility located within the Eastern District of
23 California and her immediate custodian resides here in his official capacity. In the alternative, to
24 the extent the Court deems additional or different respondents necessary—such as field-office
25 officials whose decisions in the San Francisco Area of Responsibility precipitated Petitioner’s
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1 re-detention—venue is also proper where a federal defendant resides and where a substantial part
2 of the events or omissions giving rise to the claim occurred. *28 U.S.C. § 1391(e)(1)*.

3
4 11. Case or controversy. Petitioner’s ongoing civil immigration detention presents a
5 live Article III case or controversy. Her incarceration at California City Corrections Center is an
6 immediate and concrete injury that this Court can redress by ordering her release or, at minimum,
7 a constitutionally adequate custody hearing. *See Zadvydas, 533 U.S. at 687–88; Nadarajah, 443*
8 *F.3d at 1075–76*.

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10 12. Substitution and transfer, if necessary. If the Court concludes that a different ICE
11 or DHS official should be substituted as the proper respondent, or that any technical venue issue
12 exists, the appropriate remedy is substitution under Federal Rule of Civil Procedure 25(d) and, if
13 needed, transfer under *28 U.S.C. §§ 1406(a) or 1631*—rather than dismissal—so that the Court
14 can promptly adjudicate the legality of Petitioner’s ongoing detention.
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17 **PARTIES**

18 13. Petitioner Jaqueline Antonia Maconel-Arguello (“Ms. Maconel-Arguello”) is a
19 native and citizen of Nicaragua who is currently in ICE custody at California City Corrections
20 Center, 22844 Virginia Boulevard, California City, CA 93505 (Kern County). She is therefore
21 detained within the Eastern District of California. Before her re-detention, Ms. Maconel-Arguello
22 resided and worked in Seaside, California under parole and supervision, has a positive credible-
23 fear determination, a pending defensive asylum application before the immigration court, valid
24 employment authorization, no criminal record, and strong community ties in California.
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1 14. Respondent Christopher Chestnut is the Warden of the California City
2 Corrections Center / California City Immigration Processing Center in California City, California.
3 As Facility Administrator, he is Petitioner's immediate, day-to-day custodian with actual control
4 over her physical confinement at that facility within this District. Respondent Chestnut is sued in
5 his official capacity only.
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7 15. Respondent Polly Kaiser serves as the Acting Field Office Director for the San
8 Francisco Field Office of U.S. Immigration and Customs Enforcement, Enforcement and
9 Removal Operations (ICE-ERO). In that role, she oversees ICE enforcement, detention, and
10 supervision decisions within the San Francisco Area of Responsibility, which includes the
11 Bakersfield, CA IHP Sub-Office identified on Petitioner's ICE detainee-locator record and the
12 California City facility where Petitioner is held. Respondent Kaiser is responsible for policies
13 and decisions governing Petitioner's detention, transfer, and potential release, and is sued in her
14 official capacity.
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16 16. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and
17 Customs Enforcement. He is charged with administering and enforcing the immigration laws of
18 the United States nationwide, including policies and practices governing civil immigration
19 detention and supervision, and bears ultimate responsibility for ICE's custody of Petitioner.
20 Respondent Lyons is sued in his official capacity.
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22 17. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland
23 Security ("DHS"). DHS has ultimate authority over U.S. Immigration and Customs Enforcement
24 and its immigration detention system, including the parole and supervision framework under
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1 which Petitioner was initially released and later re-detained. Respondent Noem is sued in her
2 official capacity.

3 18. Respondent Pamela Bondi is the Attorney General of the United States and the
4 highest-ranking official within the Department of Justice. Through her position and agents, she
5 holds oversight responsibility for the implementation and enforcement of federal immigration
6 laws. This responsibility is delegated to the Executive Office for Immigration Review, which
7 manages the immigration courts and the Board of Immigration Appeals. Respondent Bondi is
8 named in her official capacity.
9

10 EXHAUSTION

11 19. Habeas review under 28 U.S.C. § 2241 is proper here because Petitioner
12 challenges the lawfulness of her present civil immigration detention, not the validity of any
13 removal order. The statutory exhaustion provision in 8 U.S.C. § 1252(d)(1) applies to petitions
14 for review filed in the courts of appeals, not to district-court habeas challenges to executive
15 detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001) (permitting § 2241 custody
16 challenges); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018) (jurisdiction-channeling
17 provisions do not foreclose detention-only challenges in district court).
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19 20. No adequate administrative remedy exists to test the legality of Petitioner's re-
20 detention or to obtain the pre-deprivation or prompt post-deprivation custody hearing she seeks.
21 Petitioner is detained under the pre-final-order framework of 8 U.S.C. § 1226(a), but she has not
22 been afforded any bond hearing before an Immigration Judge since her arrest at the ISAP office
23 on October 28, 2025. Although noncitizens detained under § 1226(a) may theoretically request
24 a bond hearing, that process is neither automatic nor guaranteed to occur in a timeframe that
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1 could remedy the urgent and ongoing harm at issue here, and it does not provide a mechanism to
2 adjudicate the core constitutional question presented in this case—namely, whether DHS may
3 revoke years-long parole/ISAP supervision and re-detain an individual without prior notice and
4 without a prompt, meaningful hearing before a neutral decision-maker. Nor can an Immigration
5 Judge order the systemic injunctive and declaratory relief Petitioner seeks, such as enjoining
6 transfer outside this District or requiring the government to bear the burden of justifying
7 continued detention. Any later, discretionary custody review would be after-the-fact and cannot
8 cure the present constitutional violation. Requiring Petitioner—who was seized at a routine
9 check-in after years of compliance—to await uncertain administrative review while she remains
10 in custody would defeat the point of her claim. *See McCarthy v. Madigan*, 503 U.S. 140, 147–49
11 (1992) (exhaustion not required where remedies are inadequate, futile, or where irreparable injury
12 would result). Administrative exhaustion would be futile without the Court's intervention, due
13 to the BIA's decision in *Hurtado*, 29 I. & N. Dec. 216, 228 (BIA 2025) *Roman v. Noem*, 2025
14 U.S. Dist. LEXIS 186389, *14, 2025 LX 480697, 2025 WL 2710211.

18 21. Under similar circumstances, courts in this District have recently granted
19 temporary restraining orders and preliminary injunctions to individuals who, like Petitioner, were
20 re-detained after long periods on supervision or parole, recognizing that there is no meaningful
21 administrative avenue to adjudicate the due-process requirement of a pre-deprivation or prompt
22 post-deprivation hearing and ordering release or a hearing with appropriate burdens. *See Maklad*
23 *v. Murray*, No. 1:25-cv-00946 JLT SAB, 2025 U.S. Dist. LEXIS 153675 (E.D. Cal. Aug. 8, 2025);
24 *Arzate v. Andrews*, No. 1:25-cv-00942 KES-SKO (HC), 2025 U.S. Dist. LEXIS 161136 (E.D. Cal.
25 Aug. 19, 2025); *Barrera v. Andrews*, No. 1:25-cv-01006 JLT SAB, 2025 U.S. Dist. LEXIS 162825
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1 (*E.D. Cal. Aug. 21, 2025*); *Castellon v. Kaiser*, No. 1:25-cv-00968 JLT EPG, 2025 U.S. Dist.
2 LEXIS 157841 (*E.D. Cal. Aug. 14, 2025*).

3 22. Petitioner's claim is ripe. She is presently detained at California City Corrections
4 Center in Kern County. ICE's Online Detainee Locator confirms her custody and identifies the
5 Bakersfield IHP Sub-Office as the responsible ERO office. The injury she challenges—
6 revocation of her conditional liberty and continued civil confinement without a pre-deprivation
7 or prompt custody hearing—is ongoing and not speculative; the absence of any process at the
8 time of re-detention is complete, and continued custody inflicts irreparable harm on Petitioner,
9 her employment, and her family.
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11 **LEGAL BACKGROUND**

12 **A. Habeas Corpus Review of Civil Immigration Detention**

13 23. The writ of habeas corpus has long served as the primary vehicle for individuals
14 to challenge unlawful restraints on their liberty by the executive branch, including in the
15 immigration context. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001) (recognizing
16 availability of 28 U.S.C. § 2241 to challenge immigration detention); *Jennings v. Rodriguez*, 138
17 S. Ct. 830, 839–42 (2018) (same). Noncitizens in civil immigration custody may seek habeas
18 relief in district court when they contend that their detention is unauthorized by statute,
19 unreasonably prolonged, or imposed in violation of the Constitution.
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21 24. The REAL ID Act's jurisdiction-channeling provisions, 8 U.S.C. § 1252(a), limit
22 certain challenges to removal orders to petitions for review in the courts of appeals, but they do
23 not eliminate district-court habeas jurisdiction over detention-only claims that do not seek review
24 of a final order of removal. *See Nadarajah v. Gonzales*, 443 F.3d 1069, 1075–76 (9th Cir. 2006)
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1 (holding that habeas jurisdiction remains available to challenge prolonged immigration
2 detention); *Jennings*, 138 S. Ct. at 840–42. Petitioner’s claim falls squarely within this line of
3 cases: she does not contest the validity of any removal order but instead challenges the legality
4 and constitutionality of her present civil immigration detention and the procedures (or lack
5 thereof) by which DHS revoked her conditional liberty.
6

7 25. In the Ninth Circuit, exhaustion of administrative remedies in the § 2241 context
8 is prudential, not jurisdictional. Courts may excuse exhaustion where administrative remedies
9 are inadequate, futile, or incapable of providing timely and effective relief from ongoing
10 detention, and where the petitioner raises predominantly legal and constitutional questions. *See*
11 *McCarthy v. Madigan*, 503 U.S. 140, 147–49 (1992); *Puga v. Chertoff*, 488 F.3d 812, 815–16
12 (9th Cir. 2007). Those principles apply here, as Petitioner has no meaningful administrative
13 avenue to challenge the revocation of her parole/ISAP supervision without notice and the absence
14 of any prompt, neutral custody hearing.
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17 **B. Conditional Liberty Interests and Re-Detention After Release on Parole or**
18 **Supervision**

19 26. Although immigration detention is nominally “civil,” the Supreme Court has
20 repeatedly recognized that freedom from physical restraint lies at the core of the liberty protected
21 by the Due Process Clause. *See Zadvydas*, 533 U.S. at 690. Once the government has made a
22 considered decision to release a noncitizen into the community under a parole, order of
23 supervision, or alternative-to-detention (“ATD”) program, and the individual lives for years
24 under such conditions—working, building relationships, and complying with supervision—she
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1 acquires a significant liberty interest in remaining at liberty absent a lawful and individualized
2 determination that detention is necessary.

3 27. In analogous contexts, the Supreme Court has held that individuals on parole or
4 probation possess a “conditional liberty” interest that cannot be revoked without due process.
5 *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (parole); *Gagnon v. Scarpelli*, 411 U.S. 778, 782
6 (1973) (probation). As *Morrissey* explained, the “liberty of a parolee, although indeterminate,
7 includes many of the core values of unqualified liberty” and “its termination calls for some
8 orderly process, however informal.” 408 U.S. at 482. Immigration courts and federal courts have
9 applied this framework to noncitizens released on immigration parole or supervision and later re-
10 detained.
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12 28. Petitioner’s situation is analogous. After being found to have a credible fear of
13 persecution, DHS exercised its discretion to release her on parole under *INA* § 212(d)(5)(A). For
14 nearly three years she lived and worked in Seaside, California, complied with ISAP/SmartLINK
15 supervision, and pursued her defensive asylum case with valid work authorization and no
16 criminal record. Having allowed Petitioner to rebuild her life in the community under supervision,
17 the government cannot now revoke that conditional liberty by abruptly re-detaining her at a
18 routine check-in based on alleged “administrative violations” of a notoriously glitch-prone
19 mobile application, without affording her meaningful notice or an opportunity to be heard before
20 a neutral decision-maker.
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22 29. Courts in this District have recently recognized this liberty interest in remaining
23 free from re-detention after years of successful supervision and have granted temporary
24 restraining orders and preliminary injunctions to noncitizens who, like Petitioner, were suddenly
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1 taken back into custody after long periods on orders of supervision, parole, or ATD, without a
2 prior custody hearing. *See Maklad v. Murray*, No. 1:25-cv-00946 JLT SAB, 2025 U.S. Dist.
3 LEXIS 153675 (E.D. Cal. Aug. 8, 2025); *Arzate v. Andrews*, No. 1:25-cv-00942 KES-SKO (HC),
4 2025 U.S. Dist. LEXIS 161136 (E.D. Cal. Aug. 19, 2025); *Barrera v. Andrews*, No. 1:25-cv-
5 01006 JLT SAB, 2025 U.S. Dist. LEXIS 162825 (E.D. Cal. Aug. 21, 2025); *Castellon v. Kaiser*,
6 No. 1:25-cv-00968 JLT EPG, 2025 U.S. Dist. LEXIS 157841 (E.D. Cal. Aug. 14, 2025). In those
7 cases, the court concluded that the abrupt revocation of a noncitizen's long-standing release on
8 supervision, without a prior or prompt post-deprivation hearing, likely violated the Due Process
9 Clause and warranted emergency relief.
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11 **C. Procedural Due Process and the *Mathews v. Eldridge* Framework**

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13 30. The Fifth Amendment's Due Process Clause applies to "all persons" within the
14 United States, including noncitizens, and prohibits the federal government from depriving any
15 person of liberty without due process of law. *See Zadvydas*, 533 U.S. at 693. To assess what
16 process is due when the government seeks to deprive an individual of a protected liberty interest,
17 courts apply the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), which
18 weighs: (1) the private interest affected; (2) the risk of erroneous deprivation under the
19 procedures used, and the probable value of additional safeguards; and (3) the government's
20 interest, including the function involved and the burdens that additional procedures would entail.
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23 31. The Ninth Circuit has applied *Mathews* in the immigration detention context to
24 hold that when a noncitizen is detained for a prolonged period, due process requires an
25 individualized hearing at which the government bears the burden of justifying continued
26 detention by clear and convincing evidence, and the adjudicator must consider less restrictive
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1 alternatives. See e.g., *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011); *Hernandez v.*
2 *Sessions*, 872 F.3d 976, 991–92 (9th Cir. 2017). Those principles apply with particular force
3 when the government seeks not merely to maintain an existing custodial status, but to revoke an
4 individual’s long-standing release on supervision or ATD and re-incarcerate her after years in
5 the community.
6

7 32. Applying *Mathews* to the re-detention of supervised noncitizens like Petitioner,
8 courts in this District have recognized that: (1) the private interest in remaining in the community
9 after years of compliance with parole, supervision, or ATD is substantial; (2) the risk of erroneous
10 deprivation is significant when re-detention decisions are made unilaterally by enforcement
11 officers without any adversarial process, particularly where alleged “violations” may reflect
12 technological errors or minor lapses rather than true noncompliance; and (3) the government’s
13 interest in bypassing a neutral custody hearing is slight where the individual has been previously
14 deemed suitable for release and has no serious criminal history.
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16 33. Petitioner’s case illustrates exactly these concerns. Her liberty interest is
17 especially weighty: she has lived in Seaside, California for nearly three years, worked two jobs,
18 supported her children and mother, and pursued a meritorious asylum claim after a positive
19 credible-fear finding. The risk of erroneous deprivation is high where, as here, ICE revoked her
20 parole and ISAP supervision based on alleged “administrative violations” of a SmartLINK
21 application that public reports and empirical studies have documented as frequently
22 malfunctioning and prone to erroneous noncompliance alerts. And the government’s interest in
23 re-detaining a noncitizen with no criminal record, strong community ties, and a pending asylum
24 case—without any prior notice or a prompt, meaningful custody hearing—is minimal at best.
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34. Under *Mathews*, due process therefore requires, at a minimum, that before (or promptly after) revoking Petitioner's conditional liberty and re-detaining her, the government provide: (1) notice of the alleged violations; (2) an opportunity to contest those allegations and present evidence, including evidence of SmartLINK malfunctions; and (3) a custody hearing before a neutral decision-maker at which the government bears the burden of proving that detention is necessary because no set of conditions can reasonably assure Petitioner's appearance and the safety of the community. Respondents' failure to provide these basic safeguards renders Petitioner's ongoing detention unconstitutional.

FURTHER ALLEGATIONS

35. ICE's Alternatives to Detention (ATD) program, which includes the Intensive Supervision Appearance Program (ISAP), has expanded dramatically in recent years. Public data compiled by researchers and the Government Accountability Office (GAO) show that, as of March 2025, approximately 183,884 people were enrolled in ATD, with an average enrollment of 651 days, and at least 159,959 of them were being monitored by the BI SmartLINK smartphone application. BI SmartLINK, first launched in 2018 under ISAP, uses facial recognition, voice verification, and GPS-based location tracking to conduct remote check-ins, often installed on migrants' personal phones and thereby accessing sensitive personal, biometric, and location data.

36. Recent empirical research on compulsory immigration surveillance in the United States documents how migrants under ATD, and their advocates, experience BI SmartLINK and related technologies as a form of "digital incarceration," exacerbating the power imbalance between migrants and the officials or contractors who supervise them. Advocates who have

1 collectively supported thousands of migrants under ATD report that these technologies impose
2 significant burdens, are difficult to understand, and can lead to harsh consequences—including
3 re-detention—when migrants are unable to complete check-ins or misunderstand how the app
4 functions.
5

6 37. The same research and related reports reveal serious reliability and transparency
7 problems with BI SmartLINK. For example, a FOIA-based investigation found that, in a 2016
8 pilot, 56% of SmartLINK facial recognition check-ins failed, yet ICE nonetheless expanded its
9 use; SmartLINK’s voice-biometrics “pass rate” was reportedly only 75%, and the contractor
10 concluded that factors causing the low pass rate were “not subject to improvement.” A 2022
11 GAO report on ATD further concluded that ICE’s public claims about ATD compliance and
12 performance are inaccurate and “misleadingly positive,” and recommended that ICE improve
13 oversight of its ATD contractor (BI, Inc.) and develop better metrics for assessing program
14 performance—recommendations that remain largely unimplemented.
15

16 38. Qualitative findings from interviews with immigrant rights advocates highlight
17 the day-to-day consequences of these technical and structural problems. Advocates describe how
18 SmartLINK’s facial recognition software frequently fails to accept selfies, particularly for people
19 with darker skin tones, and how migrants are effectively forced to keep location services on at
20 all times under threat of sanction. They also report that app notifications and scheduling
21 information are often incomplete or incorrect, leaving migrants to believe they are “in compliance”
22 while critical court information is siloed elsewhere. When technology fails—whether because of
23 facial-recognition errors, connectivity problems, phone issues, or misunderstandings about how
24 the app works—migrants risk being accused of noncompliance, placed under more intensive
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1 surveillance, or re-detained. These usability problems create constant stress and fear among
2 people monitored by SmartLINK.

3 39. This broader context underscores the systemic risk that noncitizens supervised
4 under ISAP/SmartLINK will be erroneously found to have violated their conditions of
5 supervision based on technical failures, misunderstandings, or opaque back-end decisions by ICE
6 and its contractor, rather than willful noncompliance. Petitioner's experience is consistent with
7 these documented concerns: after nearly three years of successful participation in ISAP, she was
8 suddenly accused of "administrative violations" stemming from allegedly late SmartLINK photo
9 submissions—violations she attributes to malfunctions of the app rather than any intent to evade
10 supervision—and was re-detained at a routine check-in without notice or an opportunity to
11 contest the allegations. Against this backdrop, Respondents' decision to revoke her conditional
12 liberty and re-detain her without a pre-deprivation or prompt post-deprivation custody hearing
13 presents an especially acute risk of erroneous deprivation that due process cannot tolerate.
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16 **CLAIMS FOR RELIEF**

17 **FIRST CLAIM FOR RELIEF**

18 **(Fifth Amendment – Procedural Due Process: Re-Detention Without a Custody Hearing)**

19 40. Petitioner realleges and incorporates by reference the foregoing paragraphs as
20 though fully set forth herein.
21

22 41. The Fifth Amendment's Due Process Clause applies to "all persons" within the
23 United States, including noncitizens, and prohibits the federal government from depriving any
24 person of liberty without due process of law. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
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1 Freedom from physical restraint lies at the core of the liberty the Due Process Clause protects.
2 Id. at 690.

3 42. After Petitioner expressed a fear of return to Nicaragua, an asylum officer found
4 that she had a credible fear of persecution on account of political opinion. DHS then exercised
5 its discretion to release her from custody on parole under *INA* § 212(d)(5)(A), determining that
6 she could safely reside in the community while her protection claim proceeded. For nearly three
7 years, Petitioner lived and worked in Seaside, California, complied with ISAP/SmartLINK
8 supervision, maintained valid employment authorization as an asylum applicant, and pursued her
9 defensive asylum case in immigration court without any criminal history or allegations of
10 absconding.
11

12 43. Under these circumstances, Petitioner acquired a significant liberty interest in
13 remaining at liberty subject to reasonable conditions of supervision, rather than being summarily
14 re-incarcerated. The Supreme Court has long held that individuals on parole or probation possess
15 a “conditional liberty” interest that cannot be revoked without due process. *See Morrissey v.*
16 *Brewer*, 408 U.S. 471, 482 (1972); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973). Multiple
17 federal district courts have applied that principle in the immigration context, holding that
18 noncitizens released on parole, orders of supervision, or ATD for substantial periods of time
19 possess a protected interest in remaining free from re-detention, absent adequate process *See*,
20 e.g., *Maklad v. Murray*, No. 1:25-cv-00946 JLT SAB, 2025 U.S. Dist. LEXIS 153675, at *13–16
21 (E.D. Cal. Aug. 8, 2025); *Castellon v. Kaiser*, No. 1:25-cv-00968 JLT EPG, 2025 U.S. Dist.
22 LEXIS 157841, at *8–9 (E.D. Cal. Aug. 14, 2025).
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1 44. Despite this protected liberty interest, Respondents abruptly revoked Petitioner's
2 parole and ISAP/SmartLINK supervision and re-detained her at a routine check-in on October
3 28, 2025. Petitioner was handcuffed and taken into custody at the ISAP office in San José,
4 California, based on vague allegations of "administrative violations" related to SmartLINK photo
5 submissions. She received no prior written notice of the alleged violations, no warning that her
6 liberty was at risk, and no opportunity to present evidence or to explain that any delayed photo
7 submissions were caused by technical failures of the SmartLINK application rather than
8 intentional noncompliance. She has not been provided with any prompt custody or bond hearing
9 before an Immigration Judge or other neutral decision-maker since her re-detention.
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11 45. The adequacy of the process afforded Petitioner is evaluated under the three-factor
12 balancing test of *Mathews v. Eldridge*, 424 U.S. 319 (1976), which considers: (1) the private
13 interest affected, (2) the risk of erroneous deprivation under the procedures used and the probable
14 value of additional safeguards, and (3) the government's interest, including the function involved
15 and the fiscal and administrative burdens that additional procedures would entail.
16

17 46. First, Petitioner's private interest is weighty. For nearly three years she has lived
18 and worked in Seaside, California; supported her children and her mother in Nicaragua; complied
19 with ISAP/SmartLINK supervision; held valid employment authorization; and pursued a
20 meritorious asylum claim after a positive credible fear finding. Her sudden re-incarceration has
21 stripped her of her job, separated her from her community, and exposed her once again to the
22 risk of removal to a country where the U.S. Department of State documents widespread arbitrary
23 detention, torture, and persecution of perceived political opponents. Courts in this District have
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1 recognized that noncitizens who have spent years living in the community under supervision
2 have a “substantial” liberty interest in remaining free from re-detention.

3
4 47. Second, the risk of erroneous deprivation under the procedures used here is
5 unacceptably high, and the probable value of additional safeguards is great. Petitioner’s re-
6 detention was based on untested, unilateral enforcement determinations by ICE and/or its ISAP
7 contractor, without any adversarial process. Empirical research and government reports show
8 that BI SmartLINK—on which ICE relies to generate alleged “violations”—has a documented
9 history of technical failures and false noncompliance alerts, including facial-recognition and
10 voice-verification check-ins that fail at high rates and location reporting that is often inaccurate
11 or incomplete. Qualitative accounts from advocates further show that migrants frequently
12 struggle with SmartLINK’s usability problems and opaque decision-making, and that technology
13 failures can lead to escalated surveillance or re-detention even when the individual is trying to
14 comply. By denying Petitioner any notice, opportunity to be heard, or neutral review of the
15 alleged SmartLINK “violations,” Respondents maximized the risk that she would be erroneously
16 deprived of her liberty based on technological glitches or minor, explainable lapses rather than
17 genuine noncompliance.
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20 48. Third, the government’s interest in bypassing a neutral custody hearing in
21 Petitioner’s case is slight. The government has already determined, through its prior grant of
22 parole and three years of ISAP/SmartLINK supervision, that Petitioner can safely live in the
23 community while her asylum case proceeds. Petitioner has no criminal record, has never been
24 accused of violence, and has consistently appeared for supervision and pursued her immigration
25 case. Any legitimate interest in ensuring her appearance at future hearings or protecting the
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community can be addressed through continued supervision or, if necessary, reasonable conditions of release set by an Immigration Judge after an individualized hearing. Requiring a brief custody hearing—at which the government bears the burden of justifying detention and the adjudicator considers less restrictive alternatives—would impose minimal administrative burden compared to the severe intrusion on Petitioner’s liberty caused by indefinite civil confinement.

49. Balancing these factors under Mathews, the procedures used to revoke Petitioner’s conditional liberty and re-detain her were constitutionally deficient. Due process required, at a minimum: (1) notice of the alleged ISAP/SmartLINK violations; (2) an opportunity to contest those allegations, present evidence of SmartLINK malfunctions, and explain her circumstances; and (3) a prompt custody/bond hearing before a neutral decision-maker at which the government bore the burden of proving, by clear and convincing evidence, that Petitioner posed a danger or a flight risk that could not be mitigated by conditions of release, and at which the adjudicator considered less restrictive alternatives to detention. *See Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011); *Hernandez v. Sessions*, 872 F.3d 976, 991–92 (9th Cir. 2017).

50. Because Respondents provided none of these safeguards before or promptly after re-detaining Petitioner on October 28, 2025, their actions violate the Fifth Amendment’s guarantee of procedural due process. Petitioner is entitled to habeas relief in the form of immediate release from custody, or, at a minimum, an order requiring Respondents to provide her with prompt custody/bond hearing that comports with due process. Deprivation that due process cannot tolerate.

SECOND CLAIM FOR RELIEF

(Fifth Amendment – Substantive Due Process: Arbitrary and Excessive Civil Immigration Detention)

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2 51. Petitioner realleges and incorporates by reference the foregoing paragraphs as
3 though fully set forth herein.

4 52. The Fifth Amendment's Due Process Clause "forbids the Government to deprive
5 any person of life, liberty, or property in such a way that ... interferes with rights implicit in the
6 concept of ordered liberty." *United States v. Salerno*, 481 U.S. 739, 746 (1987) (cleaned up). In
7 the context of civil immigration detention, due process requires that confinement bear a
8 reasonable relation to its legitimate purposes—principally, ensuring the noncitizen's appearance
9 at immigration proceedings and protecting the community—and that detention not be excessive
10 in relation to those purposes. *See Zadvydas v. Davis*, 533 U.S. 678, 690–92 (2001); *Demore v.*
11 *Kim*, 538 U.S. 510, 527–31 (2003).
12

13 53. Petitioner's present detention is not reasonably related to any legitimate
14 governmental interest. She has no criminal history in the United States or Nicaragua; has never
15 been accused of violence or dangerous conduct; has consistently appeared for immigration
16 hearings and ISAP/SmartLINK check-ins; and has, for nearly three years, lived and worked
17 peacefully in Seaside, California under DHS supervision while pursuing her defensive asylum
18 application with valid employment authorization. Her positive credible-fear determination and
19 pending asylum claim further underscore that she has a strong incentive to remain in the United
20 States and continue appearing for proceedings, rather than abscond.
21

22 54. Respondents' sole proffered basis for re-detaining Petitioner appears to be alleged
23 "administrative violations" of ISAP/SmartLINK requirements, namely purported late
24 SmartLINK photo submissions. Petitioner, however, reports that any delayed submissions were
25 caused by technical failures of the SmartLINK application—consistent with empirical evidence
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1 and government reports documenting SmartLINK's high rates of technological malfunction and
2 false noncompliance alerts—rather than intentional evasion or disregard of supervision. Even if
3 the alleged “violations” occurred exactly as ICE contends, they amount, at most, to minor or
4 technical lapses that do not demonstrate that Petitioner is a danger to the community or a serious
5 flight risk.
6

7 55. In light of Petitioner's clean criminal record, years of compliance under parole
8 and ISAP/SmartLINK, stable residence and employment in Seaside, California, positive
9 credible-fear finding, and ongoing asylum case, continuing to hold her in a secure immigration
10 detention facility is grossly disproportionate to any legitimate regulatory goal. Any conceivable
11 interest in ensuring her appearance at future proceedings or protecting the community can be
12 adequately served by less restrictive alternatives—such as continued ISAP/SmartLINK
13 supervision, periodic in-person reporting, or other reasonable conditions of release—rather than
14 jail-like confinement.
15

16 56. By re-detaining Petitioner based solely on alleged administrative SmartLINK
17 violations, without any individualized determination that she presents a danger or unmanageable
18 risk of flight and without considering less restrictive means of supervision, Respondents have
19 transformed what is supposed to be civil, regulatory detention into a punitive measure. Such
20 detention is arbitrary and excessive in relation to the government's stated purposes and therefore
21 violates substantive due process. *See Zadvydas*, 533 U.S. at 690–92; *Foucha v. Louisiana*, 504
22 U.S. 71, 79–83 (1992) (holding that continued confinement of a person who is neither mentally
23 ill nor dangerous violates due process).
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1 57. Respondents' continued detention of Petitioner at California City Corrections
2 Center, under these circumstances, shocks the conscience and is not justified by any legitimate
3 governmental interest that cannot be met through less restrictive alternatives. Petitioner is entitled
4 to habeas relief on this independent constitutional ground and respectfully requests that the Court
5 order her immediate release from civil immigration detention, or, at a minimum, require
6 Respondents to provide a prompt custody/bond hearing before a neutral decision-maker at which
7 the government bears the burden of proving that continued detention is necessary and that no set
8 of conditions can reasonably assure Petitioner's appearance and the safety of the community.
9

10 **THIRD CLAIM FOR RELIEF**

11 **(Administrative Procedure Act, 5 U.S.C. §§ 701–706: Arbitrary and Capricious**
12 **Revocation of Parole/ISAP Supervision and Continued Civil Immigration Detention)**
13

14 58. Petitioner realleges and incorporates by reference the foregoing paragraphs as though
15 fully set forth herein.

16 59. The Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701–706, requires that
17 federal agency action not be “arbitrary, capricious, an abuse of discretion, or otherwise not in
18 accordance with law,” “contrary to constitutional right,” or “in excess of statutory jurisdiction,
19 authority, or limitations.” 5 U.S.C. § 706(2)(A), (B), (C). The APA further requires agencies to
20 consider all important aspects of the problem before them, to articulate a rational connection
21 between the facts found and the choices made, and to treat similarly situated individuals
22 consistently.
23

24 60. Respondents, acting through ICE and its Enforcement and Removal Operations
25 (“ERO”) officers, took final agency action when they revoked Petitioner's parole and
26 ISAP/SmartLINK supervision and decided to hold her in secure civil immigration detention at
27

1 California City Corrections Center, based on alleged “administrative violations” of
2 ISAP/SmartLINK conditions. That decision effectively terminated Petitioner’s prior release on
3 parole and ATD, replaced it with jail-like confinement, and fixed her present custodial status.
4 There is no further internal agency appeal that Petitioner must pursue before seeking judicial
5 review of these decisions.
6

7 70. Respondents failed to consider, or gave impermissibly little weight to, critical factors
8 that they were required to take into account, including: (a) Petitioner’s positive credible-fear
9 determination; (b) her timely filed defensive asylum application; (c) her valid employment
10 authorization; (d) her lack of any criminal record; (e) her long-standing compliance with
11 supervision over nearly three years; and (f) her strong family, employment, and community ties
12 in Seaside, California. Respondents also failed to consider obvious, less restrictive alternatives
13 to detention, such as continued participation in ISAP/SmartLINK with appropriate adjustments,
14 periodic in-person reporting, or other conditions of release.
15

16 71. Instead, Respondents rested their decision almost entirely on alleged “administrative
17 violations” of SmartLINK—namely, purportedly late photo submissions—without meaningfully
18 investigating Petitioner’s explanation that any delays were caused by technical malfunctions of
19 the application, without assessing the reliability of SmartLINK data in her case, and without
20 providing any contemporaneous, reasoned explanation as to why these alleged violations
21 justified revoking years of successful parole/ATD and imposing secure confinement.
22

23 72. Respondents’ actions were arbitrary and capricious because they: (a) ignored
24 important aspects of the problem, including Petitioner’s compelling equities and the well-
25 documented technical limitations of SmartLINK; (b) failed to articulate a rational connection
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1 between the alleged violations and the drastic step of re-detention; (c) departed from settled
2 principles that civil immigration detention should be used only where necessary to ensure
3 appearance or protect the community; and (d) failed to provide Petitioner with any meaningful
4 process to contest the allegations or present evidence before or promptly after re-detention.
5

6 73. Respondents' revocation of Petitioner's parole and ISAP/SmartLINK supervision and
7 their decision to continue detaining her are also "not in accordance with law" and "contrary to
8 constitutional right" because they were taken in a manner that violates the Fifth Amendment's
9 procedural and substantive due process protections, as alleged in the First and Second Claims for
10 Relief.
11

12 74. Under 5 U.S.C. § 706(2), Petitioner is entitled to have these arbitrary, capricious, and
13 unlawful custody decisions set aside. Petitioner respectfully requests that this Court: (a) declare
14 that Respondents' revocation of her parole and ISAP/SmartLINK supervision and their decision
15 to detain her at California City Corrections Center were arbitrary, capricious, and contrary to
16 law; and (b) order Respondents to rescind those decisions and restore Petitioner to lawful release
17 under appropriate conditions, or, in the alternative, provide a prompt, neutral custody/bond
18 hearing that complies with due process and the requirements set forth by this Court.
19
20

21 **PRAYER FOR RELIEF**
22

23 WHEREFORE, Petitioner respectfully requests that this Court:

24 A. Assume jurisdiction over this action under 28 U.S.C. § 2241 and all other
25 applicable provisions;
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1 B. Issue a writ of habeas corpus directing Respondents to IMMEDIATELY
2 RELEASE Petitioner from civil immigration detention at California City Corrections Center,
3 under such reasonable conditions of supervision as the Court deems appropriate, including but
4 not limited to parole, continued participation in an alternatives-to-detention program, or periodic
5 in-person reporting;
6

7 C. In the alternative to immediate release, order Respondents to provide Petitioner
8 with a prompt custody/bond hearing before an Immigration Judge or other neutral decision-
9 maker within a specified, short period (e.g., within seven to ten days of the Court's order), at
10 which:
11

12 (i) the government bears the burden of proving, by clear and convincing evidence, that
13 Petitioner poses a danger to the community or a serious risk of flight that cannot reasonably be
14 addressed by conditions of release; and
15

16 (ii) the adjudicator is required to consider and, where appropriate, impose less
17 restrictive alternatives to detention rather than continued incarceration;
18

19 D. Declare that Respondents' revocation of Petitioner's parole and
20 ISAP/SmartLINK supervision and their decision to re-detain and continue detaining her without
21 a pre-deprivation or prompt post-deprivation custody hearing violate the Fifth Amendment's Due
22 Process Clause and are arbitrary, capricious, and contrary to law within the meaning of the
23 Administrative Procedure Act;
24

25 E. Enjoin Respondents, their officers, agents, servants, employees, attorneys, and all
26 persons acting in concert or participation with them from transferring Petitioner outside the
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1 Eastern District of California or removing her from the United States while this Petition, and any
2 related motion for temporary or preliminary relief, is pending, absent further order of this Court;

3 F. Require Respondents to promptly provide Petitioner's counsel and this Court with
4 any records or documentation reflecting the basis for Petitioner's re-detention, including any
5 records of alleged ISAP/SmartLINK "violations" and internal custody determinations regarding
6 Petitioner;

7
8 G. Award Petitioner her reasonable attorneys' fees and costs under the Equal Access
9 to Justice Act, 28 U.S.C. § 2412, and any other applicable authority, if appropriate; and
10

11
12 H. Grant such other and further relief as the Court deems just and proper.

13 Dated: November 18, 2025, San Francisco, California
14

15
16 Respectfully Submitted,

17 JULIO J. RAMOS

18 /s/ Julio J. Ramos

19 Julio J Ramos
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner Jaqueline Antonia Maconel-Arguello and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully Submitted,

JULIO J. RAMOS

/s/ Julio J. Ramos

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