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

Zoila Jut Sarax De Vasquez,

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, Zoila Jut Sarax De Vasquez, 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. Jut Sarax De Vasquez without any process, in violation of the Fifth Amendment to the U.S. Constitution.

2. Ms. Jut Sarax De Vasquez is a native and citizen of Guatemala. Ms. Jut Sarax De Vasquez entered the United States on July 26, 2023 seeking asylum. When Ms. Jut Sarax De Vasquez 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. Ms. Jut Sarax De Vasquez filed an asylum application with the Immigration Court.

4. On October 2, 2024, Ms. Jut Sarax De Vasquez's case was denied by the Immigration Court. On November 1, 2024, Ms. Jut Sarax De Vasquez appealed her case to the Board of Immigration Appeals ("BIA"). Ms. Jut Sarax De Vasquez does not have a final order of deportation. As of today's date, her appeal remains pending.

5. On November 6, 2025, Ms. Jut Sarax De Vasquez was detained during a routine ICE visit. She was informed that she had violated an ISAP by not properly downloading pictures on her phone application.

6. When Ms. Jut Sarax De Vasquez was released from ICE custody upon entering the United States, the immigration authorities gave her an order of supervision and a copy of a Notice to Appear in Immigration Court. The authorities informed Ms. Jut Sarax De Vasquez that she would have to appear at all ICE appointments and court hearings.

7. Over the last two and a half years in which she has lived at liberty, Ms. Jut Sarax De Vasquez has complied with all obligations of supervision and ICE orders. Ms. Jut Sarax De Vasquez never missed immigration court.

8. Since being released, Ms. Jut Sarax De Vasquez has not committed any violation of any local, State or Federal law.

1 9. Ms. Jut Sarax De Vasquez resides in Lamont, California with her significant other and
2 two children. She worked in agriculture to provide for herself and her children while her case is
3 pending with the BIA. She recently injured her foot when she fell from an orange tree at work.
4 She continues to take pain medication for this injury.

5 10. Ms. Jut Sarax De Vasquez arrest and detention have caused her tremendous and ongoing
6 harm. Every additional day Ms. Jut Sarax De Vasquez spends in unlawful detention subjects her
7 to further irreparable harm.

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

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

24 13. That basic principle – that individuals placed at liberty are entitled to due process before
25 the government imprisons them – has particular force here, where Ms. Jut Sarax De Vasquez’s
26 detention was already found to be unnecessary to serve its purpose.

27 14. Therefore, at a minimum, to lawfully re-arrest Ms. Jut Sarax De Vasquez, the government
28 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.

15. Ms. Jut Sarax De Vasquez respectfully seeks a writ of habeas corpus ordering the
government to immediately release her from her ongoing, unlawful detention, and prohibit her

re-arrest without a hearing to contest that re-arrest before a neutral decision maker. In addition, to preserve this Court's jurisdiction, Ms. Jut Sarax De Vasquez also requests that this Court order the government not to deport her for the duration of this proceeding or transfer her outside of this Court's jurisdiction.

JURISDICTION AND VENUE

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

17. 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 Ms. Jut Sarax De Vasquez is physically detained within this District at the California City Detention Center.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

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

19. Ms. Jut Sarax De Vasquez 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. Jut Sarax De Vasquez will "suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *McCarthy 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 Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). Any further exhaustion requirements would be unreasonable.

1 20. On December 24, 2025, undersigned counsel reached out to ICE in Bakersfield to request
2 Ms. Jut Sarax De Vasquez's immediate release. ICE has not responded to this request for release.

3 **PARTIES**

4 21. Petitioner, Ms. Jut Sarax De Vasquez is from Guatemala. She has no criminal history
5 anywhere in the world. She has a pending appeal for an application for Asylum, Withholding of
6 Removal and relief under the Convention Against Torture with the Board of Immigration
7 Appeals. She is presently in civil immigration detention at California City Detention Facility.

8 22. Respondent, Christopher Chestnut, is the Warden of California City Correctional Facility
9 In his official capacity, he is the legal custodian of Ms. Jut Sarax De Vasquez.

10 23. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official
11 Capacity. Among other things, ICE is responsible for the administration and enforcement of the
12 immigration laws, including the removal of noncitizens. In his official capacity as head of ICE,
13 he is the legal custodian of Ms. Jut Sarax De Vasquez.

14 24. Respondent Kristi NOEM is the Secretary of DHS and is named in her official capacity.
15 DHS is the federal agency encompassing ICE, which is responsible for the administration and
16 enforcement of the INA and all other laws relating to the immigration of noncitizens. In her
17 capacity as Secretary, Respondent Noem has responsibility for the administration and
18 enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland
19 Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); see also 8 U.S.C. §
20 1103(a). Respondent Noem is the ultimate legal custodian of Ms. Jut Sarax De Vasquez.

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

27 **LEGAL BACKGROUND**

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

29 28. The Constitution Establishes due process rights for "all 'persons' within the United
30 States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or

1 permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017)(quoting *Zadvydas*, 533
2 U.S. at 693). These due process rights are both substantive and procedural.

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

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

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

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

21 33. The statute and regulations grant ICE the ability to unilaterally revoke any noncitizen’s
22 immigration bond and re-arrest the noncitizen at any time. 8 U.S.C. § 1226(b); 8 C.F.R. §
23 236.1(c)(9). Notwithstanding the breadth of the statutory language granting ICE the power to
24 revoke an immigration bond “at any time,” 9 U.S.C. 1226(b), in *Matter of Sugay*, 17 I&N Dec.
25 at 640, the BIA recognized an implicit limitation on ICE’s authority to re-arrest noncitizens.
26 There, the BIA held that “where a previous bond determination has been made by an immigration
27 judge, no change should be made by the DHS absent a change of circumstance.” *Id.* In practice,
28 DHS “requires a showing of changed circumstances both where the prior bond determination
was made by an immigration judge and where the previous release decision was made by a DHS
officer.” *Saravia*, 280 F. Supp. 3d at 1197 (emphasis added). The Ninth Circuit has also assumed
that, under *Matter of Sugay*, ICE has no authority to re-detain an individual absent changed

1 circumstances. *Panosyan v Mayorkas*, 854 F. App'x 787, 788 (9th Cir. 2021)(“thus, absent
2 changed circumstances... ICE cannot detain Panosyan.”).

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

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

15 36. Federal district courts in California have repeatedly recognized the demands of due
16 process and the limitations on DHS’s authority to revoke a noncitizen’s bond or parole set out in
17 DHS’s stated practice and *Matter of Sugay* both require a pre-deprivation hearing for a noncitizen
18 on bond, like Ms. Jut Sarax De Vasquez, before ICE re-detains her. See e.g., *Meza v. Bonnar*,
19 2018 WL 2554572 (N.D. Cal. June 4, 2018); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025
20 WL 1382859, at 3 (N.D. Cal. May 12, 2025)(temporary injunction warranted preventing re-arrest
21 at plaintiff’s ICE interview when he had been on bond for more than five years). See also *Doe v.*
22 *Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, 4 (E.D. Cal. Mar. 3, 2025)(holding
23 the Constitution requires a hearing before any re-arrest).

24 FACTUAL ALLEGATIONS

25 37. Ms. Jut Sarax De Vasquez’s liberty from immigration custody is protected by the Due
26 Process Clause: “Freedom from imprisonment- from government custody, detention, or other
27 forms of physical restraint – lies at the heart of the liberty that (the Due Process) Clause protects.”
28 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

38. Since July 26, 2023, Ms. Jut Sarax De Vasquez 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. Jut Sarax De Vasquez’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. Jut Sarax De Vasquez has complied with all conditions for release for well over two years, as she litigates her removal proceedings. She has meritorious applications for relief from removal before the BIA.

A. Ms. Jut Sarax De Vasquez 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. Jut Sarax De Vasquez 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, and (5) 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 Ms. Jut Sarax De Vasquez’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.

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

7 45. Because, in this case, the provision for a pre-deprivation hearing is both possible and
8 valuable to prevent an erroneous deprivation of liberty, ICE is required to provide Ms. Jut Sarax
9 De Vasquez with notice and a hearing prior to any re-incarceration and revocation of her pre-
10 trial release. See *Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F2d at 1355-56; *Jones*, 393 F.3d
11 at 932; see also *Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d
12 1452 (11th Cir. 1984)(holding that individuals awaiting involuntary civil commitment
13 proceedings may be constitutionally be held in jail pending the determination as to whether they
14 can ultimately be committed). Under *Mathews*, “the balance weighs heavily in favor of Ms. Jut
15 Sarax De Vasquez” and requires a pre-deprivation hearing before a neutral adjudicator.

16 46. In 2023, Petitioner fled to the United States. She was initially arrested by DHS officers
17 but was released shortly after on her own recognizance with a notice to appear for removal
18 proceedings. In granting her release, DHS determined that she posed little if any risk of flight or
19 danger to the community.

20 47. DHS filed Ms. Jut Sarax De Vasquez’s Notice to Appear with the immigration court.
21 Ms. Jut Sarax De Vasquez filed an asylum, withholding and CAT application. Her case remains
22 pending before the Board of Immigration Appeals.

23 48. Since arriving to the United States, Ms. Jut Sarax De Vasquez has attended every
24 immigration appointment that she was required to attend. Ms. Jut Sarax De Vasquez has no
25 criminal history. Ms. Jut Sarax De Vasquez lives in Lamont, California with her family. Ms. Jut
26 Sarax De Vasquez has attended all check-ins with ICE.

27 49. Ms. Jut Sarax De Vasquez has applied for asylum based on well-founded fear of
28 persecution in Guatemala.

50. Ever since Ms. Jut Sarax De Vasquez entered the country, she has fully complied with all
court and supervision requirements.

1 51. On November 6, 2025, Petitioner appeared at an ICE check-in at the ICE Bakersfield
2 Office in Bakersfield, California.

3 52. The ICE agent informed Ms. Jut Sarax De Vasquez that she had ISAP violations because
4 there was an issue with her phone app and that she would be detained.

5 53. Petitioner is currently represented before the Board of Immigration Appeals. Petitioner
6 subsequently retained undersigned counsel to represent her in this habeas corpus proceeding. On
7 December 24, 2025, counsel sent an email to the Bakersfield ICE office requesting immediate
8 release but has received no response.

9 54. Ms. Jut Sarax De Vasquez remains in custody. At this time, there are no new
10 circumstances that would justify a re-arrest of petitioner.

11 55. Because Ms. Jut Sarax De Vasquez has never been determined to be a flight risk or danger
12 to the community, her detention is not related to either of the permissible justifications for civil
13 immigration litigation. Her detention does not further any legitimate government interest.

14 **B. As a Result of Her Arrest and Detention, Ms. Jut Sarax De Vasquez**
15 **is Suffering Ongoing and Irreparable Harm.**

16 56. Ms. Jut Sarax De Vasquez is being deprived of her liberty without any permissible
17 justification. The government previously released her on her own recognizance because she did
18 not pose sufficient risk of flight or danger to the community to warrant detention.

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

23 58. Ms. Jut Sarax De Vasquez is now separated from her family.

24 59. Ms. Jut Sarax De Vasquez's family require her presence. Ms. Jut Sarax De Vasquez
25 continues to suffer from a work injury.

26 60. Ms. Jut Sarax De Vasquez is suffering from debilitating conditions at the California City
27 Detention Facility.

28 **CLAIMS FOR RELIEF**

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process—Detention)

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

62. 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.

63. 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.*

64. 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.

65. 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. *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)

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

1 physical restraint.” *Hernandez*, 872 F.3d at 990; *Zinermon*, 494 U.S. at 127 (Generally, “the
2 Constitution requires some kind of a hearing before the State deprives a person of liberty or
3 property.”). In the immigration context, for such hearings to comply with due process, the
4 government must bear the burden to demonstrate, by clear and convincing evidence, that the
5 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).

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

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

21 **THIRD CLAIM FOR RELIEF**

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

23 **(Unlawful Arrest)**

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

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

28 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

1 purpose of an arrest is to ensure the arrestee appears to answer charges. . . . Once the arrestee
 2 appears before the court, the purpose of the initial seizure has been accomplished. Further seizure
 3 requires a court order or new cause; the original probable cause determination is no justification.
 4 *Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020); see also *United States v. Kordosky*, No. 88-
 5 CR-52-C, 1988 WL 238041, at *7 n.14 (W.D. Wis. Sept. 12, 1988) (“Absent some compelling
 6 justification, the repeated seizure of a person on the same probable cause cannot, by any standard,
 7 be regarded as reasonable under the Fourth Amendment.”).

8 74. In the immigration context, this prohibition means that a person who immigration
 9 authorities released from initial custody cannot be re-arrested “solely on the ground that he is
 10 subject to removal proceedings” and without some new, intervening cause. *Saravia v. Sessions*,
 11 280 F. Supp. 3d 1168, 1196 (N.D. Cal. 2017), *aff’d sub nom., Saravia for A.H. v. Sessions*, 905
 12 F.3d 1137 (9th Cir. 2018). Courts have long recognized that permitting such rearrests could result
 13 in “harassment by continual rearrests.” *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971).
 14 DHS agents arrested Petitioner in 2023 after she entered the United States, charged her with a
 15 violation of civil immigration law, and released her on her own recognizance with a notice to
 16 appear in immigration court. Petitioner appeared at her ICE check-in as instructed.

17 75. DHS re-arrested Petitioner on November 6, 2025, based on nothing more than the 2023
 18 civil charge of violating immigration law for which she was previously released. Petitioner had
 19 not engaged in any conduct in the intervening time that rendered her a flight risk or danger to the
 20 community. No material change in circumstances justified Petitioner’s re-arrest.

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

23 PRAYER FOR RELIEF

24 Petitioner respectfully requests that this Court:

- 25 1. Assume jurisdiction over this matter;
- 26 2. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner
 27 from custody;
- 28 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;

1 5. Enjoin Respondents from re-detaining Petitioner unless his re-detention is ordered at a
2 custody hearing before a neutral arbiter in which the government bears the burden of
3 proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the
4 community;

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

7 7. Grant such further relief as the Court deems just and proper.

8 Date: December 24, 2025

Respectfully Submitted,

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11 /s/ Robert Beles
12 Robert Beles
13 Attorney For Petitioner
14 Zoila Jut Sarax De Vasquez
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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 24, 2025, in Oakland, CA.

/s/ Robert Beles
Robert J. Beles
Attorney for Zoila Jut Sarax
De Vasquez