

Christopher Duran (CA SBN 110899)
cduran@chirla.org
COALITION FOR HUMANE IMMIGRANT RIGHTS (CHIRLA)
2533 W 3rd St, Ste 101
Los Angeles, CA 90057
Telephone: 213-201-4456
Facsimile: 213-352-1344

Attorney for Petitioner

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

Fernando Jose JUAREZ FERNANDEZ,
Petitioner,

v.

Fereti SEMAIA, Warden, Adelanto ICE
Processing Center; Ernesto SANTA CRUZ
JR., Los Angeles Field Office Director; Todd
M. LYONS, Acting/Director of U.S.
Immigration and Customs Enforcement;
Kristi NOEM, Secretary of the U.S.
Department of Homeland Security; and
Pamela BONDI, Attorney General of the
United States,

Respondents.

Case No. 5:25-cv-3412

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

I. INTRODUCTION

1
2 1. Petitioner Fernando José Juárez Fernández (“F.J.J.F.” or “Petitioner”) respectfully
3 petitions this Court for a writ of habeas corpus and declaratory and injunctive relief to prevent
4 the Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement
5 (“ICE”) from continuing to detain him at the Adelanto ICE Processing Center without first
6 providing him a due process hearing before a neutral adjudicator.

7
8 2. F.J.J.F. has been detained since September 2, 2025, when ICE officers arrested him at his
9 home in Van Nuys without advance notice, without cause, and without providing any hearing to
10 determine whether he poses a danger or a flight risk, as required by the Fifth Amendment.

11 3. F.J.J.F. was previously released under conditional humanitarian parole on December 19,
12 2022, after being processed at the border. He complied fully with all ICE reporting instructions,
13 maintained stable residence in Los Angeles County, built significant community and family ties,
14 worked full-time, and was preparing to welcome his first child. No change in circumstances
15 justified ICE’s abrupt decision to revoke his liberty and place him back into immigration
16 detention.
17

18 4. The arrest and detention of individuals like F.J.J.F. – who have complied with every
19 instruction given by DHS – are part of a new pattern in which ICE is re-detaining parolees
20 without notice and without a hearing, and using detention punitively to pressure individuals into
21 abandoning their cases. Because F.J.J.F. has a pending removal case under INA § 240, his
22 detention is governed by 8 U.S.C. § 1226(a). Under that framework, the Constitution requires a
23 hearing where DHS bears the burden to prove, by clear and convincing evidence, that he is a
24 danger or flight risk. *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017); *Singh v. Holder*, 638
25 F.3d 1196 (9th Cir. 2011). No such hearing occurred here.
26

27 5. F.J.J.F. now seeks immediate release from ICE custody and an order enjoining DHS
28

1 from re-detaining him in the future unless and until he is first provided notice and a hearing
2 before a neutral adjudicator.

3 1. F.J.J.F. is a Nicaraguan citizen who entered the United States at or near San Luis,
4 Arizona on December 18, 2022. He was processed by Border Patrol, held for approximately
5 eight hours, and then released under conditional humanitarian parole pursuant to INA §
6 212(d)(5). He was instructed to report to the ICE office in Los Angeles within 60 days. ICE did
7 not require him to post a bond (Exhibit A).
8

9 2. F.J.J.F. complied. On January 20, 2023, he appeared at ICE's Los Angeles Field Office at
10 300 N. Los Angeles St., Room 7631. ICE officers informed him that his next check-in would be
11 on October 14, 2025, and provided no other instructions (Exhibit B).

12 3. Following his release, F.J.J.F. settled in the San Fernando Valley, first living with his
13 mother and brother in North Hills and Panorama City. After working steadily and saving enough,
14 he moved into an apartment in Van Nuys with his girlfriend, who is pregnant and due in
15 December 2025.
16

17 4. F.J.J.F. works as a plumber's assistant, beginning in June 2024. He excelled in the job;
18 shortly before his arrest, his employer commended him for independently completing a home
19 plumbing repair and even gifted him a bicycle in recognition of his dedication.

20 5. F.J.J.F.'s community ties are deep and demonstrable. He frequently repaired bicycles for
21 unhoused neighbors without charge, helped unhoused residents repair makeshift shelters, and
22 regularly shared food with those experiencing hunger. He attended [REDACTED]
23 Church in North Hills and remained close with family members, including a Legal Permanent
24 Resident aunt in Miami.
25

26 6. F.J.J.F. has no criminal history (Exhibit C).
27
28

1 7. On the morning of September 2, 2025, ICE officers arrived without notice at Petitioner's
2 home in Van Nuys. They showed F.J.J.F. a photograph of another individual and asked if he
3 knew the person. After he answered truthfully, they then showed F.J.J.F. a photograph of
4 himself. The officers told F.J.J.F. and his pregnant girlfriend that they "just needed to take him to
5 a police station to ask a few questions" and assured them he would return that same day. F.J.J.F.
6 and his girlfriend asked whether they were immigration officers. The men said no.

8 8. The officers then told F.J.J.F. to place his hands behind his back, handcuffed him, and
9 escorted him into an unmarked black Dodge sedan. Inside the vehicle, F.J.J.F. asked which
10 police station he was being taken to. One of the men scoffed and replied: "Station? No. You –
11 Los Angeles."

12 9. F.J.J.F. was taken to B-18, the ICE processing facility in the basement of the federal
13 building at 300 N. Los Angeles St. While being processed, an ICE officer told him, in Spanish,
14 that he "had the right to a bond hearing before a judge." No such hearing was ever scheduled or
15 provided.

17 10. F.J.J.F. was held at B-18 for two days. During that time, he was not allowed to shower,
18 he was not given a toothbrush or toothpaste, the holding room lights remained on all night, the
19 room was overly cold, he was confined with approximately 20 other detainees, and despite
20 multiple requests, he was never provided with a blanket.

21 11. After two sleepless nights at B-18, F.J.J.F. was transferred to the Adelanto ICE
22 Processing Center, where he remains detained.

24 12. F.J.J.F.'s abrupt detention has caused significant and ongoing harm. He experiences
25 emotional distress and constant worry about his pregnant girlfriend, sleep deprivation due to the
26 conditions of confinement, inadequate nutritional intake, leaving him chronically hungry, and
27 limited access to hygiene.

1 13. His girlfriend – a pregnant woman due in December 2025 – is experiencing severe
2 financial and emotional strain. F.J.J.F.’s detention has also jeopardized his employment, housing
3 stability, and his girlfriend’s ability to prepare for their child’s arrival. She has had to leave their
4 apartment, unable to pay rent without F.J.J.F.’s support.

5 14. F.J.J.F. is not a flight risk or danger to society. F.J.J.F. has complied with all ICE
6 reporting requirements, maintained stable residence in Los Angeles County, strong family ties,
7 stable employment, a pending asylum case, no criminal history, and his U.S.-citizen child is
8 about to be born.

10 15. By statute and regulation, as interpreted by the Board of Immigration Appeals (BIA), ICE
11 has the authority to re-arrest a noncitizen where there has been a material change in circumstances
12 since the individual’s release. 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9); Matter of Sugay, 17
13 I&N Dec. 647, 640 (BIA 1981). The government has further clarified in litigation that any change
14 in circumstances must be “material.” *Saravia v. Barr*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal.
15 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (emphasis
16 added). That authority, however, is proscribed by the Due Process Clause because it is well-
17 established that individuals released from incarceration have a liberty interest in their freedom. In
18 turn, to protect that interest, on the particular facts of F.J.J.F.’s case, due process requires notice
19 and a hearing, *before any re-arrest*, at which he is afforded the opportunity to advance his
20 arguments as to why his previous release status should not be revoked.

22 16. That basic principle – that individuals placed at liberty are entitled to process before the
23 government imprisons them – has particular meaning here. A DHS officer previously found that
24 F.J.J.F. need not be incarcerated to prevent flight, or to protect the community, and no material
25 circumstances have changed that would justify re-arrest. Therefore, at a minimum, to lawfully re-
26 arrest F.J.J.F., the government must first establish, by clear and convincing evidence and before
27
28

1 a neutral decision maker, that he is a danger to the community or a flight risk, such that his
2 reincarceration is necessary. ICE's re-arrest of F.J.J.F. on September 2, 2025, violated these
3 statutes, regulations, case law authority, and due process.

4 17. F.J.J.F. respectfully seeks a writ of habeas corpus ordering the government to immediately
5 release him from his ongoing, unlawful detention, and prohibiting his re-arrest without a hearing
6 to contest that re-arrest before a neutral decisionmaker. In addition, to preserve this Court's
7 jurisdiction, Petitioner also requests that this Court order the government not to transfer him to
8 another detention center outside of the District for the duration of this proceeding. Such a transfer
9 would cause hardship to Petitioner's family and his soon-to-be-born US-citizen child by moving
10 him further away from the San Fernando Valley area. Furthermore, it would render any decision
11 by this Court futile if F.J.J.F. were transferred to a detention center outside of the Court's
12 jurisdiction.
13

14 II. CUSTODY

15 18. Petitioner is currently in the custody of ICE at the Adelanto ICE Processing Center in
16 Adelanto, California. F.J.J.F. is therefore in "'custody' of [the DHS] within the meaning of the
17 habeas corpus statute." *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).
18

19 III. JURISDICTION AND VENUE

20 19. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question),
21 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (Declaratory Judgment Act), 28 U.S.C.
22 § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), the
23 Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706 (Administrative
24 Procedure Act).
25

26 20. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C.
27 § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.
28

IV. REQUIREMENTS OF 28 U.S.C. § 2243

21. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to Respondents “forthwith,” unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” *Id.* (emphasis added).

22. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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) (emphasis added).

23. Habeas corpus must remain a swift remedy. Importantly, “the statute itself directs courts to give petitions for habeas corpus ‘special, preferential consideration to ensure expeditious hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted). The Ninth Circuit warned against any action creating the perception “that courts are more concerned with efficient trial management than with the vindication of constitutional rights.” *Id.*

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

24. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez*, 872 F.3d at 988. 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.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)). F.J.J.F. asserts that exhaustion should be

1 waived because administrative remedies are (1) futile and (2) his continued detention results in
2 irreparable harm.

3 25. It would be futile for F.J.J.F. to seek a bond hearing from an Immigration Judge. His
4 request would be summarily denied based on the current interpretation of the BIA's recent
5 decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (B.I.A. 2025) and continued adherence to *Matter of*
6 *YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025).

7
8 26. Further, no statutory exhaustion requirements apply to F.J.J.F.'s claim of
9 unlawful custody in violation of his due process rights, and there are no administrative remedies
10 that he needs to exhaust. *Reno v Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936,
11 142 L.Ed.2d 940 (1999) (finding exhaustion to be a "futile exercise because the agency does not
12 have jurisdiction to review" constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d
13 1098, 1099 (C.D. Cal. 2000) (same).

14 VI. PARTIES

15
16 27. F.J.J.F. is a citizen and national of Nicaragua who entered the U.S. in 2022 and has
17 remained in the country since. The DHS has deemed F.J.J.F. neither a danger to his community
18 nor a flight risk and released him on his recognizance on December 19, 2022 (Exhibit A). He
19 established a life in California's San Fernando Valley. He is gainfully employed and spends his
20 free time with his girlfriend, mother, and brother and assisting community members.

21
22 28. Respondent Fereti SEMAIA is sued in her official capacity as the Warden of Adelanto ICE
23 Processing Center, where Petitioner is currently detained. Respondent Fereti SEMAIA has
24 immediate physical custody over Petitioner pursuant to the facility's contract with ICE to detain
25 noncitizens, and is thereby a legal custodian of Petitioner.

26
27 29. Respondent Ernesto SANTA CRUZ JR. is sued in his official capacity as Field Office
28 Director for the Los Angeles Field Office of ICE. Adelanto ICE Processing Center is located within

1 the jurisdiction of the ICE Los Angeles Field Office, which has legal authority over all individuals
2 in ICE custody there. As Field Office Director, Ernesto SANTA CRUZ JR. is a custodian of
3 Petitioner with legal authority to produce and release him.

4 30. Respondent Todd M. LYONS is sued in his official capacity as the Acting Director of ICE,
5 a component agency of DHS. ICE is responsible for enforcing U.S. immigration laws, including
6 detention of alleged noncitizens in removal proceedings, which the agency chooses to accomplish
7 through imprisonment and removal of noncitizens with final orders of removal. As ICE's Acting
8 Director, Respondent Todd M. LYONS is a custodian of Petitioner, with legal authority to produce
9 and release him.
10

11 31. Respondent Kristi NOEM is sued in her official capacity as the Secretary of DHS. She is
12 responsible for overseeing DHS and its sub-agency, ICE, and has ultimate responsibility over
13 detention of alleged noncitizens in civil immigration custody, including Petitioner. Respondent
14 Krist NOEM is a legal custodian of Petitioner.
15

16 32. Respondent Pamela BONDI is sued in her official capacity as Attorney General of the
17 United States. She is responsible for overseeing the Department of Justice (DOJ), and thereby the
18 Executive Office for Immigration Review (EOIR) and the immigration court system it operates.
19

20 **VII. STATEMENT OF FACTS**

21 33. Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign
22 targeting people who are in regular removal proceedings in immigration court, many of whom
23 have pending applications for asylum or other relief. This "coordinated operation" is "aimed at
24 dramatically accelerating deportations" by arresting people at the courthouse or at the ICE
25 office and placing them into expedited removal.¹ The Trump administration implemented a
26

27 ¹ Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in Trump's*
28 *Deportation Push*, Wash. Post, May 23, 2025,
<https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>; see also Hamed

1 policy to drastically increase immigration arrests to a target of at least 3,000 per day. According
2 to White House officials like Stephen Miller, this directive prioritized arrest numbers over the
3 individuals' criminal history, encouraging agents to conduct mass round-ups in public spaces
4 rather than targeted investigations.

5 34. As a result, arrests of non-citizens with no criminal record surged by over 800%, and two-
6 thirds of those deported had no criminal history. This focus on quantity over public safety led to
7 a new and aggressive tactic: systematically arresting immigrants at courthouses and ICE
8 appointments, regardless of the status of their legal cases. This has created a climate of fear,
9 discouraging people from attending their mandatory hearings or ICE appointments.
10

11 35. In addition, individuals are now held for extended periods, sometimes days, in temporary
12 holding cells that are not designed for overnight or prolonged detention, often under inhumane
13 conditions. Government officials have justified these harsh conditions not as a matter of
14 necessity, but as an intentional deterrent, which is not a constitutionally permissible reason for
15 detention.
16

17 36. The government's new campaign is also a significant shift from the previous DHS practice
18 of re-detaining noncitizens only after a material change in circumstances. *See Saravia v. Sessions*,
19 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905
20 F.3d 1137 (9th Cir. 2018) (describing prior practice).

21 37. Petitioner initially came into immigration custody immediately after crossing the border
22 at or near San Luis, Arizona on December 18, 2022. About 8 hours later, he was released with
23 conditional humanitarian parole under INA 212 (d)(5) and instructed to report to the ICE office
24
25
26

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

1 in Los Angeles within 60 days of his arrival to Los Angeles County. DHS did not require
2 Petitioner to post a bond (Exhibit A).

3 38. Following his release, Petitioner appeared at the Los Angeles ICE office on January 20,
4 2023, at 300 N Los Angeles St, Rm 7631, Los Angeles, CA 90012. During his appointment, ICE
5 officials informed him that his next check-in will be on October 14, 2025 (Exhibit B). They
6 provided him with no other instructions.

7
8 39. Petitioner has resided in the San Fernando Valley since his arrival to the United States.
9 After initially living with his mother and brother in North Hills and Panorama City, he eventually
10 earned enough to move into his own apartment in Van Nuys with his girlfriend, who is currently
11 pregnant and due in December 2025. Throughout his time in the United States, Petitioner has
12 grown into a valued member of the San Fernando Valley community. He has worked as a
13 plumber's assistant since June 2024 and hoped to gradually build his own plumbing business.
14 Petitioner's employer recognized his dedication shortly before his detention, praising his work
15 after he independently completed a home plumbing repair and gifting him a bicycle in
16 acknowledgement of his efforts.

17
18 40. Petitioner took pride in serving his community, often repairing bicycles for unhoused
19 individuals at no charge, helping homeless residents fix damaged shelter, and sharing food with
20 those in need. Petitioner also regularly attended services at Our Lady of Peace Catholic Church
21 in North Hills. He maintains close family ties, including his mother and brother in Panorama City
22 and an aunt with Legal Permanent Resident status in Miami, Florida.

23
24 41. Petitioner was planning on presenting himself at ICE check-in scheduled on October 14,
25 2025, before he was re-detained without any advance notice or cause, or the opportunity for a due
26 process hearing, on September 2, 2025. That day, men appeared at Petitioner's apartment in Van
27 Nuys and showed Petitioner the photo of a man and asked whether he knew him. Petitioner did
28

1 and responded honestly, wanting to comply with the officials, who he assumed were police. The
2 men then showed Petitioner a picture of himself and told Petitioner and his girlfriend that they
3 just needed to take Petitioner into a police station to ask him a few questions – the men assured
4 his girlfriend he would be back the same day. The men told Petitioner to put his hands behind his
5 back and handcuffed him. When Petitioner and his girlfriend asked whether they were
6 immigration officials, the men responded that they were not. The men then led Petitioner into an
7 unmarked black Dodge sedan. When he was in the car, Petitioner asked the men what police
8 station he was being brought to. One of the men, scoffed, “Station? No, you – Los Angeles.”

10 42. Petitioner was driven to B18, a small ICE processing facility in the basement of the federal
11 building located at 300 N Los Angeles St, Los Angeles, CA 90012. While Petitioner was being
12 processed, an immigration official told him that he has the right to a bond hearing before a judge
13 – a right he was never afforded. Petitioner was held in the processing center for two days. In those
14 two days, Petitioner was not permitted a shower, nor could he even brush his teeth. Petitioner was
15 kept in a room with 20 other detainees, where the lights stayed on through the night and where it
16 was too cold to sleep. Despite requesting one, Petitioner was not provided a blanket of any kind.

18 43. Petitioner was then driven to Adelanto Detention Center, where he has remained
19 detained.

20 44. F.J.J.F.’s sudden re-detention has resulted in profound and continuing hardship. He
21 suffers from heightened anxiety and persistent concern for his pregnant partner, along with
22 disrupted sleep due to the conditions at Adelanto, insufficient and inconsistent meals that leave
23 him hungry, and restricted access to basic hygiene.

25 45. His girlfriend—who is expecting their child in December 2025—is under intense
26 financial pressure and emotional strain without F.J.J.F.’s support. His detention has also placed
27 his job at risk, destabilized their housing situation, and prevented the couple from preparing for
28

1 the imminent birth of their baby. Without the financial support of F.J.J.F., his girlfriend is unable
2 to pay rent and has had to move out.

3 46. F.J.J.F. presents neither a flight risk nor a danger to the community. He has complied
4 with every reporting requirement set by ICE, maintained continuous and stable residence in Los
5 Angeles County, built strong familial and community ties, held steady employment, filed a
6 pending asylum application, has no criminal record, and is preparing for the arrival of his U.S.-
7 citizen child (Exhibit C).
8

9 47. Before re-detaining F.J.J.F., he must receive a hearing before a neutral adjudicator to
10 decide whether a material change in circumstances indicates that he is now a flight risk or danger
11 to the community. 8 C.F.R. § 236.1(c)(9). ICE did not afford F.J.J.F. a hearing, nor were there
12 any material changes to warrant re-detention.

13 48. Intervention from this Court is therefore required to ensure that F.J.J.F. is first,
14 immediately released to return to his mother's home in Panorama City, and second, that ICE
15 provides him a hearing pursuant to the Due Process Clause of the Fifth Amendment before any
16 further attempts to re-detain.
17

18 VIII. LEGAL BACKGROUND

19 **Statutory Framework**

20 49. F.J.J.F.'s removal proceedings before the EOIR are governed by section 240 of the
21 Immigration and Nationality Act ("section 240 proceedings"). Section 240 proceedings provide
22 important statutory protections, including hearings before an Immigration Judge. See 8 U.S.C. §
23 1229a(a)(1), (a)(4).
24

25 **Right to a Hearing Prior to Re-incarceration**

26 50. In F.J.J.F.'s particular circumstances, the Due Process Clause of the Constitution makes
27 it unlawful for Respondents to re-arrest him without first providing a pre-deprivation hearing
28

1 before a neutral decision maker to determine whether circumstances have materially changed
2 since his release from custody in December of 2022, such that detention would now be warranted
3 on the basis that he is a danger or a flight risk by clear and convincing evidence.

4 51. The statute and regulations grant ICE the ability to unilaterally revoke any noncitizen's
5 immigration bond determination or parole, and re-arrest the noncitizen at any time. 8 U.S.C. §
6 1226(b); 8 C.F.R. § 236.1(c)(9). Notwithstanding the breadth of the statutory language granting
7 ICE the power to revoke an immigration bond "at any time," 8 U.S.C. 1226(b), in *Matter of Sugay*,
8 17 I&N Dec. at 640, the BIA has recognized an implicit limitation on ICE's authority to re-arrest
9 noncitizens. There, the BIA held that "where a previous bond determination has been made by an
10 immigration judge, no change should be made by [the DHS] absent a change of circumstance."
11 *Id.* In practice, DHS "requires a showing of changed circumstances both where the prior bond
12 determination was made by an immigration judge *and* where the previous release decision was
13 made by a DHS officer." *Saravia*, 280 F. Supp. 3d at 1197 (emphasis added). The Ninth Circuit
14 has also assumed that, under *Matter of Sugay*, ICE has no authority to re-detain an individual
15 absent changed circumstances. *Panosyan v. Mayorkas*, 854 F. App'x 787, 788 (9th Cir. 2021)
16 ("Thus, absent changed circumstances ... ICE cannot redetain Panosyan.").

17 52. ICE has further limited its authority as described in *Sugay*, and "generally only re-arrests
18 [noncitizens] pursuant to § 1226(b) after a *material* change in circumstances." *Saravia*, 280 F.
19 Supp. 3d at 1197, *aff'd sub nom. Saravia for A.H.*, 905 F.3d 1137 (quoting Defs.' Second Supp.
20 Br. at 1, Dkt. No. 90) (emphasis added). Thus, under BIA case law and ICE practice, ICE may
21 re-arrest a noncitizen who had been previously released on bond only after a material change in
22 circumstances. *See Saravia*, 280 F. Supp. 3d at 1176; *Matter of Sugay*, 17 I&N Dec. at 640.

23 53. ICE's power to re-arrest a noncitizen who is at liberty following a release from custody is
24 also constrained by the demands of due process. *See Hernandez v. Sessions*, 872 F.3d 976, 981

(9th Cir. 2017) (“the government’s discretion to incarcerate non-citizens is always constrained by the requirements of due process”). *See also Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (Due Process requires pre-deprivation hearing before revocation of probation); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in parole context). Petitioner’s release from custody in April of 2022 and ties to his family and community provide him with a protected liberty interest. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. Nov. 22, 2019)

54. Federal district courts in California have repeatedly recognized that the demands of due process and the limitations on DHS’s authority to revoke a noncitizen’s release from custody set out in DHS’s stated practice and *Matter of Sugay* both require a pre-deprivation hearing for a noncitizen on ICE’s supervision, like F.J.J.F. before ICE re-detains him. *See, e.g., Meza v. Bonnar*, 2018 WL 2554572 (N.D. Cal. June 4, 2018); *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021); *Romero v. Kaiser*, No. 22-cv-02508-TSH, 2022 WL 1443250, at *3-4 (N.D. Cal. May 6, 2022) (Petitioner would suffer irreparable harm if re-detained, and required notice and a hearing before any re-detention); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL 1382859, at *3 (N.D. Cal. May 12, 2025) (temporary injunction warranted preventing re-arrest at plaintiff’s ICE interview when he had been on bond for more than five years). *See also Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, *4 (E.D. Cal. Mar. 3, 2025) (holding the Constitution requires a hearing before any re-arrest).

F.J.J.F.’s Protected Liberty Interest in His Conditional Release

55. The Due Process Clause protects F.J.J.F.’s liberty from immigration custody: “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—

1 lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S.
2 678, 690 (2001).

3 56. Since December 19, 2023, F.J.J.F. exercised that freedom under ICE’s order releasing him
4 from custody (Exhibit A). As he was released from custody, he retains a weighty liberty interest
5 under the Due Process Clause of the Fifth Amendment in avoiding unlawful re-incarceration. *See*
6 *Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82
7 (1973); *Morrissey*, 408 U.S. at 482-483. Respondents created a reasonable expectation that
8 F.J.J.F. would be permitted to live and work in the United States without being subject to arbitrary
9 arrest and removal.
10

11 57. This reasonable expectation creates constitutionally-protected liberty and property
12 interests. *Perry v. Sindermann*, 408 U.S. 593, 601-03 (1972) (reliance on policies and practices
13 may establish a legitimate claim of entitlement to a constitutionally-protected interest); *see also*
14 *Texas v. United States*, 809 F.3d 134, 174 (2015), affirmed by an equally divided court, 136 S.
15 Ct. 2271 (2016) (explaining that “DACA involve[s] issuing benefits” to certain applicants). These
16 benefits are entitled to constitutional protections no matter how they may be characterized by
17 Respondents. *See, e.g., Newman v. Sathyavaglswaran*, 287 F.3d 786, 797 (9th Cir. 2002) (“[T]he
18 identification of property interests under constitutional law turns on the substance of the interest
19 recognized, not the name given that interest by the state or other independent source.”) (internal
20 quotations omitted).
21

22 58. In *Morrissey*, the Supreme Court examined the “nature of the interest” that a parolee has
23 in “his continued liberty.” 408 U.S. at 481-82. The Court noted that, “subject to the conditions of
24 his parole, [a parolee] can be gainfully employed and is free to be with family and friends and to
25 form the other enduring attachments of normal life.” *Id.* at 482. The Court further noted that “the
26 parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live
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up to the parole conditions.” *Id.* The Court explained that “the liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a grievous loss on the parolee and often others.” *Id.* In turn, “[b]y whatever name, the liberty is valuable and must be seen within the protection of the [Fifth] Amendment.” *Morrissey*, 408 U.S. at 482.

59. This basic principle – that individuals have a liberty interest in their conditional release – has been reinforced by both the Supreme Court and the circuit courts on numerous occasions. *See, e.g., Young v. Harper*, 520 U.S. at 152 (holding that individuals placed in a pre-parole program created to reduce prison overcrowding have a protected liberty interest requiring pre-deprivation process); *Gagnon v. Scarpelli*, 411 U.S. at 781-82 (holding that individuals released on felony probation have a protected liberty interest requiring pre-deprivation process). As the First Circuit has explained, when analyzing the issue of whether a specific conditional release rises to the level of a protected liberty interest, “[c]ourts have resolved the issue by comparing the specific conditional release in the case before them with the liberty interest in parole as characterized by *Morrissey*.” *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and citation omitted). *See also, e.g., Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) (“a person who is in fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due process before he is re-incarcerated”) (citing *Young*, 520 U.S. at 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at 482).

60. In fact, it is well-established that an individual maintains a protectable liberty interest even where the individual obtains liberty through a mistake of law or fact. *See id.; Gonzalez-Fuentes*, 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982) (noting that due process considerations support the notion that an inmate released on parole by mistake, because he was

1 serving a sentence that did not carry a possibility of parole, could not be re-incarcerated because
2 the mistaken release was not his fault, and he had appropriately adjusted to society, so it “would
3 be inconsistent with fundamental principles of liberty and justice” to return him to prison)
4 (internal quotation marks and citation omitted).

5 61. Here, when this Court ““compar[es] the specific release in [F.J.J.F.’s case], with the liberty
6 interest in parole as characterized by *Morrissey*,”” it is clear that they are strikingly similar. *See*
7 *Gonzalez-Fuentes*, 607 F.3d at 887. Just as in *Morrissey*, F.J.J.F.’s release “enables him to do a
8 wide range of things open to persons”” who have never been in custody or convicted of any crime,
9 including to live at home, practice his faith, care for his grandmother, and “be with family and
10 friends and to form the other enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482.

11
12 **F.J.J.F.’s Liberty Interest Mandates a Hearing Before any Re-Arrest and Revocation of**
13 **Release from Custody**

14 62. F.J.J.F. asserts that, here, (1) where his detention would be civil; (2) where he has been at
15 liberty for nearly three years; (3) where no change in circumstances exist that would justify his
16 lawful detention; and (4) where the only circumstance was ICE’s move to arrest as many people
17 as possible because of the new administration, due process mandates that he be released from his
18 unlawful custody and receive notice and a hearing before a neutral adjudicator *prior* to any re-
19 arrest or revocation of his custody release.
20

21 63. “Adequate, or due, process depends upon the nature of the interest affected. The more
22 important the interest and the greater the effect of its impairment, the greater the procedural
23 safeguards the [government] must provide to satisfy due process.” *Haygood v. Younger*, 769 F.2d
24 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court must
25 “balance [F.J.J.F.’s] liberty interest against the [government’s] interest in the efficient
26 administration of” its immigration laws in order to determine what process he is owed to ensure
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1 that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357. Under the test set forth
2 in *Mathews v. Eldridge*, this Court must consider three factors in conducting its balancing test:
3 “first, the private interest that will be affected by the official action; second, the risk of an
4 erroneous deprivation of such interest through the procedures used, and the probative value, if
5 any, of additional or substitute procedural safeguards; and finally the government’s interest,
6 including the function involved and the fiscal and administrative burdens that the additional or
7 substitute procedural requirements would entail.” *Haygood*, 769 F.2d at 1357 (citing *Mathews v.*
8 *Eldridge*, 424 U.S. 319, 335 (1976)). Several district courts have applied the Mathews factors in
9 similar cases, and found that those in Petitioner’s position, noncitizens granted the liberty of
10 release pending removal proceedings, have due process rights. See e.g., *Calderon v. Kaiser*, No.
11 25-CV-06695-AMO, 2025 WL 2430609, at *3 (N.D. Cal. Aug. 22, 2025); *Ramirez Clavijo v.*
12 *Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263, at *5 (N.D. Cal. Aug. 21, 2025); *Pinchi v.*
13 *Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025); *Hernandez*
14 *Nieves v. Kaiser*, No. 25-CV-06921-LB, 2025 WL 2533110, at *4 (N.D. Cal. Sept. 3, 2025).

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17 64. The Supreme Court “usually has held that the Constitution requires some kind of a hearing
18 before the State deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127
19 (1990) (emphasis in original). Only in a “special case” where post-deprivation remedies are “the
20 only remedies the State could be expected to provide” can post-deprivation process satisfy the
21 requirements of due process. *Zinerman*, 494 U.S. at 985. Moreover, only where “one of the
22 variables in the *Mathews* equation—the value of pre-deprivation safeguards—is negligible in
23 preventing the kind of deprivation at issue” such that “the State cannot be required constitutionally
24 to do the impossible by providing pre-deprivation process,” can the government avoid providing
25 pre-deprivation process. *Id.*

26
27 65. In this case, ICE is required to release F.J.J.F. from his unlawful custody and provide
28

1 F.J.J.F. with notice and a hearing *prior* to any re-incarceration and revocation of his liberty. *See*
2 *Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinerman*,
3 494 U.S. at 985; *see also Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*,
4 744 F.2d 1452 (11th Cir. 1984) (holding that individuals awaiting involuntary civil commitment
5 proceedings may not constitutionally be held in jail pending the determination as to whether they
6 can ultimately be recommitted). Under *Mathews*, “the balance weighs heavily in favor of
7 [F.J.J.F.’s] liberty” and requires a pre-deprivation hearing before a neutral adjudicator.

9 **F.J.J.F.’s Private Interest in His Liberty is Profound**

10 66. Under *Morrissey* and its progeny, individuals conditionally released from serving
11 a criminal sentence have a liberty interest that is “valuable.” *Morrissey*, 408 U.S. at 482. In
12 addition, the principles espoused in *Hurd* and *Johnson* – that a person who is in fact free of
13 physical confinement, even if that freedom is lawfully revocable, has a liberty interest that entitles
14 him to constitutional due process before he is re-incarcerated – apply with even greater force to
15 individuals like F.J.J.F., who have been released pending civil removal proceedings, rather than
16 parolees or probationers who are subject to incarceration as part of a sentence for a criminal
17 conviction. Parolees and probationers have a diminished liberty interest given their underlying
18 convictions. *See, e.g., U.S. v. Knights*, 534 U.S. 112, 119 (2001); *Griffin v. Wisconsin*, 483 U.S.
19 868, 874 (1987). Nonetheless, even in the criminal parolee context, the courts have held that the
20 parolee cannot be re-arrested without a due process hearing in which they can raise any claims
21 they may have regarding why their re-incarceration would be unlawful. *See Gonzalez-Fuentes*,
22 607 F.3d at 891-92; *Hurd*, 864 F.3d at 683. Thus, F.J.J.F. retains a truly weighty liberty interest
23 even though he is under conditional release.

24 67. What is at stake in this case for F.J.J.F. is one of the most profound individual interests
25 recognized by our legal system: whether ICE may unilaterally nullify a prior decision releasing
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1 him from custody and to take away – without a lawful basis – his physical freedom, i.e., his
2 “constitutionally protected interest in avoiding physical restraint.” *Singh v. Holder*, 638 F.3d
3 1196, 1203 (9th Cir. 2011) (internal quotation omitted). “Freedom from bodily restraint has
4 always been at the core of the liberty protected by the Due Process Clause.” *Foucha v. Louisiana*,
5 504 U.S. 71, 80 (1992). *See also Zadvydas*, 533 U.S. at 690 (“Freedom from imprisonment – from
6 government custody, detention, or other forms of physical restraint – lies at the heart of the liberty
7 that [the Due Process] Clause protects.”); *Cooper v. Oklahoma*, 517 U.S. 348 (1996).

8
9 68. Thus, it is clear that there is a profound private interest at stake in this case, which must
10 be weighed heavily when determining what process he is owed under the Constitution. *See*
11 *Mathews*, 424 U.S. at 334-35.

12 **The Government’s Interest in Re-Incarcerating F.J.J.F. Without a Hearing is Low and the**
13 **Burden on the Government to Refrain from Re-Arresting Him Unless and Until He is**
14 **Provided a Hearing That Comports with Due Process is Minimal**

15 69. The government’s interest in detaining F.J.J.F. without a due process hearing is low, and
16 when weighed against F.J.J.F.’s significant private interest in his liberty, the scale tips sharply in
17 favor of enjoining Respondents to release F.J.J.F. from his unlawful custody and refrain from re-
18 arresting F.J.J.F. unless and until the government demonstrates by clear and convincing evidence
19 that he is a flight risk or danger to the community. It becomes abundantly clear that the *Mathews*
20 test favors F.J.J.F. when the Court considers that the process he seeks – notice and a hearing
21 regarding whether he has violated any conditions of his release, and, if so, providing F.J.J.F. with
22 a hearing before this Court (or a neutral decisionmaker) to determine whether there is clear and
23 convincing evidence that F.J.J.F. is a flight risk or danger to the community – would impose only
24 a *de minimis* burden on the government, because the government routinely provides this sort of
25 hearing to individuals like F.J.J.F.
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1 70. As immigration detention is civil, it can have no punitive purpose. The government's only
2 interest in holding an individual in immigration detention can be to prevent danger to the
3 community or to ensure a noncitizen's appearance at immigration proceedings. *See Zadvydas*,
4 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any lawful basis
5 for detaining F.J.J.F. F.J.J.F. has lived at liberty complying with the conditions of his release since
6 December of 2022.

7
8 71. ICE determined F.J.J.F. not to be a danger to the community or a flight risk in December
9 of 2022 and he has done nothing to undermine that determination. To the contrary, he complied
10 with the terms of his release. *See Morrissey*, 408 U.S. at 482 ("It is not sophistic to attach greater
11 importance to a person's justifiable reliance in maintaining his conditional freedom so long as he
12 abides by the conditions on his release, than to his mere anticipation or hope of freedom")
13 (quoting *United States ex rel. Bey v. Connecticut Board of Parole*, 443 F.3d 1079, 1086 (2d Cir.
14 1971)).

15
16 72. It is difficult to see how the government's interest in ensuring his presence at the moment
17 of removal has materially changed since he was released in December of 2022, when he has
18 appeared at every ICE appointment. The government's interest in detaining F.J.J.F. at this time is
19 therefore low. That ICE has a new policy to make a minimum number of arrests each day under
20 the new administration does not constitute a material change in circumstances or increase the
21 government's interest in detaining him.²

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25 ² See "Trump officials issue quotas to ICE officers to ramp up arrests," *Washington Post* (January 26, 2025), available
26 at: <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/>; "Stephen Miller's
27 Order Likely Sparked Immigration Arrests And Protests," *Forbes* (June 9, 2025),
28 <https://www.forbes.com/sites/stuartanderson/2025/06/09/stephen-millers-order-likely-sparked-immigration-arrests-and-protests/> ("At the end of May 2025, 'Stephen Miller, a senior White House official, told Fox News that the White House was looking for ICE to arrest 3,000 people a day, a major increase in enforcement. The agency had arrested more than 66,000 people in the first 100 days of the Trump administration, an average of about 660 arrests a day,' reported the New York Times. Arresting 3,000 people daily would surpass 1 million arrests in a calendar year.").

1 73. Moreover, the “fiscal and administrative burdens” that his immediate release and a lawful
2 pre-detention hearing would impose is nonexistent in this case. *See Mathews*, 424 U.S. at 334-35.
3 F.J.J.F. does not seek a unique or expensive form of process, but rather a routine hearing regarding
4 whether his order of release should be revoked and whether he should be re-incarcerated.

5 74. As the Ninth Circuit noted in 2017, which remains true today, “[t]he costs to the public of
6 immigration detention are ‘staggering’: \$158 each day per detainee, amounting to a total daily
7 cost of \$6.5 million.” *Hernandez*, 872 F.3d at 996. ICE’s unlawful action of placing him in
8 custody is more of a financial burden than releasing him and providing a pre-custody hearing
9 before any future re-arrest occurs.

10 75. In addition, providing F.J.J.F. with a hearing before this Court (or a neutral decisionmaker)
11 regarding release from custody is a routine procedure that the government provides to those in
12 immigration jails on a daily basis. At that hearing, the Court would have the opportunity to
13 determine whether circumstances have changed sufficiently to justify his re-arrest. But there is
14 no justifiable reason to re-incarcerate F.J.J.F. prior to such a hearing taking place. As the Supreme
15 Court noted in *Morrissey*, even where the State has an “overwhelming interest in being able to
16 return [a parolee] to imprisonment without the burden of a new adversary criminal trial if in fact
17 he has failed to abide by the conditions of his parole . . . the State has no interest in revoking
18 parole without some informal procedural guarantees.” *Morrissey*, 408 U.S. at 483.

19 76. F.J.J.F. should be released from unlawful custody and his re-arrest enjoined until ICE (1)
20 moves for a pre-deprivation bond hearing before an Immigration Judge and (2) demonstrates by
21 clear and convincing evidence that F.J.J.F. is a flight risk or danger to the community. *Hernandez*,
22 872 F.3d at 996.

23 **Without a Due Process Hearing Prior to Any Re-Arrest, the Risk of an Erroneous**
24 **Deprivation of Liberty is High, and Process in the Form of a Constitutionally Compliant**
25 **Hearing Where ICE Carries the Burden Would Decrease That Risk**

1 77. Releasing F.J.J.F. from unlawful custody and providing F.J.J.F. a pre-deprivation hearing
2 would decrease the risk of F.J.J.F. being erroneously deprived of his liberty. Before F.J.J.F. can
3 be lawfully detained, he must be provided with a hearing before a neutral adjudicator at which
4 the government is held to show that there has been sufficiently changed circumstances such that
5 ICE's December of 2022 release from custody determination should be altered or revoked
6 because clear and convincing evidence exists to establish that F.J.J.F. is a danger to the
7 community or a flight risk.
8

9 78. On September 2, 2025, F.J.J.F. did not receive this protection. Instead, he was detained
10 by ICE, without notice, outside of his apartment, and there have been no material changes in his
11 circumstances.
12

13 79. By contrast, the procedure F.J.J.F. seeks – a hearing in front of a neutral adjudicator at
14 which the government must prove by clear and convincing evidence that circumstances have
15 changed to justify his detention *before* any re-arrest – is much more likely to produce accurate
16 determinations regarding factual disputes, such as whether a particular occurrence constitutes a
17 “changed circumstance.” *See Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th Cir. 1989)
18 (when “delicate judgments depending on credibility of witnesses and assessment of conditions
19 not subject to measurement” are at issue, the “risk of error is considerable when just
20 determinations are made after hearing only one side”). “A neutral judge is one of the most basic
21 due process protections.” *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated*
22 *on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth Circuit has
23 noted that the risk of an erroneous deprivation of liberty under *Mathews* can be decreased where
24 a neutral decisionmaker, rather than ICE alone, makes custody determinations. *Diouf v.*
25 *Napolitano* (“*Diouf II*”), 634 F.3d 1081, 1091-92 (9th Cir. 2011).
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1 80. Due process also requires consideration of alternatives to detention at any custody
2 determination hearing that may occur. The primary purpose of immigration detention is to ensure
3 a noncitizen's appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is
4 not reasonably related to this purpose if there are alternatives to detention that could mitigate risk
5 of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly, alternatives to detention
6 must be considered in determining whether F.J.J.F.'s reincarceration is warranted.

7
8 **IX. FIRST CAUSE OF ACTION**

9 **Procedural Due Process**

10 **U.S. Const. amend. V**

11 81. F.J.J.F. re-alleges and incorporates herein by reference, as is set forth fully herein, the
12 allegations in all the preceding paragraphs.

13 82. The Due Process Clause of the Fifth Amendment forbids the government from depriving
14 any "person" of liberty "without due process of law." U.S. Const. amend. V.

15 83. F.J.J.F. has a vested liberty interest in his lawful conditional release. Due Process does not
16 permit the government to strip him of that liberty without a hearing before this Court. *See*
17 *Morrissey*, 408 U.S. at 487-488.

18 84. The Court must therefore order that ICE release F.J.J.F. from his current unlawful custody.

19 85. Prior to any re-arrest, the government must provide him with a hearing before a neutral
20 adjudicator. At the hearing, the neutral adjudicator would evaluate, *inter alia*, whether clear and
21 convincing evidence demonstrates, taking into consideration alternatives to detention, that F.J.J.F.
22 is a danger to the community or a flight risk, such that his reincarceration is warranted. During
23 any custody determination hearing that occurs, this Court or, alternatively, a neutral adjudicator
24 must consider alternatives to detention when determining whether F.J.J.F.'s re-incarceration is
25 warranted.
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X. SECOND CAUSE OF ACTION

Substantive Due Process

U.S. Const. amend. V

86. F.J.J.F. re-alleges and incorporates herein by reference, as is set forth fully herein, the allegations in all the preceding paragraphs.

87. The Due Process Clause of the Fifth Amendment forbids the government from depriving individuals of their right to be free from unjustified deprivations of liberty. U.S. Const. amend. V.

88. F.J.J.F. has a vested liberty interest in his conditional release. Due Process does not permit the government to strip him of that liberty without it being tethered to one of the two constitutional bases for civil detention: to mitigate against the risk of flight or to protect the community from danger. Since December of 2022, F.J.J.F. has attended all of his court hearings and appointments, thus demonstrating that he is neither a flight risk nor a danger. Re-arresting him now would be punitive and violate his constitutional right to be free from the unjustified deprivation of his liberty.

89. For these reasons, F.J.J.F.'s continued unlawful custody and any subsequent re-arrest without first being provided a pre-deprivation hearing would violate the Constitution.

90. The Court must therefore order that he be released from custody.

91. The Court must order the government to not re-arrest him in any subsequent action without a hearing before a neutral adjudicator. At the hearing, the neutral adjudicator would evaluate, *inter alia*, whether clear and convincing evidence demonstrates, taking into consideration alternatives to detention, that F.J.J.F. is a danger to the community or a flight risk, such that his reincarceration is warranted. During any custody determination hearing that occurs, this Court or, in the alternative, a neutral adjudicator must consider alternatives to detention when determining whether F.J.J.F.'s reincarceration is warranted.

XI. PRAYER FOR RELIEF

WHEREFORE, F.J.J.F. prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Declare that ICE's September 2, 2025, apprehension and detention of F.J.J.F. was an unlawful exercise of authority because the ICE officer provided no reason that he presents a danger to the community or is flight risk;
- (3) Order ICE to immediately release F.J.J.F. from his unlawful detention;
- (4) Enjoin re-arresting F.J.J.F. unless and until a hearing can be held before a neutral adjudicator to determine whether his re-incarceration would be lawful because the government has shown that he is a danger or a flight risk by clear and convincing evidence;
- (5) Declare that F.J.J.F. cannot be re-arrested unless and until he is afforded a hearing on the question of whether his re-incarceration would be lawful – i.e., whether the government has demonstrated to a neutral adjudicator that he is a danger or a flight risk by clear and convincing evidence;
- (6) Order ICE to not transfer F.J.J.F. to another detention center out of this District;
- (7) Award reasonable costs and attorney fees; and
- (8) Grant such further relief as the Court deems just and proper.

Dated: December 16, 2025

Respectfully submitted,

/s/ Christopher Duran

Christopher Duran
Attorney for Petitioner

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

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on December 16, 2025, in Los Angeles, CA.

/s/ Christopher Duran
Christopher Duran
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 17, 2025, I served a copy of this Petition for Writ of Habeas Corpus by email to the following individual:

David M. Harris
Chief of the Civil Division
U.S. Attorney's Office
300 N. Los Angeles St. Ste 7516
Los Angeles, CA 90012-3341
Email: David.M.Harris@usdoj.gov

On December 16, 2025, I notified David M. Harris of the U.S. Attorney's Office of my intent to file.

s/Christopher Duran

Christopher Duran
Attorney for Petitioner

EXHIBIT "A"

FINS #		Subject ID:		Event No	
1. FAMILY NAME (Capital Letters)		First Name	Middle Name	2. Age	3. Country of Citizenship
JUAREZ FERNANDEZ, FERNANDO JOSE				24	NICARAGUA
4. Alias			5. Date Apprehended December 18, 2022		6. Office YUM/YUS
7. Birth Date	8. Birth Place MATAGALPA, NICARAGUA				
9. Sex ☒ Male ☐ Female	10. OSC/WA Served ☒ Yes ☐ No (Explain)				
11. File Number	12. Bond Date Posted \$				
13. CINS ☐ Yes ☐ No	14. Medical Alert ☐ No ☐ Yes (Explain)				
15. TRANSFER DATE		FROM		TO	
A					
B					
C					
16. ADMITTED BY:		19. RELEASED TO: ☐ V/R ☐ Deport		22. Rt. Index Print - In	23. Rt. Index Print - Out
17. SEARCHED IN BY:		20. RELEASED BY:			
18. DATE ADMITTED:		21. DATE RELEASED:			
24. Remarks: See I-831					
FORM I-385 (08/01/07)		ALIEN BOOKING RECORD			
		UNITED STATES DEPARTMENT OF HOMELAND SECURITY			

CONTROL Name (Last, First, Middle) JOSAE PEREZ PEREZ PEREZ PEREZ							
Birthdate [REDACTED]		Age 24		Marital Status ☐ Single ☒ Separated		☐ Widowed ☐ Married ☐ Divorced	
Sex M	Hair BLK	Eyes BRO	Complexion MED	Height 68	Weight 178	Scars or Marks	
U.S. Address/Mail (Number) (Street) (City) (State) (ZIP CODE) [REDACTED]							
Alien's Telephone # [REDACTED]				Date of Action 12/19/2022		Location Code YUS	
City, Province (State) and Country of Birth MATEAGALPA, NICARAGUA					Country of Citizenship NICARAGUA		
Date, Place, Time, and Manner of Last Entry/Attempted Entry 12/18/2022, 0400, 11 mile(s) NE of ELD					Status at Entry PNA Mexico		
Foreign Address/Residence (Number, Street, City, Province (State), Country) NICARAGUA							
Method of Location/Apprehension PB UNKNOWN				(At/Near) [REDACTED]		Date & Hour 12/18/2022 1125	



U.S. Department of Homeland Security

Continuation Page for Form

1385

Alien's Name
JUAREZ FERNANDEZ, FERNANDO JOSE

File Number

Date

December 19, 2022

24. REMARK

AS A CONDITION OF YOUR PAROLE, YOU ARE TO REPORT TO THE IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICE NEAR YOUR FINAL DESTINATION WITHIN 60 DAYS OR FACE REMOVAL FROM THE UNITED STATES. VISIT WWW.ICEGOV/CONTACTFIELD-OFFICES# FOR THE ADDRESS

COMO UNA CONDICION DE SU LIBERTAD CONDICIONAL. USTED DEBE PRESENTARSE EN LA OFICINA DE IMMIGRACION Y ADUANA CERCA DE SU DESTINO FINAL DENTRO DE LOS 60 DIAS O SERA EXPULSADO/A DE LOS ESTADOS UNIDOS. VISITAR WWW.ICEGOV/CONTACTFIELD-OFFICES# POR LA DIRECCION

Signature

GABRIEL N CONCEPCION RODRIGUEZ
Date: 2022.12.19 10:28:33
0763911105.CBP

Title

2 of 2 Pages



DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

PD G-56

File Number: A

Name: FERNANDO JOSE JUAREZ FERNANDEZ

Date: 12/19/2022

Home Address:

Please present this notice to your local ICE office upon request

OFFICE LOCATION	ICE Field Offices are listed on the attached document entitled "ICE Field Offices." Please call 1-888-351-4024 if you need assistance in locating or reporting to your local ICE office.
DEADLINE	You must report your local ICE office within 60 days of release.
REQUEST	ICE Deportation Officer for continued processing and consideration for enrollment in ATD.
REASON FOR APPOINTMENT	You have been released in the discretion of U.S. Customs and Border Protection in the United States and are now required to contact your local ICE Field Office to complete processing. Contacting ICE will ensure that DHS has your address and contact information up to date. Once you contact ICE for the first time, ICE will evaluate how you can meet the continuing filing requirements which may include in-person reporting. Failure to contact the local ICE office may lead to you being taken into custody or placed on additional forms of supervision or monitoring.
BRING WITH YOU	Identification document (birth certificate, government-issued identity documents such as a driver's license or cédula) and all immigration documents.

FAILURE TO CONTACT THE LOCAL ICE OFFICE AS INSTRUCTED MAY RESULT IN YOUR ARREST AND/OR A LOSS OF THE RIGHT TO ANY POSSIBLE RELIEF. THANK YOU FOR YOUR COOPERATION.

EXHIBIT "B"

1/20/23, 8:35 AM

Appointment Confirmation | Field Office Scheduler | ServiceNow



AB

Appointment Confirmation

Appointment Details

Confirmation Number



Disposition

Scheduled Appointment

Appointment Start

10-14-2025 7:00AM

Appointment End

10-14-2025 8:00AM

Appointment location

LOS ANGELES FIELD OFFICE

Appointment Location

Name

LOS ANGELES FIELD OFFICE

Street

300 NORTH LOS ANGELES STREET

City

LOS ANGELES

State / Province

CA

Zip / Postal Code

90012

Office Phone

213-830-7901

Email

losangeles.outreach@ice.dhs.gov

Required Documentation

- Form I-385
- Appointment confirmation page
- Proof of address
- All official U.S. and foreign identification such as birth or marriage certificates and passports.
- As applicable, individuals must bring any and all immigration records such as applications and decisions, criminal arrest and conviction records and any evidence of rehabilitation, school or training program records, documentation of serious physical or mental illness, pregnancy, and/or disability, or evidence of U.S. property ownership or other considerable assets in the community.

Appointment Confirmation

Email Address

☒ Submit

Phone (Text Message) ①

☐ Submit

New Appointment

View Appointment Record

Print

EXHIBIT "C"

Under penalty of perjury, I, **Fernando Jose Juarez Fernandez**, declare the following:

1. My name is Fernando Jose Juarez Fernandez
2. I have lived in the San Fernando Valley since December of 2022.
3. I was arrested in Van Nuys, CA.
4. I do not have any criminal history.
5. My partner is due to give birth to our U.S. citizen child in December of 2025.

[SIGNATURE]
Fernando Jose Juarez Fernandez

12/03/2025
Date

CERTIFICATION OF TRANSLATION

I, Boden Samuel Stringer, under penalty of perjury state that I am competent to translate from Spanish to English and certify that the translation of this declaration is true and correct to the best of my abilities. Executed in Los Angeles, California on 12/03/2025.

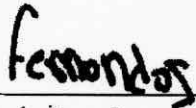
Boden
Signature

12/03/2025
Date

Boden Samuel Stringer
2533 W 3rd St, Studio 101, Los Angeles, CA 90057
213-201-8768

Bajo pena de perjurio, yo, **Fernando José Juárez Fernández**, declaro lo siguiente:

1. Mi nombre es Fernando José Juárez Fernández.
2. He vivido en el Valle de San Fernando desde diciembre de 2022.
3. Fui arrestado en Van Nuys, California.
4. No tengo antecedentes penales.
5. Mi pareja dará a luz a nuestro hijo ciudadano estadounidense en diciembre de 2025.



Fernando Jose Juarez Fernandez

12/03/2025

Date