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

Jahaira Abigail Tenorio Rugama,

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
2 1. Petitioner, Jahaira Abigail Tenorio Rugama, by and through her undersigned counsel,
3 hereby files this petition for writ of habeas corpus to remedy Respondents-Defendants'
4 ("Respondents") unlawful re-detention of Ms. Tenorio Rugama without any process, in violation
5 of the Fifth Amendment to the U.S. Constitution.

6 2. Ms. Tenorio Rugama is a native and citizen of Nicaragua. Ms. Tenorio Rugama entered
7 the United States with inspection on November 27, 2022 seeking asylum. When Ms. Tenorio
8 Rugama arrived in the United States, federal agents briefly detained her, determined that she was
9 not a flight risk or danger to the community, and released her on her own recognizance with a
10 notice to appear for removal proceedings in immigration court. Since then, Petitioner had done
11 everything the government asked her to do; she has diligently attended every Immigration and
12 Customs Enforcement ("ICE") and United States Citizenship and Immigration Services
13 ("USCIS") appointment and check-in.

14 3. In April of 2023, Ms. Tenorio Rugama filed an asylum application with the Immigration
15 Court.

16 4. In September of 2025, Ms. Tenorio Rugama was informed that she did not submit an
17 ISAP photo on time through the phone app. She received a video call from ISAP and was
18 informed not to let it happen again.

19 5. On November 3, 2025, Ms. Tenorio Rugama answered a video call and was informed by
20 ISAP to check in with ICE on November 4, 2025. Ms. Tenorio Rugama presented herself to the
21 ICE appointment on November 4, 2025. On that date, ICE detained her and informed her that
22 she would be transferred to an ICE detention facility because she had violated her ISAP
23 supervision.

24 6. Ms. Tenorio Rugama does not have an order of deportation. When Ms. Tenorio Rugama
25 was released from ICE custody upon entering the United States, the immigration authorities gave
26 her an order of supervision and a copy of a Notice to Appear in Immigration Court. The
27 authorities informed Ms. Tenorio Rugama that she would have to appear at all ICE appointments
28 and court hearings.

7. Over the last three years in which she has lived at liberty, Ms. Tenorio Rugama has
complied with all obligations of supervision and ICE orders. Ms. Tenorio Rugama never missed
immigration court. Ms. Tenorio Rugama filed her asylum application in October of 2023.

1 8. Since being released, Ms. Tenorio Rugama has not committed any violation of any local,
2 State or Federal law.

3 9. Ms. Tenorio Rugama suffers from anxiety which requires medication, putting her at risk
4 of substantial harm and/or hospitalization. These mental health issues stem from the harm she
5 suffered in Nicaragua which led to her fleeing to the United States.

6 10. Ms. Tenorio Rugama resides with her family in Bakersfield, California.

7 11. Ms. Tenorio Rugama arrest and detention have caused her tremendous and ongoing harm.
8 Every additional day Ms. Tenorio Rugama spends in unlawful detention subjects her to further
9 irreparable harm.

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

16 13. By status and regulation, as interpreted by the Board of Immigration Appeals (“BIA”),
17 ICE has the authority to re-arrest a noncitizen and revoke their bond, only where there has been
18 a change in circumstances since the individual’s release, 8 U.S.C. § 236.1(c)(9); *Matter of Sugay*,
19 17 I&N Dec. 647, 640 (BIA 1981). The government has further clarified in litigation that any
20 change in circumstance must be “material.” *Saravia v. Barr*, 280 F. Supp. 3d 1168, 1197 (N.D.
21 Cal. 2017). That authority is proscribed by the Due Process Clause because it’s well-established
22 that individuals released from incarceration have a liberty interest in their freedom. In turn, to
23 protect that interest, on the particular facts of Ms. Tenorio Rugama’s case, due process requires
24 notice and a hearing, prior to any revocation of her conditional release, at which she is afforded
25 the opportunity to advance her arguments as to why her release should not be revoked.

26 14. That basic principle – that individuals placed at liberty are entitled to due process before
27 the government imprisons them – has particular force here, where Ms. Tenorio Rugama’s
28 detention was already found to be unnecessary to serve its purpose.

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

1 16. Ms. Tenorio Rugama respectfully seeks a writ of habeas corpus ordering the government
2 to immediately release her from her ongoing, unlawful detention, and prohibit her re-arrest
3 without a hearing to contest that re-arrest before a neutral decision maker. In addition, to preserve
4 this Court's jurisdiction, Ms. Tenorio Rugama also requests that this Court order the government
5 not to deport her for the duration of this proceeding or transfer her outside of this Court's
6 jurisdiction.

7 JURISDICTION AND VENUE

8 17. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general
9 federal question jurisdiction; 5 U.S.C. § 701, et seq., All Writs Act; 28 U.S.C. § 2241, et seq.,
10 habeas corpus; 28 U.S.C. § 2201, the Declaratory Judgment Act; Art. 1, § 9, CL. 2 of the United
11 States Constitution (the Suspension Clause); Art. 3 of the United States Constitution, and the
12 common law., the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-
13 7-6 (Administrative Procedure Act).

14 18. Venue is proper in this district and division pursuant to 28 U.S.C. §2241(a) and 28 U.S.C.
15 § 1391(b)(2) and (e)(1) because Ms. Tenorio Rugama is physically detained within this District
16 at the California City Detention Center.

17 EXHAUSTION OF ADMINISTRATIVE REMEDIES

18 19. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional.
19 *Hernandez*, 872 F.3d at 988. A court may waive the prudential exhaustion requirement if
20 "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies
21 would be a futile gesture, irreparable injury will result, or the administrative proceedings would
22 be void." *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)(citation and quotation
23 marks omitted)).

24 20. Ms. Tenorio Rugama asserts that exhaustion should be waived because administrative
25 remedies are (1) futile and (2) her continued detention results in irreparable harm. Prudential
26 exhaustion is not required here because it would be futile, and Ms. Tenorio Rugama will "suffer
27 irreparable harm if unable to secure immediate judicial consideration of his claim." *McCarthy*
28 *v. Madigan*, 503 U.S. 140, 147 (1992). Any attempt to exhaust her administrative remedies
would be futile because an Immigration would deny her request for a bond hearing under the
recent Bureau of Immigration Appeals ("BIA") decisions *Matter of Yajure Hurtado*, 29 I&N

1 Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). Any further exhaustion
2 requirements would be unreasonable.

3 21. Both *Yajure Hurtado* and *Q. Li* held that IJs do not have the authority to hold a bond
4 hearing where the moving noncitizens entered the country without inspection. Because Ms.
5 Tenorio Rugama entered the country without inspection, if she were to move for a bond hearing,
6 an IJ following these decisions would have to decline jurisdiction over the issue.

7 22. On December 15, 2025, undersigned counsel reached out to ICE in Bakersfield to request
8 Ms. Tenorio Rugama's immediate release. As of this date, ICE has not responded to this request
9 for release.

10 PARTIES

11 23. Petitioner, Ms. Tenorio Rugama is a 25 year-old woman from Peru. She has no criminal
12 history anywhere in the world. She has a pending application for Asylum, Withholding of
13 Removal and relief under the Convention Against Torture with the Immigration Court. She is
14 presently in civil immigration detention at California City Detention Facility.

15 24. Respondent, Christopher Chestnut, is the Warden of California City Correctional Facility
16 In his official capacity, he is the legal custodian of Ms. Tenorio Rugama.

17 25. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official
18 Capacity. Among other things, ICE is responsible for the administration and enforcement of the
19 immigration laws, including the removal of noncitizens. In his official capacity as head of ICE,
20 he is the legal custodian of Ms. Tenorio Rugama.

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

28 27. Respondent Pamela BONDI is the Attorney General of the United States and the most
senior official at the Department of Justice. In that capacity and through her agents, she is
responsible for overseeing the implementation and enforcement of the federal immigration laws.
The Attorney General delegates this responsibility to the Executive Office for Immigration

Review, which administers the immigration courts and the BIA. She has the authority to interpret immigration laws and adjudicate removal cases.

LEGAL BACKGROUND

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

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

29. These protections extend to noncitizens facing detention, as “in our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755, (1987). Accordingly, “freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that (the Due Process) Clause protects.” *Zadvydas*, 533 U.S. at 690.

30. Substantive due process requires that all forms of civil detention – including immigration detention bear a “reasonable relation” to a non-punitive purpose. See *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes of immigration detention: ensuring a noncitizen’s appearance at immigration 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).

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

32. In Ms. Tenorio Rugama’s particular circumstances, the Due Process Clause of the Constitution makes it unlawful for Respondents to re-arrest her without first providing a pre-deprivation hearing before a neutral decision maker to determine whether circumstances have materially changed since her release in 2023, such that detention would now only be warranted on the basis that she is a danger or flight risk by clear and convincing evidence.

33. The statute and regulations grant ICE the ability to unilaterally revoke any noncitizen’s immigration bond and re-arrest the noncitizen at any time. 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9). Notwithstanding the breadth of the statutory language granting ICE the power to revoke an immigration bond “at any time.” 9 U.S.C. 1226(b), in *Matter of Sugay*, 17 I&N Dec.

1 at 640, the BIA recognized an implicit limitation on ICE’s authority to re-arrest noncitizens.
2 There, the BIA held that “where a previous bond determination has been made by an immigration
3 judge, no change should be made by the DHS absent a change of circumstance.” *Id.* In practice,
4 DHS “requires a showing of changed circumstances both where the prior bond determination
5 was made by an immigration judge and where the previous release decision was made by a DHS
6 officer.” *Saravia*, 280 F. Supp. 3d at 1197 (emphasis added). The Ninth Circuit has also assumed
7 that, under *Matter of Sugay*, ICE has no authority to re-detain an individual absent changed
8 circumstances. *Panosyan v Mayorkas*, 854 F. App’x 787, 788 (9th Cir. 2021)(“thus, absent
changed circumstances... ICE cannot detain Panosyan.”).

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

14 35. ICE’s power to re-arrest a noncitizen who is at liberty following a release on bond is also
15 constrained by the demands of due process. See *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th
16 Cir. 2017)(“the government’s discretion to incarcerate non-citizens is always constrained by the
17 requirements of due process”). In this case the guidance provided by *Matter of Sugay* – that ICE
18 should not re-arrest a noncitizen absent changed circumstances – is insufficient to protect Ms.
19 Tenorio Rugama’s weighty interest in her freedom from detention.

20 36. Federal district courts in California have repeatedly recognized the demands of due
21 process and the limitations on DHS’s authority to revoke a noncitizen’s bond or parole set out in
22 DHS’s stated practice and *Matter of Sugay* both require a pre-deprivation hearing for a noncitizen
23 on bond, like Ms. Tenorio Rugama, before ICE re-detains her. See e.g., *Meza v. Bonnar*, 2018
24 WL 2554572 (N.D. Cal. June 4, 2018); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL
25 1382859, at 3 (N.D. Cal. May 12, 2025)(temporary injunction warranted preventing re-arrest at
26 plaintiff’s ICE interview when he had been on bond for more than five years). See also *Doe v.*
27 *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).

28 //

FACTUAL ALLEGATIONS

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

38. Since November 27, 2022, Ms. Tenorio Rugama exercised that freedom when she was released on her own recognizance. As a result, she retained a weighty liberty interest under the Due Process Clause of the Fifth Amendment in avoiding re-incarceration. 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, 482-483 (1972).

39. Just as in *Morrissey*, Ms. Tenorio Rugama's release "enables her to do a wide range of things open to persons" who have never been in custody or convicted of any crime, including to 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.

40. Ms. Tenorio Rugama has complied with all conditions for release for well over three years, as she litigates her removal proceedings. She has meritorious applications for relief from removal.

A. Ms. Tenorio Rugama is Unlawfully Arrested and Detained Pursuant to DHS's New Policy.

41. Deportation, like detention, constitutes a deprivation of liberty protected by the Due Process Clause. As the Supreme Court has held, a noncitizen's interest in deportation proceedings "is, without question, a weighty one" because "[s]he stands to lose the right 'to stay and live and 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)).

42. Ms. Tenorio Rugama asserts that, here, (1) where her detention would be civil, (2) where she has been at liberty for three years, during which time she has complied with all conditions of release and has maintained steady employment, (3) where she has a substantial application for Asylum, withholding and CAT pending before USCIS (4) where no change in circumstances exist that would justify her detention, (5) where petitioner has mental health issues which require continued medication and supervision and (6) where the only circumstance that has changed is ICE's move to arrest as many people as possible because of the new administration, due process

mandates that she receive notice and a hearing before a neutral adjudicator prior to any re-arrest or revocation of a bond.

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

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

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

46. In 2022, Petitioner fled to the United States. She was initially arrested by DHS officers but was released shortly after on her own recognizance with a notice to appear for removal proceedings. In granting her release, DHS determined that she posed little if any risk of flight or danger to the community.

47. DHS filed Ms. Tenorio Rugama’s Notice to Appear with the immigration court. In October of 2023, Ms. Tenorio Rugama filed an asylum, withholding and CAT application.

1 48. Since arriving to the United States, Ms. Tenorio Rugama has attended every immigration
2 appointment that she was required to attend. Ms. Tenorio Rugama has no criminal history. Ms.
3 Tenorio Rugama lives in Bakersfield, California with her family. Ms. Tenorio Rugama has
4 informed ICE about her change of address. Ms. Tenorio Rugama has attended all check-ins with
5 ICE.

6 49. Ms. Tenorio Rugama has applied for asylum based on well-founded fear of persecution
7 in Nicaragua.

8 50. Ever since Ms. Tenorio Rugama entered the country, she has fully complied with all court
9 and supervision requirements.

10 51. On November 4, 2025, Petitioner appeared at an ICE check-in at the ICE Bakersfield
11 Office in Bakersfield, California.

12 52. The ICE agent informed Ms. Tenorio Rugama that she had an ISAP violation and that
13 she would be detained.

14 53. Petitioner attempted to secure her release but was informed that the Immigration Court
15 was not allowing bond hearings. Petitioner subsequently retained undersigned counsel to
16 represent her in this habeas corpus proceeding. On December 15, 2025, counsel sent an email to
17 the Bakersfield ICE office requesting immediate release but received no response.

18 54. Ms. Tenorio Rugama remains in custody. At this time, there are no new circumstances
19 that would justify a re-arrest of petitioner.

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

23 **B. As a Result of Her Arrest and Detention, Ms. Tenorio Rugama is**
24 **Suffering Ongoing and Irreparable Harm.**

25 56. Ms. Tenorio Rugama is being deprived of her liberty without any permissible justification.
26 The government previously released her on her own recognizance because she did not pose
27 sufficient risk of flight or danger to the community to warrant detention.

28 57. None of that has changed. Ms. Tenorio Rugama has no criminal record, and there is no
basis to believe that she poses any public-safety risk. Nor is Ms. Tenorio Rugama, who was
arrested while appearing for an ICE check-in, conceivably a flight risk. On the contrary, Ms.
Tenorio Rugama appeared for every immigration appearance.

1 58. Ms. Tenorio Rugama is now separated from her family. She suffers from mental health
2 issues which require medications.

3 59. Ms. Tenorio Rugama's family require her presence.

4 60. Ms. Tenorio Rugama is suffering from debilitating conditions at the California City
5 Detention Facility.

6 **CLAIMS FOR RELIEF**

7 **FIRST CLAIM FOR RELIEF**

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

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

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

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

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

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

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

28 **SECOND CLAIM FOR RELIEF**

Violation of the Fifth Amendment to the United States Constitution

(Procedural Due Process—Detention)

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

67. 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).

68. 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).

69. Petitioner’s re-detention without a pre-deprivation hearing violated due process. Over three 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.

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

THIRD CLAIM FOR RELIEF

**Violation of the Fourth Amendment to the United States Constitution
(Unlawful Arrest)**

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

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

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

74. In the immigration context, this prohibition means that a person who immigration authorities released from initial custody cannot be re-arrested “solely on the ground that he is subject to removal proceedings” and without some new, intervening cause. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff’d sub nom., Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). Courts have long recognized that permitting such rearrests could result in “harassment by continual rearrests.” *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971). DHS agents arrested Petitioner in 2023 after she entered the United States, charged her with a 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.

75. DHS re-arrested Petitioner on November 4, 2025, based on nothing more than the 2023 civil charge of violating immigration law for which she was previously released. Petitioner had not engaged in any conduct in the intervening time that rendered her a flight risk or danger to the community. No material change in circumstances justified Petitioner’s re-arrest.

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

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

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

Date: December 18, 2025

Respectfully Submitted,

/s/ Robert Beles

Robert Beles

Attorney For Petitioner

Jahaira Abigail Tenorio Rugama

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 18, 2025, in Oakland, CA.

/s/ Robert Beles
Robert J. Beles
Attorney for Jahaira Abigail
Tenorio Rugama