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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LESTER GIOVANNY GARCIA MEJIA,

Petitioner,

v.

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

Respondents.

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

VERIFIED PETITION

PETITIONER'S DHS NO: [redacted]

INTRODUCTION

1. In violation of due process, Lester Giovanny Garcia Mejia ("Petitioner") is being unlawfully detained by Respondents at the U.S. immigration and Customs Enforcement ("ICE") Adelanto Detention Center ("Adelanto") after being held for four days at the Docket Control Center ("300 North").[1]

2. Petitioner, his partner and his partner's daughter (who Petitioner cares for as though she is his own), fled Guatemala to seek asylum in the United States after crossing the Arizona border on or about Oct. 6, 2023. Ex. A; Rabani-Jenkins decl. at ¶ 5. That same day, United States Border Patrol (USBP) took Petitioner into custody claiming he "unlawfully entered the United States of America near Sasabe from Mexico at a time and place other than as designated by the Secretary of the Department of Homeland Security of the United States" presumably under 8 U.S.C. § 1182(a)(6)(A)(i). Ex. A; Rabani-Jenkins decl. at ¶ 5. On December 9, 2025, Petitioner was served with an administrative warrant stating that Petitioner is removable, but not alleging any new facts or changed circumstances since his initial arrest and detention in 2023. Exs. A, E; Rabani-Jenkins decl. at ¶ 5.

3. On October 7, 2023, USBP released Petitioner on his own recognizance "due to lack of bed space" Ex. A; Rabani-Jenkins decl. at ¶ 8. In doing so, the immigration officials necessarily determined that Petitioner did not present a risk of flight or danger to the community. See 8 C.F.R. § 1236.1(c)(8) ("Any officer authorized to issue a warrant of arrest may, in the officer's discretion, release an alien not described in section 236(c)(1) of the Act [Immigration and Nationality Act], under the conditions at section 236(a)(2) and (3) of the Act; provided that the alien must demonstrate to the satisfaction of the officer that such release would not pose a

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

danger to property or persons, and that the alien is likely to appear for any future proceeding.").

4. The records relating to Petitioner's immigration status do not indicate that the decision to release him from custody on October 7, 2023 was in accordance with the mandatory detention provisions of 8 U.S.C. § 1225(b)(2), which permit release solely "for urgent humanitarian reasons or significant public benefit." Ex. A; Rabani-Jenkins decl. at ¶ 8. To the contrary, Respondents specified in Form I-213 that Petitioner's release in 2023 was due to detention center "lack of bed space" limitations. Ex. A. Petitioner was given notice that if he failed to comply with his legal requirements, he could be arrested, but he was not given notice that if he complied with such requirements, he could also be arrested. Ex. D; Rabani-Jenkins decl. at ¶ 7.

5. ICE installed an electronic ankle monitor and enrolled Petitioner in the Intensive Supervision Appearance Program (ISAP). Petitioner complied with all of the conditions of release, leading DHS to de-escalate his ankle monitor to an electronic wrist monitor. Petitioner then again continued to strictly comply with all of the conditions of his release, and regularly informed ISAP whenever glitches in technology prevented him from completing a check-in. It is well documented that the electronic wrist monitors are notoriously glitchy. Ex. M. As soon as Petitioner recognized his monitor had experienced a glitch, he checked in with ISAP.

6. Notwithstanding the above, on or around December 4, 2025, Petitioner received a message from ISAP on his telephone stating that he needed to attend an ICE check in for a case revision on December 9, 2025. Petitioner informed undersigned *pro bono* Counsel, who called ICE repeatedly and either was not able to get through or was told by the phone operator that there was no way to connect to the Camarillo Field Office. Rabani-Jenkins decl. at ¶ 9.

7. When he was re-arrested on December 9, 2025, the attorney who attended with him, Erika Martin del Campo, informed ICE that ICE had not provided

changed circumstances for the arrest. Martin del Campo decl. at ¶ 10. Only then did ICE allege to Ms. Martin del Campo that Petitioner had missed ISAP check-ins. Martin del Campo decl. at ¶ 12. Ms. Martin del Campo explained that purported missed biometrics check-ins were not a change in circumstances under the law and she additionally requested all check-in appointment information because Mr. Garcia Mejia had complied with all check-ins that he received and attempted to address technological glitches whenever they arose. Rabani-Jenkins decl. at ¶ 6; Martin del Campo decl. at ¶¶ 13, 14. Therefore, such arrest appears to be arbitrary.

8. Respondents have not alleged in any immigration proceedings that Petitioner has a criminal record or poses a flight risk or threat to the community, nor is there any basis to conclude that Petitioner has engaged in any criminal conduct or intends to disregard his obligations under immigration law. Rabani-Jenkins decl. at ¶¶ 7, 8, 14. Respondents specifically confirmed on DHS Form I-213 that Petitioner had no known criminal history. Ex. A; Rabani-Jenkins decl. at ¶ 8. Later FBI records confirmed Petitioner's lack of criminal history. Ex. H; Rabani-Jenkins decl. at ¶ 8.

9. Letters of support for Petitioner from his community in the United States demonstrate that he is a well-regarded, law-abiding, hard-working, and religious person who has integrated into his community and has strong ties and support in the United States. Exs. I, J, K, L; Rabani-Jenkins decl. at ¶ 14.

10. Petitioner is seeking asylum in the United States because he was persecuted by a criminal organization in Guatemala for his relationship with his partner and has a credible fear that he will be tortured or executed because of his relationship if forced to return to Guatemala. Ex. B; Rabani-Jenkins decl. at ¶¶ 11, 12.

11. Petitioner filed Form I-589, Application for Asylum and for Withholding of Removal and under the Convention Against Torture. Ex. B; Rabani-Jenkins decl. at ¶ 11. Although he missed the one-year filing deadline, he is prepared

to testify regarding the extraordinary circumstances he faced during his first year in the United States, which prevented Petitioner and his partner from filing their asylum applications, which included the sudden death of his partner's son. Rabani-Jenkins decl. at ¶ 11. November 15, 2025, he obtained a DHS-issued class C08 work authorization permitting him to work in the United States pending proceedings in him asylum case. Ex. C; Rabani-Jenkins decl. at ¶ 11. Petitioner was awaiting the arrival of the associated social security number and had an appointment scheduled with the Santa Barbara Social Security Office on December 19, 2025. Rabani-Jenkins decl. at ¶ 11.

12. Petitioner had a Master Calendar Hearing on October 1, 2025 that undersigned Counsel attended. At this Master Calendar Hearing, undersigned Counsel was informed that Petitioner's asylum case was placed on the dedicated docket, and an Individual Calendar Hearing (ICH) was scheduled to be in person on February 26, 2026. Petitioner and undersigned Counsel have been working diligently to prepare for the ICH. Rabani-Jenkins decl. at ¶¶ 4, 12. On December 18, 2025 undersigned Counsel received notice of a reset Master Calendar Hearing with an alternative Immigration Judge. Rabani-Jenkins dec. at ¶ 12. The resetting of the Master Calendar Hearing will likely only slow down the process of Petitioner, who was already scheduled for his ICH within two and a half months.

13. Petitioner is experiencing mental anguish and physical pain related to his detention, including emotional distress regarding his inability to speak regularly with his partner and her child and the inability to sleep. Rabani-Jenkins decl. at ¶¶ 17, 18. He is also experiencing significant pain around his midsection due to the conditions in 300 North Los Angeles. Rabani-Jenkins decl. at ¶ 17. Petitioner was held in 300 North for over four days, which is supposed to be a holding cell for individuals to be transferred *within 12 hours* to another detention center. Rabani-Jenkins decl. at ¶ 10. He informed undersigned Counsel that he is held with 15-20

other men in a cell that is so small that they can occasionally sit but not lay down. He was not able to shower for that entire time, and he was given an aluminum "blanket" to try to sleep for a couple of hours. Rabani-Jenkins decl. at ¶ 10.

14. He was moved to Adelanto on Sunday 14, 2025 after spending the night being "processed." He continues to experience mental anguish. He is in a room with 120 other men. Rabani-Jenkins decl. at ¶ 17.

15. Prior to his detention, Petitioner was the main financial provider for his household and additionally provided significant emotional support to his partner and to the daughter he has claimed as his own. Rabani-Jenkins decl. at ¶¶ 17, 18. Petitioner is desperate to be back with his family, supporting them through these extremely difficult times. Rabani-Jenkins decl. at ¶¶ 17, 18.

16. Petitioner presents no flight risk and has no criminal history to justify his arrest or detention. Ex. A; Rabani-Jenkins decl. at ¶ 8. Indeed, Respondents specifically indicated on DHS Form I-213 Petitioner has no known criminal history. Ex. A; Rabani-Jenkins decl. at ¶ 8. Petitioner obtained work authorization on November 15, 2025 and is awaiting a corresponding social security card, applied for asylum in the United States and was employed, residing and working in Santa Barbara, California when he attended an ICE check in on December 9, 2025 in Camarillo, California. Exs. A, B, C. The merits of his asylum claim have not been heard. Rabani-Jenkins decl. at ¶ 13.

17. The basis for Petitioner's re-detention appears to be both arbitrary and unclear, as the December 9, 2025 administrative warrant does not have any charging information and only reiterates that DHS believes Petitioner to be removable, for which reason he is already in EOIR proceedings. Exs. A, E; Rabani-Jenkins decl. at ¶ 5.

18. The record in Petitioner's immigration case demonstrates that Petitioner is a well-regarded, law-abiding and hard-working individual who has

integrated into his community and has strong family support in the United States. Exs. I, J, K, L; Rabani-Jenkins decl. at ¶ 14.

19. Petitioner's arrest had nothing to do with his individual case, as he is neither a flight risk, has no criminal record nor is a threat to others. Exs. A, H; Rabani-Jenkins decl. at ¶ 14. Instead, his arrest and re-detention are part of a new, nationwide DHS strategy of sweeping up migrants who attend their immigration court hearings and ICE check-ins, detaining them, and seeking to re-route them to fast-track deportations. Since mid-May of 2025, DHS has implemented a coordinated practice of immigration detention to strip people like Petitioner of their due process rights and pressure them into deportation, which could amount to a death sentence in Guatemala for Petitioner. This coordinated operation is aimed at dramatically accelerating deportations to meet ICE deportation quotas.

20. Petitioner's summary arrest and indefinite detention flout the Constitution. The *only* legitimate interests that civil immigration detention serves are mitigating flight risk and preventing danger to the community. When those interests are absent, the Fifth Amendment's Due Process Clause squarely prohibits detention. Additionally, by summarily arresting and detaining Petitioner without a pre-deprivation bond hearing and without making any affirmative showing of changed circumstances, Respondents violated Petitioner's procedural due process rights. At the very least, prior to his re-detention, he was constitutionally entitled to a hearing before a neutral decisionmaker at which the government should have justified his re-detention—or been ordered to release his. Instead, Petitioner was detained in a basement holding center without proper services, one that Respondents are only permitted to hold people for 12 hours, for over 4 days, from December 9, 2025 to December 14, 2025 and is now in Adelanto. Rabani-Jenkins decl. at ¶ 10.

21. The mandatory detention provisions of Section 1225(b)(2)(A) do not apply to Petitioner. Rather, he is subject to detention under Section 1226(a), and

eligible for release on bond. Petitioner was unquestionably detained in the interior of the country at his ICE check in, years after initially entering the United States; thus, he is not suddenly an "arriving alien" or "seeking admission" at the time of his re-detention. Thus, his detention is governed by section 1226(a). *See, e.g., Mosqueda v. Noem*, No. 25-cv-2304, 2025 WL 2591530, at *5 (C.D. Cal. Sept. 8, 2025).

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

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

24. As a result of his arrest and detention, Petitioner is suffering irreparable and ongoing harm. Petitioner has lost the ability to earn income to support his partner and her child, who he treats as his own, has been separated from his loved ones and from his community and has experienced severe emotional distress resulting from his detention. Rabani-Jenkins decl. at ¶¶ 17, 18.

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

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

JURISDICTION AND VENUE

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

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

REQUIREMENTS OF 28 U.S.C. § 2243

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

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

PARTIES

30. Petitioner is a law-abiding partner and supporter of his partner's child who has applied for asylum in the United States after crossing the border and being released by ICE in October 2023. He was wrongfully re-detained at 300 North Los Angeles from December 9, 2025 until the evening of December 13, 2025. Since December 14, 2025, he has been unlawfully detained at Adelanto.

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

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

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

He is sued in his official capacity.

34. Respondent Ernesto Santacruz is the Acting Director of the Los Angeles Field Office, where Petitioner was unlawfully arrested and sent to 300 North Los Angeles and then to Adelanto. He is sued in his official capacity.

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

EXHAUSTION

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

37. There is no requirement to exhaust administrative remedies because no other forum exists in which Petitioner can raise the claims herein. There is no statutory exhaustion requirement prior to challenging the constitutionality of an arrest or detention or challenging a policy under the Administrative Procedure Act. Prudential exhaustion is not required here because it would be futile.

38. Exhaustion is also unreasonable, as immigration judges have now taken the position, citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025), that they lack jurisdiction to conduct a bond redetermination hearing with respect to migrants such as Petitioner, who are deemed an applicant for admission to the United States who did not have required documents or arrived without the authorization of the Attorney General on the date entry into the United States. Although Petitioner is not subject to mandatory detention as an arriving alien who has not entered and been released within the interior of the United States, immigration courts have also taken the position that an arriving alien is not eligible for bond. *See Matter of Q. Li, 29 I. & N. Dec. 66, 69* (BIA 2025). As such, it would be futile for Petitioner to seek a bond hearing and release in immigration court.

Only an order of this Court could effectively grant Petitioner relief. *See Mosqueda v. Noem,* No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *5; (C.D. Cal. Sept. 8, 2025).

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

LEGAL BACKGROUND.

A. Due Process Violations

40. 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.

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

42. These protections extend to noncitizens facing detention, as "[i]n our society liberty is the norm, and detention prior to trial or without trial is the

carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

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

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

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

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

must be seen within the protection of the [Constitution]." *Id.*

47. This reasoning applies with equal if not greater force to people released from civil immigration detention at the border with no criminal record, like Petitioner. Noncitizens living in the United States like Petitioner have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. And, "[g]iven the civil context [of immigration detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

B. Statutory Violations

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

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

50. The mere allegation of changed circumstances by ICE alone is not enough to justify re-arrest, absent urgent concerns. *See Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021, 1036 (N.D. Cal. 2025); *see also Rodriguez v. Kaiser*, No. 1:25-CV-01111-KES-SAB (HC), 2025 WL 2855193, at *7 (E.D. Cal. Oct. 8,

2025) (concluding that, "given the absence of evidence of urgent concerns . . . a pre-deprivation hearing [was] required to satisfy due process," and collecting cases). Numerous decisions reach this conclusion.[2]

51. For example, a court in this district recently analyzed Respondents' arguments for the re-detention of a 60-year-old grandmother of seven who was accused of "minor, technical violations" of her release on her own recognizance. *Bernal v. Albarran*, No. 25-cv-09772-RS, 2025 U.S. Dist. LEXIS 232122, at *19 (N.D. Cal. Nov. 25, 2025). The court found "detention is permitted under section 1226(a) only if [petitioner] is dangerous or a flight risk," and that Respondents had alleged only "minor, technical violations" of her release conditions, rather than suggesting that she was a danger or flight risk. *Id.* The court granted injunctive relief, concluding that "Respondents have not come close to showing that [petitioner is a danger or flight risk], and in fact, have hardly even tried." *Id.* Courts thus analyze the sufficiency of the evidence Respondents present to determine whether the re-arrest was pretextual.

52. As courts evaluate Respondents' tenuous justifications for re-detaining noncitizens previously released on an Order of Recognizance, it has become clear that due process requires not only "changed circumstances" but also "evidence of

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[2] *See Jocop v. Albarran*, No. 25-cv-09059-JD, 2025 U.S. Dist. LEXIS 209368, at *5-6 (N.D. Cal. Oct. 23, 2025); *Rodriguez Diaz v. Kaiser*, No. 25-CV-05071-TLT, 2025 WL 3011852, at *43 (N.D. Cal. Sept. 16, 2025); *Leandro v. Albarran*, No. 3:25-cv-10042, 2025 U.S. Dist. LEXIS 228978, at *8-9 (N.D. Cal. Nov. 20, 2025); *Bernal v. Albarran*, No. 25-cv-09772-RS, 2025 U.S. Dist. LEXIS 232122 at *21 (N.D. Cal. Nov. 25, 2025); *Andundia-Carillo v. Albarran*, No. 3:25-cv-10380, 2025 U.S. Dist. LEXIS 167975, at *8 (N.D. Cal. Dec. 3, 2025); *Paternina v. Albarran*, No. 4:25-cv-10378-YGR, 2025 U.S. Dist. LEXIS 167976, at *8 (N.D. Cal. Dec. 3, 2025); *J.O.L.R. v. Wofford*, No. 1:25-cv-01241-KES-SKO, 2025 U.S. Dist. LEXIS 202706, at *15-16 (E.D. Cal., Oct. 14, 2025); *J.C.L.A. v. Wofford*, No. 1:25-cv-01310-KES-EPG, 2025 U.S. Dist. LEXIS 205300, at *12 (E.D. Cal., Oct. 17, 2025); *Alvarenga Matute v. Wofford*, No. 1:25-CV-01206-KES-SKO (HC), 2025 WL 2996577, at *19 (E.D. Cal. Oct. 24, 2025); *F.M.V. v. Wofford*, No. 1:25-cv-01381-KES-SAB, 2025 U.S. Dist. LEXIS 217645, at *17-18 (E.D. Cal. Nov. 4, 2025); *Vilela v. Robbins*, No. 1:25-cv-01393-KES-HBK, 2025 U.S. Dist. LEXIS 219172, at *20 (E.D. Cal. Nov. 6, 2025); *J.A.E.M. v. Wofford*, No. 1:25-cv-01380-KES-HBK, 2025 U.S. Dist. LEXIS 211728, at *20-21 (E.D. Cal. Oct. 27, 2025); *Sharan S. v. Chestnut*, No. 1:25-cv-01427-KES-SKO, 2025 U.S. Dist. LEXIS 222923, at *29 (E.D. Cal. Nov. 12, 2025; *Perez v. Albarran*, No. 1:25-cv-01540-DAD-CSK, 2025 U.S. Dist. LEXIS 224966, at *14 (E.D. Cal., Nov. 14, 2025).

urgent concerns," if Respondents seek to re-detain a person without a hearing. See Guillermo M. R. v. Kaiser, 791 F. Supp. 3d 1021, 1036 (N.D. Cal. 2025) ("absent evidence of urgent concerns, a pre-deprivation hearing is required to satisfy due process, particularly where an individual has been released on bond by an IJ") (emphasis added). Rodriguez v. Kaiser, No. 1:25-CV-01111-KES-SAB (HC), 2025 WL 2855193, at *7 (E.D. Cal. Oct. 8, 2025) (concluding that, "given the absence of evidence of urgent concerns . . . a pre-deprivation hearing [was] required to satisfy due process," and collecting cases); Y.M.M. v. Wamsley, No. 2:25-cv-02075, 2025 U.S. Dist. LEXIS 219064, at *5 (W.D. Wash. Nov. 6, 2025) ("Numerous courts in this district and throughout the Ninth Circuit have recognized this requirement" of a pre-deprivation hearing, "absent evidence of urgent concerns"). A pre-deprivation hearing before the government can re-detain a noncitizen is a crucial safeguard against pretextual arrests, especially in the current political environment where ICE is under intense pressure to meet arrest quotas. See E.A. T.-B. v. Wamsley, No. C25-1192-KKE2025, U.S. Dist. LEXIS 160809, at *10 (Aug. 19, 2025). The legal principle is clear: Once the government makes the release determination, the individual has a liberty interest that cannot be taken away without a hearing—unless an "urgent" "change of circumstances" makes such a pre-deprivation hearing infeasible.

53. Here, Petitioner is not a danger. He has no criminal history or any intervening criminal arrests since his release. As to flight risk, the question is whether custody is reasonably necessary to secure a person's appearance at immigration court hearings and related check-ins. *See Hernandez*, 872 F.3d at 990-91. Petitioner has made a good faith effort to comply with all the terms of his release. Any concerns about flight risk would be mitigated by the fact that Petitioner was arrested *while attending his ICE check-in.* Although Respondents have not yet stated their reason for the re-arrest, any allegation that Petitioner

missed an ICE check-in or otherwise violated a "minor, technical" term of his release would be insufficient justify his re-detention. *See Bernal v. Albarran*, No. 25-cv-09772-RS, 2025 U.S. Dist. LEXIS 232122, at *19.

54. Moreover, Petitioner has a viable path toward immigration relief and a pathway to lawful permanent residence through his asylum application, further mitigating any risk of flight. *See Padilla v. U.S. Immigr. and Customs Enf't*, 704 F. Supp. 3d 1163, 1173 (W.D. Wash. 2023) (holding that there is not a legitimate concern of flight risk where plaintiffs have bona fide asylum claims and desire to remain in the United States).

FACTUAL ALLEGATIONS

55. On January 20, 2025, the day that President Trump took office for his second term. That day, President Trump signed Executive Order 14159, "Protecting the American People Against Invasion," the purpose of which was "to faithfully execute the immigration laws against all inadmissible and removable aliens, particularly those aliens who threaten the safety or security of the American people." Exec. Order No. 14,159, 90 C.F.R. § 8443 (Jan. 20, 2025). The order directed the Secretary of Homeland Security to take various actions "to ensure the efficient and expedited removal of aliens from the United States." *Id.*

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

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

58. The new arrest and detention campaign is a sharp break from DHS's previous practices, when immigration officers avoided arrests at ICE check-in appointments and courthouses given the concern that such enforcement actions would deter people from appearing for their proceedings and complying with court orders.[3]

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

60. Petitioner's detention is a result of DHS's new unlawful enforcement campaign. Petitioner arrived in the United States on Oct. 6, 2023, after crossing the Arizona border. That same day, United States Border Patrol took Petitioner into custody "for unlawfully entering the United States from Mexico, at a time and place other than as designated by the Secretary of the Department of Homeland Security of the United States" presumably under 8 U.S.C. § 8 U.S.C. 1226(a)(2)(B). Ex. A; Rabani-Jenkins decl. at ¶ 5. On October 7, 2023, Petitioner was released from custody by ICE. The notices provided by Respondents do not indicate that he was released on October 7, 2023 in accordance with the mandatory detention provisions of 8 U.S.C. § 1225(b)(2) "for urgent humanitarian reasons or significant public benefit." Ex. A; Rabani-Jenkins decl. at ¶ 8. Rather, Respondents specified that Petitioner's release in 2023 was due to detention center capacity limitations. Ex. A; Rabani-Jenkins decl. at ¶ 8.

61. Petitioner was arrested and re-detained on December 9, 2025 when he

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

attended a check in with ICE in Camarillo, California. Rabani-Jenkins decl. at ¶ 10. On December 9, 2025, Petitioner was given an administrative warrant stating that DHS believes him to be removable but did not include any more information than when he was detained in 2023. Exs. A, E; Rabani-Jenkins decl. at ¶ 5. Respondents did not provide any notice to Petitioner specifying any changed circumstances or other reason for Respondents' decision to re-detain him on December 9, 2025 beyond seemingly pretextual allegations of noncompliance with ISAP. Exs. A, E; Rabani-Jenkins decl. at ¶ 5; Martin del Campo decl. at ¶ 13.

62. Petitioner presents no flight risk and has no criminal history to justify his arrest or re-detention. Ex. A, H; Rabani-Jenkins decl. at ¶ 14. Indeed, Respondents specifically indicated on DHS Form I-213 that Petitioner has no known criminal history. Ex. A; Rabani-Jenkins decl. at ¶ 8. Petitioner obtained work authorization on November 15, 2025, and is in the process of receiving and a corresponding social security card. Petitioner applied for asylum in the United States and was employed, residing and working in Santa Barbara, California when he attended an ICE check in on December 9, 2025 in Camarillo, California. Exs. A, B, C. Petitioner had been kept at 300 North, a temporary holding cell, for over four days and was only then transferred to Adelanto where he is held in a room with 120 other individuals. The merits of his asylum claim have not been heard. It was initially set for February 2026. Rabani-Jenkins decl. at ¶ 12. Now, his case has been reset for a Master Calendar Hearing in Adelanto for January 9, 2026. Rabani-Jenkins decl. at ¶ 12.

63. Petitioner's arrest had nothing to do with his individual case, as he is neither a flight risk, has no criminal record and is not a threat to others. Ex. A, H; Rabani-Jenkins decl. at ¶ 14. Instead, his arrest and re-detention are part of a new, nationwide DHS strategy of sweeping up migrants who attend their immigration court hearings and ICE check-ins, detaining them, and seeking to re-route them to

fast-track deportations. Since mid-May of 2025, DHS has implemented a coordinated practice of immigration detention to strip people like Petitioner of their due process rights and pressure them into deportation, which could amount to a death sentence in Guatemala for Petitioner. This coordinated operation is intended to dramatically accelerate deportations to meet DHS deportation quotas. Although DHS regulations do not permit re-detention absent a showing that the "[c]ircumstances of the case have changed," 8 C.F.R. § 239.2(a)(7), (c), DHS is arbitrarily re-detaining asylum seekers such as Petitioner in violation of their due process rights.

64. Petitioner attended an ICE check in on December 9, 2025—only to be arbitrarily re-arrested and sent to 300 North, where he was unlawfully detained for over four days. The only "justification" for his re-detention appears to be the preposterous fiction created by Respondents by suggesting that "missed" biometrics check-ins due to Respondents' faulty electronic monitors are a changed circumstance, despite Petitioner's adherence to the ISAP program for over two years, well beyond the program's intended use. Petitioner has made a good faith effort to comply with all of his immigration and ICE obligations. He submitted his biometrics and received "submission successful" notifications. Despite this, ICE claims he missed check-ins. Martin del Campo decl. at ¶ 12. A technological problem on ISAP's part is not reason enough to re-detain an individual.

65. Petitioner is being deprived of his liberty without any permissible justification. The government previously released him on his own recognizance in 2023 because he did not pose sufficient risk of flight or danger to the community to warrant detention. None of that has changed. Petitioner has no criminal record, and there is no basis to believe that he poses any public-safety risk. Nor is Petitioner, who was arrested *while appearing for an ICE check-in appointment with an attorney,* conceivably a flight risk.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process—Detention)

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

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

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

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

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

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Procedural Due Process—Detention)

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

72. 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).

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

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

75. Petitioner has a profound personal interest in his liberty. Because he

received no procedural protections, the risk of erroneous deprivation is high. And the government has no legitimate interest in detaining Petitioner without a hearing.

THIRD CLAIM FOR RELIEF

Violation of the Fourth Amendment to the United States Constitution

(Unlawful Arrest)

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

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

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

79. 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).

80. ICE agents arrested Petitioner in 2023 after he entered the United States, charged him with a violation of civil immigration law and released him from custody. Petitioner adhered to all immigration law requirements, filed an asylum application and obtained a government-issued work authorization. He had not engaged in any conduct in the intervening time that made him a flight risk or danger to the community. No material change in circumstances justified Petitioner's re-arrest.

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

FOURTH CLAIM FOR RELIEF

Violation of the Administrative Procedure Act

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

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

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

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

FIFTH CLAIM FOR RELIEF

Violation of the Immigration and Nationality Act (INA)

(8 U.S.C. § 1226(a))

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

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

88. Petitioner's prior release by DHS in 2023 necessarily reflects a determination that the noncitizen is neither a flight risk nor a danger to the community. 8 C.F.R. 1236.1(c)(8) (outlining requirements for release on recognizance); 8 C.F.R. 212.5(b) (outlining requirements for parole).

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

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

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;

2. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;

3. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment, the Fourth Amendment, the Administrative Procedure Act and the Immigration and Nationality Act, 8 U.S.C. § 1226(a);

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

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

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

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

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

Date: December 23, 2025

Respectfully submitted,

/s/ Jordan M. Rabani-Jenkins
Jordan M. Rabani-Jenkins
Pro Bono Attorney for Petitioner

VERIFICATION

I, Jordan M. Rabani-Jenkins, declare as follows:

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

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on December 23, 2025.

/s/ Jordan M. Rabani-Jenkins
Jordan M. Rabani-Jenkins

Pro Bono Attorney for Petitioner