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**UNITED STATES DISTRICT COURT**
**CENTRAL DISTRICT OF CALIFORNIA**

DIANA CAROLINA RIVERA MENDOZA,

Petitioner,

v.

KRISTI NOEM, Secretary of the United States Department of Homeland Security; PAMELA BONDI, Attorney General of the United States; TODD LYONS, Acting Director of United States Immigration and Customs Enforcement; FERETI SEMAIA; Warden, Adelanto ICE Processing Center; ERNESTO SANTACRUZ, Acting Field Office Director of the Los Angeles Immigration and Customs Enforcement Office in their official capacities,

Respondents.

Case No. 5:25-CV-03227

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241;**

**VERIFIED PETITION**

**PETITIONER'S DHS NO:** [redacted]

## INTRODUCTION

1. In violation of due process, Diana Carolina Rivera Mendoza ("Petitioner") is being unlawfully detained by Respondents at the Adelanto U.S. immigration and Customs Enforcement ("ICE") Processing Center ("Adelanto").[1]

2. Petitioner, a mother of two children, ages ten and fourteen, fled Nicaragua to seek asylum in the United States after crossing the Texas border on Dec. 14, 2022. Ex. A; LeRoy decl. at ¶ 4. On that same day, United States Border Patrol (USBP) took Petitioner into custody "for unlawfully entering the United States from Mexico, at a time and place other than as designated by the Secretary of the Department of Homeland Security of the United States" presumably under 8 U.S.C. § 1182(a)(6)(A)(i). Ex. A; LeRoy decl. at ¶ 4. On August 25, 2025, Petitioner was charged under Section 1182(a)(7)(A)(i)(I) as an immigrant who is "not in possession of a valid unexpired immigrant visa ... or other valid entry document." Exs. A, J; LeRoy decl. at ¶ 4.

3. On December 15, 2022, USBP released Petitioner "due to detention capacity at the Central Processing Center in El Paso, TX." Ex. A; LeRoy decl. at ¶¶ 4, 5. In doing so, the immigration officials necessarily determined that Petitioner did not present a risk of flight or danger to the community. See 8 C.F.R. § 1236.1(c)(8) ("Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien not described in section 236(c)(1) of the Act [Immigration and Nationality Act], under the conditions at section 236(a)(2) and (3) of the Act; provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.").

4. The records relating to Petitioner's immigration status do not indicate that

[1] Facts asserted in this petition are drawn from the attached declaration of Carrie LeRoy, counsel for Petitioner, and from exhibits to that declaration. Further citation will be made directly to the individual exhibits attached to the declaration, or to the declaration itself, hereinafter "LeRoy decl."

the decision to release her from custody on December 15, 2022 was in accordance with the mandatory detention provisions of 8 U.S.C. § 1225(b)(2), which permit release solely "for urgent humanitarian reasons or significant public benefit." Ex. A; LeRoy decl. at ¶ 5. To the contrary, Respondents specified in Form I-213 that Petitioner's release in 2022 was due to detention center "capacity" limitations. Ex. A. Petitioner was given notice that if she failed to comply with her legal requirements, she could be arrested, but she was not given notice that if she complied with such requirements, she could also be arrested. Ex. D; LeRoy decl. at ¶ 5.

5. Respondents have not alleged in any immigration proceedings that Petitioner has a criminal record or poses a flight risk or threat to the community, nor is there any basis to conclude that Petitioner has engaged in any criminal conduct or intends to disregard her obligations under immigration law. LeRoy decl. at ¶¶ 4, 5. Respondents specifically confirmed on DHS Form I-213 that Petitioner "does not have any criminal history." Ex. A; LeRoy decl. at 8.

6. Letters of support for Petitioner from her employer and friends in the United States demonstrate that she is a well-regarded, law-abiding and hard-working mother who has integrated into her community and has strong ties and support in the United States. Exs. F, G; LeRoy decl. at 8.

7. Petitioner is seeking asylum in the United States because she was persecuted by the Nicaraguan government for her opposition to its authoritarian, repressive regime and has a credible fear that she will be imprisoned, tortured or executed because of her political beliefs if forced to return to Nicaragua. Ex. B; LeRoy decl. at ¶¶ 6, 7.

8. Petitioner filed Form I-589, Application for Asylum and for Withholding of Removal (Ex. B; LeRoy decl. at ¶ 7) and on September 10, 2024, she obtained a DHS-issued social security number and DHS-issued class C08 work authorization permitting her to work in the United States pending proceedings in her

asylum case. Ex. C; LeRoy decl. at ¶ 6. Since November 12, 2024 until her sudden and unexpected re-detention on August 25, 2025, Petitioner, had been gainfully employed at a fast-food restaurant in Lancaster, California. Ex. F; LeRoy decl. at ¶ 6. Prior to her re-detention on August 25, 2025, Petitioner had been working and building her life in the United States for over two years, enjoying an invaluable liberty interest.

9. Upon Petitioner's re-detention in August of 2025, Respondents moved to terminate her asylum application to facilitate her removal to a third country, Honduras, where Petitioner has no family, community ties, work or other connections. Ex. E; LeRoy decl. at ¶ 7.

10. Prior to filing this federal action, on November 20, 2025, Petitioner sought a bond hearing in her immigration case through her immigration counsel that has thus far not resulted in her release. LeRoy decl. at ¶ 9. The next hearing date in immigration court for Petitioner on the question of whether she is removable to Honduras is not until February 6, 2026-nearly six months after her detention at Adelanto commenced. Ex. I; LeRoy decl. at ¶ 9.

11. Petitioner is experiencing mental anguish and physical pain related to her detention, including emotional distress regarding her inability to speak regularly with her two children while in detention and severe back pain. Ex. I; LeRoy decl. at ¶ 10. Petitioner was receiving care for back pain prior to her detention, but Adelanto has not provided her with treatment that is sufficient to relieve her pain. Ex. I; LeRoy decl. at ¶ 10. Petitioner has extreme difficulty sleeping as a result of such pain. LeRoy decl. at ¶ 10. Petitioner is the primary financial and emotional support for her two children and she and her children are both suffering from her inability to communicate regularly. LeRoy decl. at ¶ 10.

12. Prior to her detention, Petitioner would help her children with their homework and check in with them regularly. LeRoy decl. at ¶ 10. Petitioner is

desperate to restore her relationship with her children after several months of limited communications with them in detention, in particular because one of her two children expressed concern to her that her absence might mean that she is abandoning them. LeRoy decl. at ¶ 10.

13. Petitioner presents no flight risk and has no criminal history to justify her arrest or detention. Ex. A; LeRoy decl. at ¶ 8. Indeed, Respondents specifically indicated on DHS Form I-213 that Petitioner "does not have any criminal history." Ex. A; LeRoy decl. at ¶ 8. Petitioner obtained work authorization and a corresponding social security card issued by DHS on September 10, 2024, applied for asylum in the United States and was employed, residing and working in Lancaster, California when she attended an ICE check in on August 25, 2025 in Los Angeles, California. Exs. A, B, C. Respondents now arbitrarily seek to deport Petitioner to a third country, Honduras, in which Petitioner has no family members, community ties or connections whatsoever. Ex. E; LeRoy decl. at ¶ 7. The merits of her asylum claim have not been heard. LeRoy decl. at ¶ 7.

14. The basis for Petitioner's re-detention appears to be both arbitrary and unclear, as the August 25, 2025 charging document in her case refers to her as an "arriving alien" (Ex. J) as if she had not already been present in the United States since December 15, 2022, the date of her release from ICE custody after she had been charged with "unlawfully entering the United States from Mexico, at a time and place other than as designated by the Secretary of the Department of Homeland Security of the United States." (Ex. A; LeRoy decl. at ¶ 4).

15. The record in Petitioner's immigration case demonstrates that Petitioner is a well-regarded, law-abiding and hard-working mother who has integrated into her community and has strong family support and in the United States. Exs. F, G; LeRoy decl. at ¶ 8.

16. Petitioner's arrest had nothing to do with her individual case, as

she is neither a flight risk, has no criminal record and is not a threat to others. Ex. A; LeRoy decl. at ¶ 8. Instead, her arrest and re-detention are part of a new, nationwide DHS strategy of sweeping up migrants who attend their immigration court hearings and ICE check-ins, detaining them, and seeking to re-route them to fast-track deportations. Since mid-May of 2025, DHS has implemented a coordinated practice of immigration detention to strip people like Petitioner of their due process rights and pressure them into deportation, which could amount to a death sentence in Nicaragua for Petitioner. This coordinated operation is aimed at dramatically accelerating deportations to meet ICE deportation quotas.

17. Petitioner's summary arrest and indefinite detention flout the Constitution. The *only* legitimate interests that civil immigration detention serves are mitigating flight risk and preventing danger to the community. When those interests are absent, the Fifth Amendment's Due Process Clause squarely prohibits detention. Additionally, by summarily arresting and detaining Petitioner without a pre-deprivation bond hearing and without making any affirmative showing of changed circumstances, Respondents violated Petitioner's procedural due process rights. At the very least, prior to her re-detention, she was constitutionally entitled to a hearing before a neutral decisionmaker at which the government should have justified her re-detention—or been ordered to release her. Instead, Petitioner has been detained at Adelanto since August 25, 2025, her bond request in the immigration court has thus far not resulted in her release and her next immigration court hearing in detention is not until February 6, 2026—nearly six months after her detention at Adelanto commenced. LeRoy decl. at ¶ 9.

18. The mandatory detention provisions of Section 1225(b)(2)(A) do not apply to Petitioner. Rather, she is subject to detention under Section 1226(a), and eligible for release on bond. Petitioner was unquestionably detained in the interior of the country at her ICE check in, years after initially entering the

United States; thus, she is not suddenly an "arriving alien" or "seeking admission" at the time of her re-detention. Thus, her detention is governed by section 1226(a). *See, e.g., Mosqueda v. Noem*, No. 25-cv-2304, 2025 WL 2591530, at *5 (C.D. Cal. Sept. 8, 2025).

19. Nevertheless, earlier in July 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for applicants who arrived in the United States without documents.

20. On September 5, 2025, the BIA issued *Matter of Yajure Hurtado*, adopting DHS's arguments, overruling prior agency practice, and holding that Section 1225(b)(2)(A) applies to all noncitizens present in the United States seeking admission, subjecting them to mandatory detention during removal proceedings. *See Matter of Yajure Hurtado*, 29 I & N Dec. 216, 220 (BIA 2025). This interpretation misconstrues the statute and violates due process. *See Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *5 (C.D. Cal. Sept. 8, 2025). Historically, DHS interpreted § 1226(a) as applying to individuals like the Petitioner. Respondents and immigration judges have now taken the position that immigration judges lack jurisdiction to even hear bond requests—rewriting the Immigration and Nationality Act to require mandatory detention without bond for all aliens, regardless of how long they have been in the interior of the United States.

21. As a result of her arrest and detention, Petitioner is suffering irreparable and ongoing harm. LeRoy decl. at ¶ 10. Petitioner has lost the ability to earn income to support her two children, has been separated from her loved ones and from her community and has experienced severe physical pain and emotional distress resulting from her detention. Ex. I, LeRoy decl. at ¶ 10.

22. All individuals within the United States have constitutional rights.

"[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

23. Accordingly, Petitioners seek a writ of habeas corpus requiring that Petitioner be immediately released unless Respondents demonstrate at a bond hearing within seven (7) days of the issuance of this writ, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community.

## JURISDICTION AND VENUE

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

25. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 78, 484, 493- 500 (1973). Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Central District of California.

## REQUIREMENTS OF 28 U.S.C. § 2243

26. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative

remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 20 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

**PARTIES**

27. Petitioner is a law-abiding mother of two children who has applied for political asylum in the United States after crossing the border and being released by ICE in December 2022. She has been wrongfully re-detained at Adelanto since August 25, 2025.

28. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees ICE, which is responsible for Petitioners' detention. Ms. Noem has ultimate custodial authority over Petitioner. She is sued in her official capacity.

29. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review, and the BIA and immigration court system it operates, is a component agency. She is sued in her official capacity.

30. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement, a federal law enforcement agency within the Department of Homeland Security. ICE's responsibilities include operating the immigration detention system. In his capacity as ICE Acting Director, Respondent Lyons exercises control over and is a custodian of persons held at ICE facilities nationally. He is Petitioner's immediate custodian and is responsible for Petitioners' detention . He is sued in his official capacity.

31. Respondent Ernesto Santacruz is the Acting Director of the Los

Angeles Field Office, where Petitioner was unlawfully arrested and sent to Adelanto. He is sued in his official capacity.

32. Respondent Fereti Semaia is the Warden of Adelanto, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued In his official capacity.

**EXHAUSTION**

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

34. There is no requirement to exhaust administrative remedies because no other forum exists in which Petitioner can raise the claims herein. There is no statutory exhaustion requirement prior to challenging the constitutionality of an arrest or detention or challenging a policy under the Administrative Procedure Act. In addition, any further exhaustion requirements would be unreasonable, as immigration judges have now taken the position, citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025), that they lack jurisdiction to conduct a bond redetermination hearing with respect to migrants such as Petitioner, who are deemed an applicant for admission to the United States who did not have required documents or arrived without the authorization of the Attorney General on the date entry into the United States. Although Petitioner is not subject to mandatory detention as an arriving alien who has not entered and been released within the interior of the United States, immigration courts have also taken the position that an arriving alien is not eligible for bond. *See Matter of Q. Li,* 29 I. & N. Dec. 66, 69 (BIA 2025). As such, it would be futile for Petitioner to seek a bond hearing and release in immigration court. Only an order of this Court could effectively grant Petitioner relief. *See Mosqueda v. Noem,* No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *5; (C.D. Cal. Sept. 8, 2025).

35. Prudential exhaustion is not required here because it would be futile, and Petitioner will "suffer irreparable harm if unable to secure immediate judicial consideration of [their] claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). A court may waive the prudential exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)); *Mosqueda v. Noem,* No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025).

## LEGAL BACKGROUND.

### A. Due Process Violations

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

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

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

[the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

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

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

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

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

43. This reasoning applies with equal if not greater force to people released from civil immigration detention at the border with no criminal record, like

Petitioner. Noncitizens living in the United States like Petitioner have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. And, "[g]iven the civil context [of immigration detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

**B. Statutory Violations**

44. Individuals previously released by DHS, like Petitioner, have necessarily been deemed neither a flight risk nor a danger. 8 C.F.R 1236.1(c)(8) (authorizing release of noncitizens under 1226(a) if they "would not pose a danger to property or persons," and are "likely to appear for any future proceeding"); 8 C.F.R. 212.5(b) (authorizing parole from custody of noncitizens deemed "neither a security risk nor a risk of absconding.").

45. In cases of individuals previously released by DHS, re-detention under Section 1226(a) requires an individualized determination of a material change in circumstances relating to flight risk or danger. *See Ortega*, 415 F.Supp.3d at 968 ("DHS re-arrests individuals only after a 'material' change in circumstances." (citing *Saravia*, 280 F.Supp.3d at 1197)); *see also Matter of Sugay*, 171 I&N Dec. 637, 640 (B.I.A. 1981). Absent a material change in circumstances, the re-detention of noncitizens previously released by DHS violates the INA because it does not serve the purpose of the statute.

## FACTUAL ALLEGATIONS

46. On January 20, 2025, the day that President Trump took office for his second term. That day, President Trump signed Executive Order 14159, "Protecting the American People Against Invasion," the purpose of which was "to faithfully execute the immigration laws against all inadmissible and removable aliens, particularly those aliens who threaten the safety or security of the American people." Exec. Order No. 14,159, 90 C.F.R. § 8443 (Jan. 20, 2025). The order directed the

Secretary of Homeland Security to take various actions "to ensure the efficient and expedited removal of aliens from the United States." *Id.*

47. Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign targeting people who are in regular removal proceedings in immigration court, many of whom have pending applications for asylum or other relief. This coordinated operation is aimed at dramatically accelerating deportations" by arresting people at the courthouse or their ICE check-in appointments.

48. DHS's aggressive tactics at immigration courts appear to be motivated by the Administration's imposition of a new daily quota of 3,000 ICE arrests. In part as a result of this campaign, ICE's arrests of noncitizens with *no criminal record* have increased more than 800% since before January.

49. The new arrest and detention campaign is a sharp break from DHS's previous practices, when immigration officers avoided arrests at ICE check-in appointments and courthouses given the concern that such enforcement actions would deter people from appearing for their proceedings and complying with court orders.[2]

50. The government's new campaign is also a significant shift from previous DHS practice of re-detaining noncitizens only after a material change in circumstances. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (describing prior practice).

51. Petitioner's detention is a result of DHS's new unlawful enforcement campaign. Petitioner arrived in the United States on Dec. 14, 2022, after crossing the Texas border. On December 14, 2022, United States Border Patrol took Petitioner into custody "for unlawfully entering the United States from

[2] Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE Is Seeking to Ramp Up Deportations Through Courthouse Arrests*, N.Y. Times, May 30, 2025, https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html.

Mexico, at a time and place other than as designated by the Secretary of the Department of Homeland Security of the United States" presumably under 8 U.S.C. § 8 U.S.C. 1226(a)(2)(B). Ex. A; LeRoy decl. at ¶ 4. On December 15, 2022, Petitioner was released from custody by ICE. The notices provided by Respondents do not indicate that she was released on December 15, 2022 in accordance with the mandatory detention provisions of 8 U.S.C. § 1225(b)(2) "for urgent humanitarian reasons or significant public benefit." Ex. A; LeRoy decl. at ¶ 5. Rather, Respondents specified that Petitioner's release in 2022 was due to detention center "capacity" limitations. Ex. A; LeRoy decl. at ¶ 5.

52. Petitioner was arrested and re-detained on August 25, 2025 when she attended a routine check in with ICE in Los Angeles, California. Ex. A; LeRoy decl. at ¶ 3. On August 25, 2025, Petitioner was charged by Respondents under Section 1182(a)(7)(A)(i)(I) as an immigrant who is "not in possession of a valid unexpired immigrant visa ... or other valid entry document" and she was identified as "an arriving alien," as if she had not been living in the interior of the United States for nearly three years. Exs. A, J; LeRoy decl. at ¶ 4. Respondents did not provide any notice to Petitioner specifying any changed circumstances or other reason for Respondents' decision to re-detain her on August 25, 2025. Exs. A, J; LeRoy decl. at ¶ 4.

53. Petitioner presents no flight risk and has no criminal history to justify her arrest or re-detention. Ex. A; LeRoy decl. at ¶ 8. Indeed, Respondents specifically indicated on DHS Form I-213 that Petitioner "does not have any criminal history." Ex. A; LeRoy decl. at ¶ 8. Petitioner obtained work authorization and a corresponding social security card issued by DHS on September 10, 2024, applied for asylum in the United States and was employed, residing and working in Lancaster, California when she attended an ICE check in on August 25, 2025 in Los Angeles, California. Exs. A, B, C. Respondents now arbitrarily seek to deport

Petitioner to a third country, Honduras, in which Petitioner has no family members, community ties or connections whatsoever. Exs. A, E; LeRoy decl. at ¶ 7. The merits of her asylum claim have not been heard. LeRoy decl. at ¶ 7.

54. Meanwhile, conditions have deteriorated in Nicaragua for opponents of the authoritarian regime. Petitioner has a credible fear that she will be imprisoned, tortured or executed because of her political beliefs if forced to return to Nicaragua. Ex. B; LeRoy decl. at ¶¶ 6,7.

55. Petitioner's arrest had nothing to do with her individual case, as she is neither a flight risk, has no criminal record and is not a threat to others. Ex. A; LeRoy decl. at ¶ 8. Instead, her arrest and re-detention are part of a new, nationwide DHS strategy of sweeping up migrants who attend their immigration court hearings and ICE check-ins, detaining them, and seeking to re-route them to fast-track deportations. Since mid-May of 2025, DHS has implemented a coordinated practice of immigration detention to strip people like Petitioner of their due process rights and pressure them into deportation, which could amount to a death sentence in Nicaragua for Petitioner. This coordinated operation is intended to dramatically accelerate deportations to meet DHS deportation quotas. Although DHS regulations do not permit re-detention absent a showing that the "[c]ircumstances of the case have changed," 8 C.F.R. § 239.2(a)(7), (c), DHS is arbitrarily re-detaining asylum seekers such as Petitioner in violation of their due process rights.

56. Petitioner attended an ICE check in on August 25, 2025—only to be arbitrarily re-arrested and sent to Adelanto, where she has been unlawfully detained for over three months. The only "justification" for her re-detention appears to be the preposterous fiction created by Respondents by checking the box "arriving alien" on the applicable 2025 charging document (Ex. J) that an asylum seeker residing in the interior of the United States for over two years after being released

because DHS determined in 2022 that she was neither a flight risk or threat to others can suddenly and without changed circumstances be made subject to mandatory detention as an "arriving alien" seeking admission to the United States.

57. Petitioner is being deprived of her liberty without any permissible justification. The government previously released her on her own recognizance in 2022 because she did not pose sufficient risk of flight or danger to the community to warrant detention. None of that has changed. Petitioner has no criminal record, and there is no basis to believe that she poses any public-safety risk. Nor is Petitioner, who was arrested *while appearing for an ICE check-in appointment*, conceivably a flight risk.

## CLAIMS FOR RELIEF

## FIRST CLAIM FOR RELIEF

**Violation of the Fifth Amendment to the United States Constitution**

**(Substantive Due Process—Detention)**

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

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

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

61. Petitioner is not a flight risk or danger to the community. Respondents' detention of Petitioner is therefore unjustified and unlawful.

Accordingly, Petitioner is being detained in violation of the Due Process Clause of the Fifth Amendment.

62. Moreover, Petitioner's detention is punitive as it bears no "reasonable relation" to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly "nonpunitive in purpose and effect"). Here, the purpose of Petitioner's detention appears to be "not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons"—namely, to meet newly-imposed DHS quotas and transfer immigration court venue away from an IJ who refused to facilitate DHS's new expedited removal scheme. *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

**SECOND CLAIM FOR RELIEF**

**Violation of the Fifth Amendment to the United States Constitution**

**(Procedural Due Process—Detention)**

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

64. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty liberty interest in avoiding re-incarceration after her release. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an IJ's bond determination).

65. Accordingly, "[i]n the context of immigration detention, it is well-settled that due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinermon*, 494 U.S. at 127 (Generally, "the Constitution requires some kind of a hearing *before* the State deprives a person

of liberty or property."). In the immigration context, for such hearings to comply with due process, the government must bear the burden to demonstrate, by clear and convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

66. Petitioner's re-detention without a pre-deprivation hearing violated due process. Over two years after deciding to release Petitioner from custody, Respondents re-detained Petitioner with no notice, no apparent justification of her re-detention, and no opportunity to contest her re-detention before a neutral adjudicator before being taken into custody.

67. Petitioner has a profound personal interest in her liberty. Because she received no procedural protections, the risk of erroneous deprivation is high. And the government has no legitimate interest in detaining Petitioner without a hearing; bond hearings are conducted as a matter of course in immigration proceedings, and nothing in Petitioner's record suggested that she would abscond or endanger the community before a bond hearing could be carried out. *See, e.g.*, *Jorge M.F. v. Wilkinson*, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) ("the government's concern that delay in scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of petitioner's strong family ties and his continued employment during the pandemic as an essential agricultural worker").

## THIRD CLAIM FOR RELIEF

**Violation of the Fourth Amendment to the United States Constitution**

**(Unlawful Arrest)**

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

69. The Fourth Amendment protects the right of persons present in

the United States to be free from unreasonable seizures by government officials.

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

71. In the immigration context, this prohibition means that a person who immigration authorities released from initial custody cannot be re-arrested "solely on the ground that he is subject to removal proceedings" and without some new, intervening cause. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff'd sub nom.*, *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). Courts have long recognized that permitting such rearrests could result in "harassment by continual rearrests." *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971).

72. ICE agents arrested Petitioner in 2022 after she entered the United States, charged her with a violation of civil immigration law and released her from custody. Petitioner adhered to all immigration law requirements, filed an asylum application and obtained a government-issued work authorization. She had not engaged in any conduct in the intervening time that made her a flight risk or danger to the community. No material change in circumstances justified

Petitioner's re-arrest.

73. Petitioner's re-arrest and detention by Respondents in August of 2025 after she had complied with all applicable immigration law and DHS requirements and absent any material change in circumstances is thus an unreasonable seizure in violation of the Fourth Amendment.

**FOURTH CLAIM FOR RELIEF**

**Violation of the Administrative Procedure Act**

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

75. The Administrative Procedure Act prohibits federal action that is "in excess of statutory jurisdiction, authority or limitations, or short of statutory right," 5 U.S.C. § 706(2)(C), and "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," *id.* § 706(2)(A).

76. The government's policy targeting people attending their immigration hearings and required ICE check-in appointments for arrest is arbitrary and capricious, in violation of 5 U.S.C. § 706(2)(A). The government's quota-driven arrest policy therefore is in excess of its statutory authority in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C). The government has provided no reasoned or adequate explanation for the policy, which is a dramatic shift from recent and longstanding agency policy and practice.

77. Petitioner's arrest and re-detention without cause pursuant to the government's policy is a final agency action that violates the Administrative Procedure Act. *See* 5 U.S.C. § 706(2).

**FIFTH CLAIM FOR RELIEF**

**Violation of the Immigration and Nationality Act (INA)**

**(8 U.S.C. § 1226(a))**

78. Petitioner repeats and re-alleges the allegations contained in the

preceding paragraphs of this Petition as if fully set forth herein.

79. Petitioner was re-detained in the interior of the United States at an ICE check-in appointment and thus is currently detained under 8 U.S.C. § 1226(a). Detention under 8 U.S.C. § 1226(a) must serve a legitimate government purpose of mitigating danger or preventing flight. *See Zadvydas*, 533 U.S. at 690; 8 U.S.C. § 1226(a), (b); 8 C.F.R. 1236.1(c)(8).

80. Petitioner's prior release by DHS in 2022 necessarily reflects a determination that the noncitizen is neither a flight risk nor a danger to the community. 8 C.F.R. 1236.1(c)(8) (outlining requirements for release on recognizance); 8 C.F.R. 212.5(b) (outlining requirements for parole).

81. Thus, her re-detention pursuant 8 U.S.C. § 1226(a) requires an individualized determination of a material change in circumstances going to flight risk or danger in order for her re-detention to serve a regulatory purpose.

82. Petitioner's re-detention violates the INA, given that she was not afforded an individualized determination of a material change in circumstances related to flight risk or danger justify re-detention.

**PRAYER FOR RELIEF**

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;
3. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment, the Fourth Amendment, the Administrative Procedure Act and the Immigration and Nationality Act, 8 U.S.C. § 1226(a);

4. Enjoin Respondents from transferring Petitioner outside this District or deporting Petitioner pending these proceedings;

5. Enjoin Respondents from re-detaining Petitioner unless her re-detention is ordered at a custody hearing before a neutral arbiter within seven (7) days of the issuance of a writ of habeas corpus in which the government bears the burden of proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community;

6. Set aside Respondents' unlawful practice pursuant to 5 U.S.C. §706(2) as contrary to law, contrary to constitutional right, and in excess of statutory authority;

7. Award Petitioner her costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and

8. Grant such further relief as this Court deems just and proper.

Date: December 1, 2025

Respectfully submitted,

/s/ Carrie LeRoy
Carrie LeRoy
Pro Bono Attorney for Petitioner

## VERIFICATION

I, Carrie LeRoy, declare as follows:

I am an attorney admitted to practice law in the State of California. Because many of the allegations of this Petition require a legal knowledge not possessed by Petitioner, I am making this verification on her behalf. I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof to be true to my knowledge, information, or belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on December 1, 2025.

/s/ Carrie LeRoy
Carrie LeRoy

Pro Bono Attorney for Petitioner