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

Maria De La Luz Romero Rebolledo,

Petitioner,

v.

Christopher CHESTNUT, Warden,
California City Correctional Facility;

Todd M. LYONS, Acting Director,
Immigration and Customs Enforcement, U.S.
Department of Homeland Security;

Kristi NOEM, in her Official Capacity,
Secretary, U.S. Department of Homeland
Security; and

Pam BONDI, in her Official Capacity,
Attorney General of the United States;

Respondents - Defendants,

No.

PETITION FOR WRIT OF HABEAS
CORPUS AND COMPLAINT FOR A
DECLARATORY AND INJUNCTIVE
RELIEF

Challenge to Unlawful Incarceration Under
Color of Immigration Detention Statutes;
Request for Declaratory and Injunctive Relief

INTRODUCTION

1. Petitioner, Maria De La Luz Romero Rebolledo, by and through her undersigned counsel, hereby files this petition for writ of habeas corpus to remedy Respondents-Defendants' ("Respondents") unlawful re-detention of Ms. Romero Rebolledo without any process, in violation of the Fifth Amendment to the U.S. Constitution.

2. Ms. Romero Rebolledo is a native and citizen of Mexico. Ms. Romero Rebolledo entered the United States with inspection on March 4, 2019 through San Ysidro, California seeking asylum. When Ms. Romero Rebolledo arrived in the United States, federal agents briefly detained her, determined that she was not a flight risk or danger to the community, and released her on her own recognizance with a notice to appear for removal proceedings in immigration court. Since then, Petitioner had done everything the government asked her to do; she has diligently attended every Immigration and Customs Enforcement ("ICE") and United States Citizenship and Immigration Services ("USCIS") appointment and check-in.

3. When Ms. Romero Rebolledo was released, she was given an NTA dated March 6, 2019. On July 2, 2020, Ms. Romero Rebolledo was scheduled for a master calendar hearing in Seattle, Washington.

4. In 2022, she appeared at another master calendar hearing in Seattle, Washington where she informed the immigration judge that she resided in Porterville, California and the immigration judge changed venue to Concord, CA which had jurisdiction over Porterville, California.

5. On September 20, 2024, she retained an immigration attorney to represent her in removal proceedings. On October 24, 2024, Ms. Romero Rebolledo attended her first Master Calendar Hearing in Concord, California. On November 25, 2024, Ms. Romero Rebolledo filed an asylum application. On December 17, 2024, Ms. Romero Rebolledo entered written pleadings.

6. In October of 2025, ISAP called her from a Colorado number which she thought was spam. ISAP immediately called her again from the Bakersfield office which she answered. ISAP informed Ms. Romero Rebolledo that she missed the first ISAP phone call so she had to come in on October 14, 2025. At the ISAP office, ICE accused her of violating her ISAP due to not answering the ISAP phone call from Colorado.

1 7. Ms. Romero Rebolledo does not have an order of deportation. Ms. Romero Rebolledo
2 was never in expedited removal. She had a pending hearing in immigration court for her asylum
3 application. Ms. Romero Rebolledo attended all ISAP appointments and ICE hearings.

4 8. Ms. Romero Rebolledo has lived in Porterville, California for the last four years. Ms.
5 Romero Rebolledo has complied with all obligations and ICE orders.

6 9. Ms. Romero Rebolledo has not committed any violation of any local, State or Federal
7 law since being released. Before she was detained, Ms. Romero Rebolledo provided for her two
8 young adult children while her fiancé worked at a factory.

9 10. Ms. Romero Rebolledo resides with her fiancé and her two children in Porterville,
10 California.

11 11. Ms. Romero Rebolledo's arrest and detention have caused her tremendous and ongoing
12 harm. Every additional day Ms. Romero Rebolledo spends in unlawful detention subjects her to
13 further irreparable harm.

14 12. The Constitution protects Ms. Romero Rebolledo – and every other person present in this
15 country – from arbitrary deprivations of her liberty and guarantees her due process of law. The
16 government's power over immigration is broad, but as the Supreme Court has declared, it
17 is subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001).
18 "Freedom from bodily restraint has always been at the core of this liberty protected by the Due
19 Process Clause from arbitrary government action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

20 13. By status and regulation, as interpreted by the Board of Immigration Appeals ("BIA"),
21 ICE has the authority to re-arrest a noncitizen and revoke their bond, only where there has been
22 a change in circumstances since the individual's release, 8 U.S.C. § 236.1(c)(9); *Matter of Sugay*,
23 17 I&N Dec. 647, 640 (BIA 1981). The government has further clarified in litigation that any
24 change in circumstance must be "material." *Saravia v. Barr*, 280 F. Supp. 3d 1168, 1197 (N.D.
25 Cal. 2017). That authority, however, is proscribed by the Due Process Clause because it's well-
26 established that individuals released from incarceration have a liberty interest in their freedom.
27 In turn, to protect that interest, on the particular facts of Ms. Romero Rebolledo's case, due
28 process requires notice and a hearing, prior to any revocation of her conditional release, at which
she is afforded the opportunity to advance her arguments as to why her release should not be
revoked.

1 14. That basic principle – that individuals placed at liberty are entitled to due process before
2 the government imprisons them – has particular force here, where Ms. Romero Rebolledo’s
3 detention was already found to be unnecessary to serve its purpose.

4 15. Therefore, at a minimum, to lawfully re-arrest Ms. Romero Rebolledo, the government
5 must first establish, by clear and convincing evidence and before a neutral decision maker, that
6 she is a danger to the community or a flight risk, such that her re-incarceration is necessary.

7 16. Ms. Romero Rebolledo respectfully seeks a writ of habeas corpus ordering the
8 government to immediately release her from her ongoing, unlawful detention, and prohibit her
9 re-arrest without a hearing to contest that re-arrest before a neutral decision maker. In addition,
10 to preserve this Court’s jurisdiction, Ms. Romero Rebolledo also requests that this Court order
11 the government not to deport her for the duration of this proceeding or transfer her outside of this
12 Court’s jurisdiction.

13 JURISDICTION AND VENUE

14 17. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general
15 federal question jurisdiction; 5 U.S.C. § 701, et seq., All Writs Act; 28 U.S.C. § 2241, et seq.,
16 habeas corpus; 28 U.S.C. § 2201, the Declaratory Judgment Act; Art. 1, § 9, CL. 2 of the United
17 States Constitution (the Suspension Clause); Art. 3 of the United States Constitution, and the
18 common law., the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-
19 7-6 (Administrative Procedure Act).

20 18. Venue is proper in this district and division pursuant to 28 U.S.C. §2241(a) and 28 U.S.C.
21 § 1391(b)(2) and (e)(1) because Ms. Romero Rebolledo is physically detained within this District
22 at the California City Detention Center.

23 EXHAUSTION OF ADMINISTRATIVE REMEDIES

24 19. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional.
25 *Hernandez*, 872 F.3d at 988. A court may waive the prudential exhaustion requirement if
26 “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies
27 would be a futile gesture, irreparable injury will result, or the administrative proceedings would
28 be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)(citation and quotation
marks omitted)). Ms. Romero Rebolledo asserts that exhaustion should be waived because
administrative remedies are (1) futile and (2) her continued detention results in irreparable harm.
Prudential exhaustion is not required here because it would be futile, and Ms. Romero Rebolledo

1 will “suffer irreparable harm if unable to secure immediate judicial consideration of her claim.”
2 *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Any attempt to exhaust her administrative
3 remedies would be futile because an Immigration would deny her request for a bond hearing
4 under the recent Bureau of Immigration Appeals (“BIA”) decisions *Matter of Yajure Hurtado*,
5 29 I&N Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). Any further
6 exhaustion requirements would be unreasonable.

7 20. Both *Yajure Hurtado* and *Q. Li* held that IJs do not have the authority to hold a bond
8 hearing where the moving noncitizens entered the country without inspection. Because Ms.
9 Romero Rebolledo entered the country without inspection, if she were to move for a bond
10 hearing, an IJ following these decisions would have to decline jurisdiction over the issue.

11 21. On Monday, December 15, 2025, undersigned counsel wrote to ICE requesting
12 immediate released however ICE has not responded to his email.

13 PARTIES

14 22. Petitioner, Ms. Romero Rebolledo is a 38-year-old woman from Mexico. She has no
15 criminal history anywhere in the world. She has a pending application for Asylum, Withholding
16 of Removal and relief under the Convention Against Torture with USCIS. She is presently in
17 civil immigration detention at California City Detention Facility.

18 23. Respondent, Christopher Chestnut, is the Warden of California City Correctional Facility
19 In his official capacity, he is the legal custodian of Ms. Romero Rebolledo.

20 24. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official
21 Capacity. Among other things, ICE is responsible for the administration and enforcement of the
22 immigration laws, including the removal of noncitizens. In his official capacity as head of ICE,
23 he is the legal custodian of Ms. Romero Rebolledo.

24 25. Respondent Kristi NOEM is the Secretary of DHS and is named in her official capacity.
25 DHS is the federal agency encompassing ICE, which is responsible for the administration and
26 enforcement of the INA and all other laws relating to the immigration of noncitizens. In her
27 capacity as Secretary, Respondent Noem has responsibility for the administration and
28 enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland
Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); see also 8 U.S.C. §
1103(a). Respondent Noem is the ultimate legal custodian of Ms. Romero Rebolledo.

1 26. Respondent Pamela BONDI is the Attorney General of the United States and the most
2 senior official at the Department of Justice. In that capacity and through her agents, she is
3 responsible for overseeing the implementation and enforcement of the federal immigration laws.
4 The Attorney General delegates this responsibility to the Executive Office for Immigration
5 Review, which administers the immigration courts and the BIA. She has the authority to interpret
6 immigration laws and adjudicate removal cases.

7 LEGAL BACKGROUND

8 **A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and Detention.**

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

13 28. These protections extend to noncitizens facing detention, as “in our society liberty is the
14 norm, and detention prior to trial or without trial is the carefully limited exception.” *United States*
15 *v. Salerno*, 481 U.S. 739, 755, (1987). Accordingly, “freedom from imprisonment – from
16 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.

17 29. Substantive due process requires that all forms of civil detention – including immigration
18 detention bear a “reasonable relation” to a non-punitive purpose. See *Jackson v. Indiana*, 406
19 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive
20 purposes of immigration detention: ensuring a noncitizen’s appearance at immigration
21 proceedings and preventing danger to the community. *Zadvydas*, 53 U.S. at 690-92; see also
Demore v. Kim, 538 U.S. 510 at 519-20, 527-28 (2003).

22 30. The procedural component of the Due Process Clause prohibits the government from
23 imposing even permissible physical restraints without adequate procedural safeguards.

24 31. In Ms. Romero Rebolledo’s particular circumstances, the Due Process Clause of the
25 Constitution makes it unlawful for Respondents to re-arrest her without first providing a pre-
26 deprivation hearing before a neutral decision maker to determine whether circumstances have
27 materially changed since her release in 2022, such that detention would now only be warranted
28 on the basis that she is a danger or flight risk by clear and convincing evidence.

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

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

19 34. ICE's power to re-arrest a noncitizen who is at liberty following a release on bond is also
20 constrained by the demands of due process. See *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th
21 Cir. 2017)("the government's discretion to incarcerate non-citizens is always constrained by the
22 requirements of due process"). In this case the guidance provided by *Matter of Sugay* – that ICE
23 should not re-arrest a noncitizen absent changed circumstances – is insufficient to protect Ms.
24 Romero Rebolledo's weighty interest in her freedom from detention.

25 35. Federal district courts in California have repeatedly recognized the demands of due
26 process and the limitations on DHS's authority to revoke a noncitizen's bond or parole set out in
27 DHS's stated practice and *Matter of Sugay* both require a pre-deprivation hearing for a noncitizen
28 on bond, like Ms. Romero Rebolledo, before ICE re-detains her. See e.g., *Meza v. Bonnar*, 2018
WL 2554572 (N.D. Cal. June 4, 2018); *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

1 plaintiff's ICE interview when he had been on bond for more than five years). See also *Doe v.*
 2 *Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, 4 (E.D. Cal. Mar. 3, 2025)(holding
 3 the Constitution requires a hearing before any re-arrest).

4 FACTUAL ALLEGATIONS

5 36. Ms. Romero Rebolledo's liberty from immigration custody is protected by the Due
 6 Process Clause: "Freedom from imprisonment- from government custody, detention, or other
 7 forms of physical restraint – lies at the heart of the liberty that (the Due Process) Clause protects."
Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

8 37. Since March of 2019, Ms. Romero Rebolledo exercised that freedom when she was
 9 released on her own recognizance. As a result, she retained a weighty liberty interest under the
 10 Due Process Clause of the Fifth Amendment in avoiding re-incarceration. See *Young v. Harper*,
 11 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v.*
 12 *Brewer*, 408 U.S. 471, 482-483 (1972).

13 38. Just as in *Morrissey*, Ms. Romero Rebolledo's release "enables her to do a wide range of
 14 things open to persons" who have never been in custody or convicted of any crime, including to
 15 live at home, work, go to the doctor, take her medication, and "be with family and friends and to
 form the other enduring attachments of normal life." *Morrissey*, 408 U.S. at 482.

16 39. Ms. Romero Rebolledo has complied with all conditions for release for over six years,
 17 as she litigates her removal proceedings. She has meritorious applications for relief from
 18 removal.

19 **A. Ms. Romero Rebolledo is Unlawfully Arrested and Detained Pursuant** **20 to DHS's New Policy.**

21 40. Deportation, like detention, constitutes a deprivation of liberty protected by the Due
 22 Process Clause. As the Supreme Court has held, a noncitizen's interest in deportation proceedings
 23 "is, without question, a weighty one" because "[s]he stands to lose the right 'to stay and live and
 24 work in this land of freedom.'" *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (quoting *Bridges v.*
Wixon, 326 U.S. 135, 154 (1945)).

25 41. Ms. Romero Rebolledo asserts that, here, (1) where her detention would be civil, (2)
 26 where she has been at liberty for six years, during which time she has complied with all conditions
 27 of release, (3) where she has a substantial application for Asylum, withholding and CAT pending
 28 before USCIS (4) where no change in circumstances exist that would justify her detention, and

1 (5) where the only circumstance that has changed is ICE's move to arrest as many people as
2 possible because of the new administration, due process mandates that she receive notice and a
3 hearing before a neutral adjudicator prior to any re-arrest or revocation of a bond.

4 42. "Adequate, or due, process depends upon the nature of the interest affected. The more
5 important the interest and the greater the effect of its impairment, the greater the procedural
6 safeguards the government must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d
7 1350, 1355-56 (9th Cir. 1985)(en banc)(citing *Morrissey*, 408 U.S. at 481-82). This Court must
8 "balance Mr. Cruz's liberty interest against the government's interest in the efficient administer
9 of" its immigration laws to determine what process he is owed to ensure that ICE does not
unconstitutionally deprive him of his liberty. *Id.* 1at 1357.

10 43. Under the test set forth in *Mathias v. Eldridge*, this Court must consider these factors in
11 conducting its balancing test: 'First, the private interest that will be affected by the official action;
12 second, the risk of an erroneous deprivation of such interest through the process used, and the
13 probative value, if any, of additional or substitute procedural safeguards; and finally the
14 government's interest, including the function involved and fiscal and administrative burdens that
15 the additional or substitute procedural requirements would entail." *Haygood*, 769 F.3d at 1357
(citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

16 44. Because, in this case, the provision for a pre-deprivation hearing is both possible and
17 valuable to prevent an erroneous deprivation of liberty, ICE is required to provide Ms. Romero
18 Rebolledo with notice and a hearing prior to any re-incarceration and revocation of her pre-trial
19 release. See *Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F2d at 1355-56; *Jones*, 393 F.3d at
20 932; see also *Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452
21 (11th Cir. 1984)(holding that individuals awaiting involuntary civil commitment proceedings may
22 be constitutionally be held in jail pending the determination as to whether they can ultimately be
23 committed). Under *Mathews*, "the balance weighs heavily in favor of Ms. Romero Rebolledo"
and requires a pre-deprivation hearing before a neutral adjudicator.

24 45. In 2019, Petitioner fled to the United States. She was initially arrested by DHS officers
25 but was immediately released on her own recognizance with a notice to appear for removal
26 proceedings. In granting her release, DHS determined that she posed little if any risk of flight or
27 danger to the community.

1 46. DHS filed Ms. Romero Rebolledo's Notice to Appear with the immigration court and
2 she has appeared at all her immigration court hearings.

3 47. Since arriving to the United States, Ms. Romero Rebolledo has attended every
4 immigration appointment that she was required to attend. Ms. Romero Rebolledo has no criminal
5 history. Ms. Romero Rebolledo lives in Porterville, California with her family. Ms. Romero
6 Rebolledo has informed ICE about her change of address. Ms. Romero Rebolledo has attended
all check-ins with ICE.

7 48. Ms. Romero Rebolledo has applied for asylum based on well-founded fear of persecution
8 in Mexico.

9 49. Ever since Ms. Romero Rebolledo entered the country, she has fully complied with all
10 court orders and supervision requirements.

11 50. On October 14, 2025, Ms. Romero Rebolledo appeared at ISAP when informed to do so.

12 51. Petitioner moved for her attorney to release her but there was nothing her immigration
13 attorney could do with the immigration court to secure her release as the Immigration Court is
14 not holding bond hearings. Upon learning that of the possibility of filing a habeas writ, petitioner
15 immediately retained undersigned counsel to represent her in this habeas corpus proceeding. On
16 December 15, 2025, undersigned counsel sent an email to the Bakersfield ICE office requesting
immediate release but received no response.

17 52. Ms. Romero Rebolledo remains in custody. At this time, there are no new circumstances
18 that would justify a re-arrest of petitioner.

19 53. Because Ms. Romero Rebolledo has never been determined to be a flight risk or danger
20 to the community, her detention is not related to either of the permissible justifications for civil
immigration litigation. Her detention does not further any legitimate government interest.

21 **B. As a Result of Her Arrest and Detention, Ms. Romero Rebolledo is**
22 **Suffering Ongoing and Irreparable Harm.**

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

26 55. None of that has changed. Ms. Romero Rebolledo has no criminal record, and there is no
27 basis to believe that she poses any public safety risk. Nor is Ms. Romero Rebolledo, who was
28

1 arrested while appearing for an ISAP check-in, is conceivably a flight risk. On the contrary, Ms.
2 Romero Rebolledo appeared for every immigration appearance.

3 56. Ms. Romero Rebolledo is now separated from her family. Ms. Romero Rebolledo's
4 family require her presence.

5 57. Ms. Romero Rebolledo is suffering from debilitating conditions at the California City
6 Detention Facility.

7 **CLAIMS FOR RELIEF**

8 **FIRST CLAIM FOR RELIEF**

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

10 **(Substantive Due Process—Detention)**

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

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

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

20 61. Petitioner is not a flight risk or danger to the community. Respondents' detention of
21 Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in
22 violation of the Due Process Clause of the Fifth Amendment.

23 62. Moreover, Petitioner's detention is punitive as it bears no “reasonable relation” to any
24 legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly
25 “nonpunitive in purpose and effect”). Here, the purpose of Petitioner's detention appears to be
26 “not to facilitate deportation, or to protect against risk of flight or dangerousness, but to
27 incarcerate for other reasons”—namely, to meet newly-imposed DHS quotas. *Demore*, 538 U.S.
28 at 532–33 (Kennedy, J., concurring).

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SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Procedural Due Process—Detention)

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

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

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

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

67. Petitioner has a profound personal interest in her liberty. Because she received no procedural protections, the risk of erroneous deprivation is high. And the government has no legitimate interest in detaining Petitioner without a hearing; bond hearings are conducted as a matter of course in immigration proceedings, and nothing in Petitioner’s record suggested that she would abscond or endanger the community before a bond hearing could be carried out. See, e.g., *Jorge M.F. v. Wilkinson*, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) (“the government’s concern that

1 delay in scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of
 2 petitioner's strong family ties and his continued employment during the pandemic as an essential
 3 agricultural worker").

4 **THIRD CLAIM FOR RELIEF**

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

6 **(Unlawful Arrest)**

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

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

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

21 71. In the immigration context, this prohibition means that a person who immigration
 22 authorities released from initial custody cannot be re-arrested "solely on the ground that he is
 23 subject to removal proceedings" and without some new, intervening cause. *Saravia v. Sessions*,
 24 280 F. Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff'd sub nom., Saravia for A.H. v. Sessions*, 905
 25 F.3d 1137 (9th Cir. 2018). Courts have long recognized that permitting such rearrests could result
 26 in "harassment by continual rearrests." *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971).
 27 DHS agents arrested Petitioner in 2022 after she entered the United States, charged her with a
 28 violation of civil immigration law, and released her on her own recognizance with a notice to
 appear in immigration court. Petitioner appeared at her ICE check-in as instructed.

72. DHS re-arrested Petitioner on October 14, 2025, based on nothing more than the 2019 civil
 charge of violating immigration law for which she was previously released. Petitioner had not

1 engaged in any conduct in the intervening time that rendered her a flight risk or danger to the
2 community. No material changes in circumstances justified Petitioner's re-arrest.

3 73. Petitioner's re-arrest and detention by Respondents absent any material change in
4 circumstances is thus an unreasonable seizure in violation of the Fourth Amendment.

5 **PRAYER FOR RELIEF**

Petitioner respectfully requests that this Court:

- 6 1. Assume jurisdiction over this matter;
7 2. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner
8 from custody;
9 3. Declare that Petitioner's arrest and detention violate the Due Process Clause of the
10 Fifth Amendment, the Fourth Amendment, the First Amendment, and the Administrative
11 Procedure Act;
12 4. Enjoin Respondents from deporting Petitioner pending these proceedings;
13 5. Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered at a
14 custody hearing before a neutral arbiter in which the government bears the burden of
15 proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the
16 community;
17 6. Award Petitioner her costs and reasonable attorneys' fees in this action as provided
18 for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
19 7. Grant such further relief as the Court deems just and proper.

20 Date: December 17, 2025

Respectfully Submitted,

21
22 /s/ Robert J. Beles

23 Robert Beles

24 Attorney For Petitioner

Maria De La Luz Romero Rebolledo

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed the events described in the Petition with the Petitioner. 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 17, 2025, in Oakland, CA.

/s/ Robert J. Beles
Robert Beles
Attorney for Petitioner
Maria Romero Rebolledo