

INTRODUCTION

1
2 1. Yosseline Melissa Pineda Guadamuz ("Petitioner") is a 25-year-old refugee
3 from Nicaragua. After fleeing the country in 2021 to escape persecution, she sought asylum in
4 the United States. *See* the Declaration of Carrie LeRoy at ¶ 7.¹ Since September 25, 2025,
5 Petitioner has been arbitrarily detained by Respondents in violation of the Due Process Clause
6 of the Fifth Amendment to the United States Constitution, the Fourth Amendment to the United
7 States Constitution and her statutory rights under the Immigration and Nationality Act ("INA")
8 and the Administrative Procedure Act ("APA").

9 2. Petitioner was apprehended and detained by immigration officials after crossing
10 the border in September 2021, and, after it was determined that she posed no flight risk or
11 danger to the community, she was released on her own recognizance. LeRoy decl. at ¶ 3. She
12 has no criminal history, is a law-abiding and hard-working person who was re-arrested on
13 September 25, 2025 when she attended her annual check-in appointment with Immigration
14 Customs and Enforcement ("ICE").

15 3. Since her release in September 2021, Petitioner has attended all check-in
16 appointments with ICE officials and has complied with the requirements of applicable law and
17 notices that she received from the Department of Homeland Security ("DHS"). LeRoy decl. at
18 ¶ 6. Petitioner timely applied for Asylum and for Withholding of Removal and obtained work
19 authorization from DHS that is valid through 2029. Ex. A; LeRoy decl. at ¶ 4.

20 4. Petitioner was shocked that she was arrested for showing up at her annual ICE
21 check-in appointment. At the time, an ICE official claimed that her detention was because she
22 missed an appointment. Petitioner informed the official that she had not received notice of any
23 appointment other than her annual check-in appointment and suggested that there was
24 potentially a notice issue relating to her recent move from San Francisco, CA to Richmond, CA
25 on July 28, 2025. LeRoy decl. at ¶¶ 8-9.

26 5. The ICE official refused to consider the possibility of an error in the delivery of

27 ¹ Facts asserted in this Petition are drawn from the attached declaration of Carrie LeRoy, counsel for
28 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."

1 notice to Petitioner or the fact of Petitioner's history of strict compliance with all immigration
2 laws and ICE requirements, which demonstrated that she is not a flight risk. Before her arrest
3 and re-detention, no warrant was issued for Petitioner's arrest and she was not provided any
4 notice of alleged non-compliance. Upon her arrest, she was not afforded an opportunity to
5 contest the alleged basis for her arrest and re-detention. LeRoy decl. at ¶¶ 8-9.

6 6. As a result of her arrest and detention, Petitioner is suffering irreparable and
7 ongoing harm. The unconstitutional deprivation of "physical liberty" "unquestionably
8 constitutes irreparable injury." *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir. 2017).
9 Indeed, "[f]reedom from imprisonment—from government custody, detention, or other forms
10 of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects."
11 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner is also suffering from physical pain
12 that is not being adequately treated and severe emotional distress. LeRoy decl. at ¶¶ 12-13.

13 7. Considering substantially similar facts and legal issues, courts in this circuit
14 have repeatedly granted the relief Petitioner seeks – including in the context of the re-arrest of
15 individuals appearing for ICE check-in appointments. See, e.g., *Vilela v. Robbins*, No. 1:25-
16 cv-01393-KES-HBK, 2025 U.S. Dist. LEXIS 219172, at *20 (E.D. Cal., Nov. 6, 2025);
17 *J.A.E.M. v. Wofford*, No. 1:25-cv-01380-KES-HBK, 2025 U.S. Dist. LEXIS 211728, at *21
18 (E.D. Cal., Oct. 27, 2025); *J.C.L.A. v. Wofford*, No. 1:25-cv-01310-KES-EPG, 2025 U.S. Dist.
19 LEXIS 205300, at *20-21 (E.D. Cal., Oct. 17, 2025); *J.O.L.R. v. Wofford*, No. 1:25-cv-01241-
20 KES-SKO, 2025 U.S. Dist. LEXIS 202706, at *15-16 (E.D. Cal., Oct. 14, 2025); *M.R.R. v.*
21 *Chestnut*, 1:25-cv-01517-JLT-SKO (E.D. Cal. Nov. 24, 2025); see also *Pinchi v. Noem*, 792
22 F.Supp.3d 1025, 1032 (N.D. Cal. 2025), converted to preliminary injunction at __ F. Supp. 3d
23 __, 2025 WL 2084921 (N.D. Cal. July 24, 2025); *Singh v. Andrews*, 2025 WL 1918679, *10
24 (E.D. Cal. July 11, 2025) (granting preliminary injunction).

25 8. Petitioner's compliance with U.S. law and efforts to build a peaceful and
26 productive life for herself in the United States for over four years did not matter to
27 Respondents. Rather than seeking to determine whether Petitioner posed a flight risk or danger
28 to the community, federal immigration agents re-arrested her pursuant to Respondents'

1 sweeping, and unlawful policy targeting people for arrest at immigration courthouses and ICE
2 check-in appointments for the purpose of fast-tracking deportations. Respondents' current
3 quota-driven policy amounts to: arrest and detain now, ask questions later and deport as soon
4 as possible to deny legitimate asylum seekers their right to due process.

5 9. Petitioner's summary arrest and indefinite detention flout the Constitution. The
6 only legitimate interests that civil immigration detention serves are mitigating flight risk and
7 preventing danger to the community. When those interests are absent, the Fifth Amendment's
8 Due Process Clause squarely prohibits detention. Additionally, by summarily arresting and
9 detaining Petitioner without a warrant or bond hearing and without making any affirmative
10 showing of changed circumstances, Respondents violated Petitioner's procedural due process
11 rights. At the very least, prior to her re-detention, she was constitutionally entitled to a hearing
12 before a neutral arbiter at which the government should have justified her re-detention—or been
13 ordered to release her.

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

19 11. Immigration detention is civil and thus is permissible for only two reasons: to
20 ensure a noncitizen's appearance at immigration hearings and to prevent danger to the
21 community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Here, there is no credible argument
22 that Petitioner, *who was arrested while attending her ICE check-in*, is a flight risk or danger.

23 12. Respondents also failed to adhere to the statutory requirements for re-detaining
24 Petitioner pursuant to 8 U.S.C. § 1226(a)(2)(B) and thus violated the INA. Respondents failed to
25 comply with the minimal amount of process contemplated by the relevant statutes and
26 regulations. Respondents did not provide Petitioner with written notice prior to her parole
27 revocation as is required by § 1182(d)(5)(A)'s implementing regulations. See 8 C.F.R. §
28 212.5(e)(2)(i) ("[P]arole shall be terminated upon written notice to the alien and he or she shall

1 be restored to the status that he or she had at the time of parole.”). Nor did the government arrest
 2 Petitioner pursuant to a warrant, as is contemplated in connection with revocation of parole
 3 under Section 1226(b).

4 13. Petitioner’s arbitrary arrest follows a pattern in recent months of ICE re-arresting
 5 noncitizens at their ICE check-ins for alleged minor violations of conditions of release. In many
 6 of these cases, ICE does not argue that the noncitizens are flight risks or dangers to the
 7 community. Instead, ICE claims that purported technical violations – often based on vague and
 8 unsupported allegations – are a sufficient justification for re-detention. Courts have rejected this
 9 contention. *See Bernal v. Albarran*, No. 25-cv-09772-RS, 2025 U.S. Dist. LEXIS 232122, at *19
 10 (N.D. Cal. Nov. 25, 2025) (granting injunctive relief and holding that “detention is permitted
 11 under section 1226(a) only if [petitioner] is dangerous or a flight risk,” and that “minor, technical
 12 violations” of her release conditions are insufficient to establish danger or flight risk).

13 14. Generally, “the Constitution requires some kind of a hearing *before* the State
 14 deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990)
 15 (emphasis added). Consistent with this principle, a growing number of district courts have held
 16 that noncitizens re-arrested at ICE check-in appointments are entitled to pre-deprivation bond
 17 hearings and ordered their immediate release. *See, e.g., See Vilela v. Robbins*, No. 1:25-cv-
 18 01393-KES-HBK, 2025 U.S. Dist. LEXIS 219172, at *20 (E.D. Cal., Nov. 6, 2025).

19 15. ICE is under intense pressure by the current presidential administration to meet
 20 arrest quotas.² As of December 7, 2025, “more than a third of the roughly 220,000
 21 people arrested by ICE officers in the first nine months of the Trump administration had no
 22 criminal histories, according to new data.”³ The risk of erroneous deprivation without process is
 23 thus particularly high in the current political context. Pre-deprivation bond hearings are the only
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25 ² See José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under Trump*, The
 26 Guardian, June 14, 2025, <https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures>;
 27 Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, *How ICE Is Seeking to Ramp Up Deportations Through*
 28 *Courthouse Arrests*, N.Y. Times, May 30, 2025, [https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-](https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html)

³ See Laura Strickler and Julia Ainsley, *ICE has Arrested Nearly 75,000 People with no Criminal Records, Data Shows*, NBC News, Dec. 7, 2025, [https://www.nbcnews.com/politics/immigration/ice-arrested-nearly-75000-people-](https://www.nbcnews.com/politics/immigration/ice-arrested-nearly-75000-people-no-criminal-records-data-shows-rcna247377)
 no-criminal-records-data-shows-rcna247377

1 way to safeguard against pretextual, quota-driven arrests and arbitrary detention and to protect
2 the due process rights of law-abiding refugees such as Petitioner.

3 16. Petitioner respectfully seeks a writ of habeas corpus ordering the government to
4 immediately release her from her ongoing, unlawful detention, and prohibiting her re-arrest
5 without a hearing to contest that re-arrest before a neutral decisionmaker. In addition, to preserve
6 this Court's jurisdiction, Petitioner requests that this Court order Respondents not to transfer her
7 outside of the District or deport her outside of the United States for the duration of these
8 proceedings.

9 **JURISDICTION AND VENUE**

10 17. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal
11 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),
12 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension
13 Clause) and the Fourth and Fifth Amendments to the U.S. Constitution.

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

20 **PARTIES**

21 19. Petitioner is a twenty-five year-old law-abiding refugee from Nicaragua. She is
22 presently in civil immigration detention at California City Detention Facility, 22844 Virginia
23 Boulevard, California City, CA 93505 (“California City”), which is in the Eastern District of
24 California.

25 20. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate
26 authority over DHS. In that capacity and through her agents, Respondent Noem has broad
27 authority over and responsibility for the operation and enforcement of the immigration laws;
28 routinely transacts business in this District; and is legally responsible for pursuing any effort to

1 detain and remove Petitioner. Respondent Noem is sued in her official capacity.

2 21. Respondent Pamela Bondi is the Attorney General of the United States and the
3 most senior official at the Department of Justice. In that capacity and through her agents, she is
4 responsible for overseeing the implementation and enforcement of the federal immigration laws.
5 The Attorney General delegates this responsibility to the Executive Office for Immigration
6 Review ("EOIR"), which administers the immigration courts and the Board of Immigration
7 Appeals (the "BIA"). Respondent Bondi is sued in her official capacity.

8 22. Respondent Christopher Chestnut is the Warden of California City, where
9 Petitioner is detained. He has immediate physical custody of Petitioner. He is sued
10 In his official capacity.

11 23. Respondent Sergio Albarran is the Field Office Director of the San Francisco
12 Immigration and Customs Enforcement Office. He is responsible for the administration of
13 immigration laws and the execution of immigration enforcement and detention policy within
14 ICE's San Francisco Area of Responsibility, including the detention of Petitioner. He maintains
15 an office and regularly conducts business in this district. He is sued in his official capacity.

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

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

22 25. The Court must grant the petition for writ of habeas corpus or order Respondents
23 to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an
24 order to show cause is issued, the Respondents must file a return "within three days unless for
25 good cause additional time, not exceeding twenty days, is allowed." *Id.* Habeas corpus is
26 "perhaps the most important writ known to the constitutional law . . . affording as it does a swift
27 and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S.
28 391, 400 (1963). "The application for the writ usurps the attention and displaces the calendar of

1 the judge or justice who entertains and receives prompt action from him within the four corners
2 of the application." *Yong v. I.N.S.*, 20 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

3 EXHAUSTION

4 26. There is no requirement to exhaust administrative remedies because no other
5 forum exists in which Petitioner can raise the claims herein. There is no statutory exhaustion
6 requirement prior to challenging the constitutionality of an arrest or detention or challenging a
7 policy under the Administrative Procedure Act. In addition, any further exhaustion
8 requirements would be unreasonable, as immigration judges have now taken the position, citing
9 *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025), that they lack jurisdiction to
10 conduct a bond hearing with respect to migrants such as Petitioner. Although Petitioner is not
11 subject to mandatory detention as an arriving alien who has not entered and been released
12 within the interior of the United States, immigration courts have also taken the position that an
13 arriving alien is not eligible for bond. *See Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025).
14 As such, regardless of the statutory basis for her current detention, it would be futile for
15 Petitioner to seek a bond hearing and release in immigration court. Only an order of this Court
16 could effectively grant Petitioner relief. *See Mosqueda v. Noem*, No. 5:25-CV-02304 CAS
17 (BFM), 2025 WL 2591530, at *5; (C.D. Cal. Sept. 8, 2025).

18 27. Prudential exhaustion is not required here because it would be futile, and
19 Petitioner will "suffer irreparable harm if unable to secure immediate judicial consideration" of
20 her claim. *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). A court may waive the prudential
21 exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of
22 administrative remedies would be a futile gesture, irreparable injury will result, or the
23 administrative proceedings would be void." *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir.
24 2004) (citation and quotation marks omitted)); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS
25 (BFM), 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025).

26 LEGAL BACKGROUND

27 *Revocation of Parole*

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

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

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

14 31. Substantive due process thus requires that all forms of civil detention—
15 including immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See*
16 *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two
17 permissible non-punitive purposes for immigration detention: ensuring a noncitizen’s
18 appearance at immigration proceedings and preventing danger to the community. *Zadvydas*,
19 533 U.S. at 690–92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

20 32. Second, the procedural component of the Due Process Clause prohibits the
21 government from imposing even permissible physical restraints without adequate procedural
22 safeguards.

23 33. Generally, “the Constitution requires some kind of a hearing *before* the State
24 deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is
25 so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d at
26 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional
27 supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)
28 (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole

1 context).

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

8 35. This reasoning applies with equal if not greater force to people released from civil
9 immigration detention at the border, like Petitioner. After all, noncitizens living in the United
10 States like Petitioner have a protected liberty interest in their ongoing freedom from
11 confinement. *See Zadvydas*, 533 U.S. at 690. And, “[g]iven the civil context [of immigration
12 detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than
13 the interest of parolees.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

14 **Detention Framework**

15 36. The Immigration and Nationality Act prescribes three basic forms of detention for
16 the vast majority of noncitizens in removal proceedings.

17 37. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
18 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally
19 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),
20 while noncitizens who have been arrested, charged with, or convicted of certain crimes are
21 subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

22 38. Second, the INA provides for mandatory detention of noncitizens subject to
23 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
24 referred to under § 1225(b)(2).

25 39. Last, the INA also provides for detention of noncitizens who have been ordered
26 removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

27 40. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2). The
28 detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal

1 Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104—
2 208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a)
3 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat.
4 3 (2025).

5 41. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining
6 that, in general, people who entered the country without inspection were not considered detained
7 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
8 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
9 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

10 42. Thus, in the decades that followed, most people who entered without inspection
11 and were placed in standard removal proceedings received bond hearings, unless their criminal
12 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
13 with many more decades of prior practice, in which noncitizens who were not deemed "arriving"
14 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
15 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
16 "restates" the detention authority previously found at § 1252(a)).

17 43. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that
18 rejected well-established understanding of the statutory framework and reversed decades of
19 practice.

20 44. The new policy, entitled "Interim Guidance Regarding Detention Authority for
21 Applicants for Admission,"⁴ claims that all persons who entered the United States without
22 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The
23 policy applies regardless of when a person is apprehended, and affects those who have resided in
24 the United States for months, years, and even decades.

25 45. On September 5, 2025, the BIA adopted this same position in a published
26 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the

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28 ⁴ Available at [https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applicants-for-admission)
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 28 ⁴ Available at [https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)
 authority-for-applications-for-admission.
 PETITION FOR WRIT OF HABEAS CORPUS
 CASE NO. 1:25-at-01244

1 United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are
2 ineligible for IJ bond hearings.

3 46. Since Respondents adopted their new policies, dozens of federal courts have
4 rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected
5 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

6 47. Even before ICE or the BIA introduced these nationwide policies, IJs in the
7 Tacoma, Washington, immigration court stopped providing bond hearings for persons who
8 entered the United States without inspection and who have since resided here. There, the U.S.
9 District Court in the Western District of Washington found that such a reading of the INA is
10 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
11 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
12 1239 (W.D. Wash. 2025).

13 48. Subsequently, court after court has adopted the same reading of the INA's
14 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,
15 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,
16 No. CV 25-11613-BEM, ___ F. Supp. 3d ___, 2025 WL 2084238 (D. Mass. July 24, 2025);
17 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
18 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
19 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
20 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,
21 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-
22 ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-
23 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),
24 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
25 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-
26 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
27 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
28 (ECT/DJF), --- F. Supp. 3d ___, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*

1 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
2 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
3 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
4 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
5 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
6 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
7 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
8 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
9 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
10 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same); *O.P.A.M. v. Wofford*, No. 1:25-
11 cv-01423 JLT SAB (E.D. CA Nov. 7, 2025); *see also, F.M.V. v. Wofford*, No. 1:25-cv-01381-
12 KES-SAB (HC) (E.D. CA Nov. 4, 2025) (petitioner disputed DHS’ allegations of several missed
13 ICE check-in dates, yet petitioner’s immediate release was ordered and motion for preliminary
14 injunction was granted.).

15 49. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it
16 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the
17 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

18 50. Section 1226(a) applies by default to all persons “pending a decision on whether
19 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
20 § 1229(a), to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

21 51. The text of § 1226 also explicitly applies to people charged as being inadmissible,
22 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
23 (E)’s reference to such people makes clear that, by default, such people are afforded a bond
24 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress
25 creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions,
26 the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
27 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025
28 WL 1869299, at *7.

1 52. Section 1226 therefore leaves no doubt that it applies to people who face charges
2 of being inadmissible to the United States, including those who are present without admission or
3 parole.

4 53. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
5 recently entered the United States. The statute's entire framework is premised on inspections at
6 the border of people who are "seeking admission" to the United States. 8 U.S.C. §
7 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
8 applies "at the Nation's borders and ports of entry, where the Government must determine
9 whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*,
10 583 U.S. 281, 287 (2018).

11 54. To the extent that the government now wants to reclassify Petitioner as detained
12 under § 1225(b)(2)(A) after initially releasing her under § 1226(a), courts have found this to be
13 an impermissible *post hoc* rationalization. *Lopez Benitez v. Francis*, No. 25-cv-5937, 2025 WL
14 2371588, at *13–14 (S.D.N.Y. Aug. 13, 2025); *see, also, C.A.R.V. v. Wofford*, No. 1:25-CV-
15 01395 JLT SKO2025 U.S. Dist. LEXIS 216277, at *27 (E.D. Cal., Nov. 1, 2025) ("Respondents
16 fail to contend with the liberty interest created by the fact that the Petitioner in this case was
17 released on recognizance in 2021, prior to the manifestation of this interpretation."), emphasis in
18 original.

19 55. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not
20 apply to people like Petitioner, who have already entered and were residing and working in the
21 United States with the authorization of DHS at the time they were apprehended.

22 56. Pursuant to 8 U.S.C. § 1226(b), "[t]he Attorney General at any time may revoke
23 a bond or parole authorized under subsection (a), rearrest the alien under the original warrant,
24 and detain the alien." 8 U.S.C. § 1226(b). The implementing regulations elaborate that "such
25 release [under § 1226] may be revoked at any time in the discretion of" various DHS officials,
26 "in which event the alien may be taken into physical custody and detained." 8 C.F.R. §
27 1236.1(c)(9). However, DHS may not re-arrest that noncitizen absent a change in circumstance.
28 *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia*

1 for *A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (“[w]here the release decision was made by
2 a DHS officer, not an immigration judge, the Government’s practice has been to require a
3 showing of changed circumstances before re-arrest.”).

4 **FACTUAL ALLEGATIONS**

5 ***Petitioner is Unlawfully Arrested at Her ICE Check-In***

6 57. Petitioner is a twenty-five-year-old refugee from Nicaragua. After fleeing
7 Nicaragua in 2021 to escape persecution, she sought asylum in the United States. Ex. A; LeRoy
8 decl. at ¶ 4.

9 58. Petitioner was apprehended and detained by immigration officials after crossing
10 the border in September 2021, and, after it was determined that she posed no flight risk or danger
11 to the community, she was released on her own recognizance. LeRoy decl. at ¶ 3. In August
12 2022, she timely submitted her I-589 Application for Asylum and for Withholding of Removal
13 (“I-589”). Ex. A. She also applied for and received authorization from DHS to work in the
14 United States pending adjudication of her asylum case that is valid through 2029. Ex. A; LeRoy
15 decl. at ¶ 4.

16 59. Petitioner has resided in the San Francisco Bay Area with or near her mother
17 Fatima Guadamuz since her release in September 2021. She has never been arrested for, charged
18 with, or otherwise accused of a crime. LeRoy decl. at ¶ 5. She has not received any notice from
19 DHS or otherwise suggesting that she has committed any crimes or presents a national security
20 risk. She understood that the technical immigration law “crime” of crossing the border into the
21 United States without permission would not apply to her if she were able to demonstrate under
22 U.S. law her credible fear of persecution or torture if forced to return to Nicaragua, as stated in
23 her I-589. Ex. A; LeRoy decl. at ¶ 5.

24 60. When Petitioner attended her check-in on September 25, 2025 at the ICE San
25 Francisco Field Office located at 630 Sansome Street in San Francisco (“SF Field Office”), DHS
26 officials arrested her, held her for approximately ten hours in an ICE holding cell at the SF Field
27 Office, transported her to two separate ICE detention centers and then to California City, where
28 she currently remains in detention. LeRoy decl. at ¶ 7.

1 61. Petitioner reports that she was shocked that she was arrested for showing up at her
2 annual ICE check-in appointment. LeRoy decl. at ¶ 8. At the time, an ICE official claimed that
3 the basis for her detention was a missed appointment. She informed the official that she had not
4 received notice of any appointment other than her annual check-in appointment and suggested
5 that there was potentially a notice receipt issue relating to her recent move from San Francisco to
6 Richmond, California on July 28, 2025. LeRoy decl. at ¶ 8. Petitioner told the ICE official that in
7 July of 2025, she submitted a change of address form to the U.S. Postal Service (USPS)
8 notifying USPS of her upcoming move and directing that mail be forwarded to her new
9 Richmond address. Around the same time, she also informed U.S. Citizenship and Immigration
10 Services (USCIS) of the pending change of address by updating her records in the USCIS online
11 database. LeRoy decl. at ¶ 8.

12 62. The ICE official refused to consider the possibility of an error in the delivery of
13 notice to her or the fact of her history of flawless compliance with all immigration laws and ICE
14 requirements. LeRoy decl. at ¶ 9. Before her arrest and re-detention, she was not provided any
15 notice of alleged non-compliance and no warrant was issued. Petitioner was not afforded an
16 opportunity to contest the alleged basis of her arrest and re-detention. LeRoy decl. at ¶ 9. Rather
17 than consider the misdirected notice issue raised by Petitioner, ICE officials confiscated all
18 documents from her that she had brought with her to her appointment and refused to make them
19 available to her in connection with her efforts to clear up the notice question or seek legal
20 assistance. LeRoy decl. at ¶ 9.

21 63. Petitioner is experiencing extreme emotional distress as a result of
22 her detention at California City. Petitioner has a very close relationship with her mother, Fatima
23 Guadamuz, and the loss of her presence in her life has been extremely difficult for her. LeRoy
24 decl. at ¶ 12. Fatima Guadamuz is unable to work because of an injury and has depended
25 primarily on her daughter for financial support. LeRoy decl. at ¶ 12. Since her arrest and
26 detention, Petitioner has not been able to provide any financial support to her mother, which has
27 caused and continues to cause Petitioner extreme emotional distress. LeRoy decl. at ¶ 12.
28

64. Prior to her detention on September 25, 2025, Petitioner was receiving diagnostic and medical care for a herniated disc in her lower back and an abnormal growth in one of her kidneys. LeRoy decl. at ¶ 13. Petitioner reports that she requested medical appointments while in detention, but none were scheduled. LeRoy decl. at ¶ 13. Instead, she has been given Tylenol, which Petitioner reports is inadequate to treat the pain that she endures. LeRoy decl. at ¶ 13. Conditions in detention have exacerbated her lower back pain. For example, she has been assigned to the upper bed of a bunk bed, and climbing into the bed causes severe pain and discomfort. The inadequately-treated pain that she experiences also makes it difficult for Petitioner to rest or sleep. LeRoy decl. at ¶ 13.

65. California City Detention Facility, where Petitioner is detained, is about 350 miles from her home in the Bay Area, and 75 miles east of Bakersfield, CA. The facility is the subject of a recently-filed class action lawsuit alleging widespread abuse and neglect of detainees and deprivation of their constitutionally-protected rights.⁵ As described in the Complaint filed in that case:

Conditions at California City Detention Facility are dire. The facility is decrepit. Sewage bubbles up from the shower drains, and insects crawl up and down the walls of the cells. People are locked in concrete cells the size of a parking space for hours on end, and officers threaten them with violence and solitary confinement. Food is paltry and people go hungry. Temperatures are frigid; those who cannot afford to buy sweatshirts from the exorbitantly priced commissary suffer in the cold, some wearing socks on their arms as makeshift sleeves. Friends and family members who travel to the Mojave Desert to see their loved ones must do so across heavy glass; people detained at California City cannot touch or hug their children. The facility sharply limits access to lawyers, leaving people bewildered and largely incommunicado.

Compl. at ¶ 4. Of particular relevance to Petitioner's plight are the inadequate and substandard medical care and neglect of detainees' serious medical conditions occurring at the California City Detention Facility. According to the Complaint:

The medical care system at California City is broken at every level. People with serious

⁵ See *Ruiz v. Immigr. & Customs Enf't*, No. 3:25-cv-09757 (N.D. Cal. Nov. 12, 2025), hereafter "Compl." available at <https://www.aclu.org/cases/gomez-ruiz-et-al-v-ice?document=Complaint>.

1 medical conditions such as heart disease, diabetes, and asthma do not receive essential
2 medications at arrival. When medications are reordered, delivery is interrupted or
3 stopped arbitrarily. Requests for medical attention go unanswered for weeks, or are
4 never answered at all. When people finally see a medical professional, the care they
5 receive is dangerously poor. Providers fail to document exams, do not address abnormal
6 lab results, and fail to order necessary treatment in a timely manner. People who require
7 medical attention for conditions such as prostate cancer and heart failure are told that
8 there are no contracts for such services. As a result, people in custody at California City
9 are at severe and ongoing risk of permanent, even life-threatening harm.

10 Compl. at ¶ 5. Petitioner has attempted to schedule medical appointments at California City for
11 her health issues and no appointments have been scheduled. Rather, she has been given
12 Tylenol, which has been inadequate to treat her pain. LeRoy decl. at ¶ 13.

13 66. Petitioner has significant connections to her community in the United States that
14 she has maintained for several years. Ex. B; LeRoy decl. at ¶ 14. Since coming to the United
15 States in 2021, she earned her General Equivalency Diploma, enrolled in courses at City
16 College of San Francisco and maintained employment after receiving work authorization from
17 DHS that is valid through 2029. LeRoy decl. at ¶ 14. Prior to her re-detention, Petitioner was a
18 valued and respected employee of the hotel where she was employed as a hotel room attendant.
19 Ex. B; LeRoy decl. at ¶ 14.

20 ***As a Result of Her Arrest and Detention, Petitioner is Suffering Ongoing and Irreparable***
21 ***Harm.***

22 67. Petitioner is being deprived of her liberty without any permissible
23 justification. The government previously released her on her own recognizance because she did
24 not pose sufficient risk of flight or danger to the community to warrant detention.

25 68. None of that has changed. Upon information and belief, Petitioner
26 has no criminal record, and there is no basis to believe that she poses any public-safety risk. Nor
27 is Petitioner, who was arrested while appearing for an ICE check-in, a flight risk. To the
28 contrary, Petitioner is actively seeking to comply with her ICE and immigration obligations and
her overall compliance for the four years since her arrival in the United States has been flawless.
LeRoy decl. at ¶ 6.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

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

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

70. 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.

71. 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.*

72. 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.

73. 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 enact President Donald Trump’s mass deportation campaign. *See 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)**

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

75. As part of the liberty protected by the Due Process Clause, Petitioner

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

6 76. Accordingly, “[i]n the context of immigration detention, it is well-settled that
 7 due process requires adequate procedural protections to ensure that the government’s asserted
 8 justification for physical confinement outweighs the individual’s constitutionally protected
 9 interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinerman*,
 10 494 U.S. at 127 (Generally, “the Constitution requires some kind of a hearing *before* the State
 11 deprives a person of liberty or property.”). In the immigration context, for such hearings to
 12 comply with due process, the government must bear the burden to demonstrate, by clear and
 13 convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See*
 14 *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th
 15 775, 785, 786 (9th Cir. 2024).

16 77. Petitioner’s re-detention without a pre-deprivation hearing violated
 17 due process. Long after deciding to release Petitioner from custody on her own recognizance,
 18 Respondents re-detained Petitioner with no warrant, notice or opportunity to contest her re-
 19 detention before a neutral adjudicator before being taken into custody.

20 78. Petitioner has a profound personal interest in her liberty. Because
 21 she received no procedural protections, the risk of erroneous deprivation is high. And the
 22 government has no legitimate interest in detaining Petitioner without a pre-deprivation hearing;
 23 bond hearings are conducted as a matter of course in immigration proceedings. *See, e.g., Jorge*
 24 *M.F. v. Wilkinson*, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020
 25 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) (“the government’s concern that delay in
 26 scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of
 27 petitioner’s strong family ties and his continued employment during the pandemic as an
 28 essential agricultural worker”).

THIRD CLAIM FOR RELIEF

Violation of the Fourth Amendment to the United States Constitution

(Unlawful Arrest)

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

80. The Fourth Amendment protects the right of persons present in the United States to be free from unreasonable seizures by government officials.

81. 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.”).

82. 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).

83. ICE agents arrested Petitioner in 2021 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 that is valid through 2029. Petitioner had not engaged in any conduct in the

1 intervening time that made her a flight risk or danger to the community. No material change in
2 circumstances justified Petitioner's re-arrest.

3 84. Petitioner's arbitrary re-arrest and detention by Respondents in September
4 of 2025 after she had complied with applicable immigration law and DHS requirements and
5 absent any material change in circumstances or a warrant is thus an unreasonable seizure in
6 violation of the Fourth Amendment.

7 **FOURTH CLAIM FOR RELIEF**

8 **Violation of the Administrative Procedure Act**

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

11 86. The Administrative Procedure Act prohibits federal action that is "in excess of
12 statutory jurisdiction, authority or limitations, or short of statutory right," 5 U.S.C. § 706(2)(C),
13 and "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," *id.*
14 § 706(2)(A).

15 87. The government's policy targeting people attending their immigration hearings and
16 required ICE check-in appointments for arrest is arbitrary and capricious, in violation of 5 U.S.C.
17 § 706(2)(A). The government's quota-driven arrest policy therefore is in excess of its statutory
18 authority in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C). The government
19 has provided no reasoned or adequate explanation for the policy, which is a dramatic shift from
20 recent and longstanding agency policy and practice.

21 88. Petitioner's arrest and re-detention without cause pursuant to the government's
22 policy is a final agency action that violates the Administrative Procedure Act. *See* 5 U.S.C. §
23 706(2).

24 **FIFTH CLAIM FOR RELIEF**

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

26 **(8 U.S.C. § 1226(a))**

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

90. 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).

91. Petitioner's prior release by DHS in 2021 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).

92. 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.

93. In addition, revocation of Petitioner's parole under 8 U.S.C. § 1226(b) requires that the arrest be made pursuant to warrant issued by the Attorney General. Respondents arrested Petitioner without such a warrant, any notice or opportunity to contest the alleged basis for her arrest.

94. Petitioner's re-detention violates the INA, given that a warrant was not issued and she was not afforded an individualized determination of a material change in circumstances related to flight risk or danger to 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.
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 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 9, 2025

Respectfully submitted,

/s/ Carrie LeRoy

Carrie LeRoy

Pro Bono Attorney for Petitioner

VERIFICATION

1
2 I, Carrie LeRoy, declare as follows:

3 I am an attorney admitted to practice law in the State of California. Because many of the
4 allegations of this Petition require a legal knowledge not possessed by Petitioner, I am making
5 this verification on her behalf. I have read the foregoing Petition for Writ of Habeas Corpus and
6 know the contents thereof to be true to my knowledge, information, or belief.
7

8 I certify under penalty of perjury that the foregoing is true and correct and that this declaration
9 was executed on December 10, 2025.
10

11 /s/ Carrie LeRoy

12 Carrie LeRoy

13 Pro Bono Attorney for Petitioner
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