CHAIDEZ LAW FIRM, PLLC
Jose L. Chaidez (SBN 024347)
3003 N. Central Ave. Ste. 690
Phoenix, AZ 85012
Phone: (602) 266-0225f
Fax: (602) 266-0227
jose@quelepaso.com
Attorney for Petitioner-Plaintiff
Carlos Duran Alvarado

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

PHOENIX DIVISION

Carlos Duran-Alvarado

Petitioner-Plaintiff,

v.

Todd M. LYONS, interim Director of Phoenix Office of Detention and Removal, U.S. Immigrations and Customs Enforcement; U.S. Department of Homeland Security;

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

Markwayne Mullin, in his Official Capacity, Secretary, U.S. Department of Homeland Security; and

Todd Blanch, in his Official Capacity, Attorney General of the United States;

Eric Rokosky, acting Warden Eloy Detention Center, Eloy Arizona;

Timothy COURCHAINE, in his Official Capacity, United States Attorney, District of Arizona.

Respondents-Defendants.

Case No. _____

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. On or about July 29, 2025, Petitioner Carlos Duran-Alvarado at his regularly scheduled ICE check-in at their local ICE Field Office, in Camarillo CA. Petitioner along with his mother, Lida Alvarado De-Duran, have been in the United States for nearly ten years. Respondents detained Petitioner, and his mother, without notice or cause. Respondents did so based not on Petitioner's personal circumstances or individualized facts, but because of Respondents' interpretation of President Trump's order that they "to do all in their power to achieve the very important goal of delivering the single largest Mass Deportation Program in History."[1] But Respondents' power to detain remains checked by law, as this country remains "a government of laws and not of men." *Cooper v. Aaron*, 358 U.S. 1, 23 (1958) (Frankfurter, J. Concurring) (cleaned up).

2. Mr. Carlos Duran-Alvardo is a 20 year-old from El Salvador, who entered with his mother on July 25, 2016, when he was 10 years old. He has lived in the Unites States continually ever since.

3. "At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest." *INS v. St. Cyr,* 533 U.S. 289, 301 (2001), *superseded on other grounds by statute as stated in Patel v. U.S. Att'y Gen.,* 971 F.3d 1258, 1270 (11th Cir. 2020). The writ is meant to provide exactly the relief Petitioner seeks here: to prevent the Respondents—a whole set of immigration agencies with vast resources, who have at their disposal a punitive detention system and agents roving the streets to arrest immigrants—from setting themselves above the law in order to detain Petitioner.

4. In their lawless pursuit of detention bed quotas,[2] Respondents cast aside Petitioner's

---

[1] Pres. Donald Trump, @realDonaldTrump, Truth Social (June 15, 2025, 5:43pm) ("ICE Officers are herewith ordered, by notice of this TRUTH, to do all in their power to achieve the very important goal of delivering the single largest Mass Deportation Program in History.").

[2] Jennie Taer, *Trump admin's 3,000 ICE arrests per day quota is taking focus off criminals and*

due process rights —a bedrock of American freedom—to stop Petitioner without reasonable suspicion and arrest Petitioner without probable cause, ignoring the laws governing warrantless arrests.

5. Moreover, warrantless arrest without probable cause violates both 8 U.S.C. § 1357, which requires reason to believe the person "is likely to escape" before a warrant could be obtained, and ICE's own nationwide policy, to which it is bound pursuant to a settlement agreement in *Castañon Nava et al. v. Dep't of Homeland* Sec., No. 18-cv-3757 (N.D. Ill.), which requires consideration of specific factors to determine if someone is likely to escape and documentation of these "specific particularized facts" in the I-213.[3]

6. Immigration detention is civil and thus is permissible for only two reasons: to ensure a noncitizen's appearance at immigration hearings and to prevent danger to the community. But DHS did not arrest and detain Petitioner—who demonstrably poses no risk of absconding from immigration proceedings or danger to the community—for either of these reasons. Instead, as part of its broader enforcement campaign, DHS detained Petitioner to strip them of their procedural rights, force them to forfeit his applications for relief, and pressure them into fast-track removal.

7. In immigration court, noncitizens have the right to pursue claims for relief from removal (including asylum), be represented by counsel, gather and present evidence, and pursue appeals. 8 U.S.C. § 1229(a).

---

news/trump-admins-3000-ice-arrests-per-day-quota-is-taking-focus-off-criminals-and-killingmorale-insiders/, https://perma.cc/DB9R-MJUC (last visited Sept. 18, 2025) ("The Trump administration's mandate to arrest 3,000 illegal migrants per day is forcing ICE agents to deprioritize going after dangerous criminals and targets with deportation orders, insiders warn. Instead, federal immigration officers are spending more time rounding up people off the streets, sources said. 'All that matters is numbers, pure numbers. Quantity over quality,' one Immigrations and Customs Enforcement insider told The Post.").

3 Form I-213, known as a "Record of Deportable/Inadmissible [Noncitizen]" . . . is an 'official record' prepared by immigration officials when initially processing a person suspected of being in the United States without legal permission." *Punin v. Garland*, 108 F.4th 114, 119 (2d Cir. 2024) (cleaned up).

8. The Constitution protects Petitioner—and every other person present in this country—from arbitrary deprivations of their liberty and guarantees them due process of law. The government's power over immigration is broad, but as the Supreme Court has declared, it "is subject to important constitutional limitations."

9. Petitioners respectfully seek a writ of habeas corpus ordering the government to immediately release them from their ongoing, unlawful detention, and prohibiting their re-arrest without hearing to contest that re-arrest before a neutral decisionmaker. In addition, to preserve this Court's jurisdiction, Petitioner also requests that this Court order the government not to transfer them outside of the district or deport them for the duration of this proceeding.

CUSTODY

10. Mr. Carlos Duran-Alvarado is currently being held in custody by ICE at the Eloy Detention Facility in Eloy, Arizona.

JURISDICTION

11. 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 (Suspension Clause); Art. 3 of the United States Constitution, and the common law.

12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651 to protect Petitioner's rights under the Due Process Clause of the Fifth Amendment to the United States Constitution, the Excessive Bail Clause of the Eighth Amendment, and under applicable Federal law, and to issue a writ of habeas corpus for his immediate release. *See generally INS v. St. Cyr*, 533 U.S. 289 (2001); *Zadvydas*, 533 U.S. 678.

VENUE

13. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because the Respondents are employees or officers of the United States, acting in their official capacity; because a substantial part of the events or omissions giving rise to the claim occurred in the

District of Arizona; where Petitioner is now in Respondents' custody. Because Petitioner is under the jurisdiction of the Phoenix ICE Field Office, which is in the jurisdiction of the District of Arizona.

REQUIREMENTS OF 28 U.S.C. § 2243

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

15. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

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

EXHAUSTION OF ADMINISTRATIVE REMEDIES

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

18. No statutory exhaustion requirements apply to Petitioner's claim of unlawful custody in violation of his due process rights, and there are no administrative remedies that he needs to exhaust. *See Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review" constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).

PARTIES

19. Petitioner is a 20-year-old, single male, native of Honduras. He entered the Unites States on or about July 25, 2016, when he was 10 years old, with his mother. They entered at or near Hidalgo, TX and has lived in the Unites States continually ever since. Petitioner was detained, along with his mother on July 29, 2025, after nearly 10 years of regular field office check-ins, and is held in Eloy Detention Center in Eloy, Arizona.

20. Respondent John Cantù is the Field Office Director of ICE, in Phoenix, Arizona, and is named in his official capacity. ICE is the component of the DHS that is responsible for detaining and removing noncitizens according to immigration law and oversees custody determinations. In his official capacity, he is the legal custodian of Petitioner.

21. Respondent Todd M. Lyons is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is responsible for the administration and enforcement of the immigration laws, including the removal of noncitizens. In his official capacity as head of ICE, he is the legal custodian of Petitioner.

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

23. Respondent Todd Blanche is the Attorney General of the United States and the most senior official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She has the authority to interpret immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA.

24. Respondent, Eric Rokosky, acting Warden Eloy Detention Center, Eloy Arizona, and is Petitioner's immediate custodian.

25. asdf

STATEMENT OF FACTS

26. Mr. Carlos Duran-Alvardo is a 20-year-old, single male, native of El Salvador. He currently lives in the area of Camarillo, CA. He entered the United States, along with his mother on or about July 25, 2016, though Hidalgo, TX at the age of 10 and has continuously lived in the United States ever since. Petitioner and his mother were in detained and had been doing regular check-ins with ICE.

27. On July 25, 2025, at their regular scheduled check-in in Camarillo, CA Petitioner and his mother were detained and transferred to Eloy Detention Center in Eloy, Arizona.

28. On September 5, 2025, Petitioner, requested a bond hearing and Immigration determined Petitioner was an arriving alien "applicant for admission" despite, the NTA not categorizing them as such, found that the court had no jurisdiction, forcing Petitioner to withdraw their Petition for bond.

29. On information and belief, on January 25, 2025, officials in the new Trump administration directed senior ICE officials to increase arrests to meet daily quotas. Specifically, each field office was instructed to make seventy-five arrests per day [4]

30. In recent months, ICE has engaged in highly publicized arrests of individuals who presented no flight risk or danger, often with no prior notice that anything regarding their status was amiss or problematic, whisking them away to faraway detention centers without warning. [5]

31. Decisions issued by other courts in California District Courts further corroborate that ICE is re-arresting and re-incarcerating individuals who are not flight risks or dangers to the

community, including when their removals from the United States are not reasonably foreseeable. *See, e.g.*, *Zakzouk*, No. 25-CV-06254 (RFL), 2025 WL 2097470, at *2 ("Although Petitioner-Plaintiff informed the ICE officer that he has no right to return to either country because he is stateless, the officer told Petitioner-Plaintiff that 'things are different now.'"); *Hoac*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7; *Phan*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *7; *Guillermo M. R.*, --- F.Supp.3d ----, 2025 WL 1983677, at *10; *Pinchi*, --- F.Supp.3d ----, 2025 WL 2084921, at *7; *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *1 (N.D. Cal. June 14, 2025); *Doe v. Becerra*, -- F. Supp. 3d --, 2025 WL 691664, *8 (E.D. Cal. Mar. 3, 2025); *Ortega v. Kaiser*, No. 25-CV-05259-JST, 2025 WL 1771438 (N.D. Cal. June 26, 2025); *Singh v. Andrews*, No. 1:25-cv-801-KES-SKO, 2025 WL 1918679 (E.D. Cal. July 11, 2025); *Garcia v. Andrews*, No. 2:25-CV-01884-TLN-SCR, 2025 WL 1927596, at *6 (E.D. Cal. July 14, 2025).

32. Intervention from this Court is therefore required to ensure that Petitioner is not (1) held in unjustified, prolonged, and indefinite custody, (2) removed to a third country, and (3) subjected to irreparable harm as a result.

LEGAL BACKGROUND

The constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and Detention.

33. 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.

34. 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).

35. 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.

36. 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).

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

38. 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).

39. 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.*

40. 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).

Fourth Amendment Right- Protects Against Unreasonable Searches and Seizures; The Fifth Amendment Right to Remain Silent.

41. The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV.

42. Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

43. "Except at the border and its functional equivalents," immigration agents may stop individuals in public only after identifying "specific articulable facts, together with rational inferences from those facts, that reasonably warrant suspicion" of a violation of immigration law. *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975); *Benitez-Mendez v. I.N.S.*, 752 F.2d 1309, 1311 (9th Cir. 1983), amended, 760 F.2d 907 (9th Cir. 1983); see also 8 C.F.R. § 287.8(b)(2) (allowing officer to "briefly detain" a noncitizen for questioning if the officer "has a reasonable suspicion, based on specific articulable facts" that the noncitizen is engaged in an offense or is unlawfully in the United States).

44. Reasonable suspicion for an immigration stop cannot be based "on broad profiles which cast suspicion on entire categories of people without any individualized suspicion of the particular person to be stopped." *United States v. Rodriguez Sanchez*, 23 F.3d 1488, 1492 (9th Cir. 1994). Rather, reasonable suspicion must be "particularized and objective," *United States v. Arvizu,* 534 U.S. 266, 273 (2002), meaning the officer has reasonable suspicion as to "the particular person being stopped." *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000) (en banc). Information obtained from an officer's lawful questioning "may provide the basis for a subsequent arrest." 8 C.F.R. § 287.8(b)(3).

45. Immigration officers may arrest an individual without a warrant in limited circumstances. See *Arizona v. United States*, 567 U.S. 387, 407–08 (2012) (noting strong Congressional preference, as expressed in INA, for immigration arrests to be based on warrants).

46. The INA permits warrantless arrest if an immigration officer has reason to believe that a noncitizen (1) is in the United States in violation of the immigration laws and (2) "is likely to

escape before a warrant can be obtained for his arrest". 8 U.S.C. § 1357(a)(2); accord. 8 C.F.R. § 287.8(c)(2)(i)-(ii). An officer "has reason to believe" when they have the equivalent of "the constitutional requirement of probable cause." *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

47. The Fifth Amendment right to remain silent may be properly invoked during a civil immigration arrest. See U.S. Const., amend. V. *See Kastigar v. United States,* 406 U.S. 441, 444-45 (1972) (The privilege against self-incrimination "can be asserted in any proceeding, civil or criminal, administrative or judicial, investigatory or adjudicatory . . . This Court has been zealous to safeguard the values which underlie the privilege."). An immigration officer may not establish probable cause on the basis of a noncitizen's silence pursuant to his Fifth Amendment rights. See *Hurd v. Terhune*, 619 F.3d 1080, 1088 (9th Cir. 2010) (affirming "the fundamental principle that a suspect's silence in the face of questioning cannot be used as evidence against him at trial").

48. If an immigration officer makes a warrantless arrest, at the time of an arrest and "as soon as it is practical and safe to do so," immigration officers must identify themselves as immigration officers authorized to make arrests, inform the person arrested that they are under arrest, and state the reason for the arrest. 8 C.F.R. § 287.8(c)(2)(iii). The noncitizen must then "be taken without unnecessary delay for examination before an officer of the Service having authority to examine [noncitizens] as to their right to enter or remain in the United States." 8 U.S.C. § 1357(a)(2).

49. ICE is bound not only by statute and due process, but also by its national policy adopted pursuant to settlement agreement in *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.). Under this policy, ICE must consider a delineated list of factors before making an arrest, including (a) the officer's ability to determine the individual's identity; (b) knowledge of the individual's prior escapes or evasions of immigration authorities; (c) the individual's attempts to flee to avoid being discovered by immigration; and (d) the individual's ties to the community, such as a family, home, or employment. Settlement Agreement, *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.), available at

https://immigrantjustice.org/sites/default/files/content-type/page/documents/2025-01/Nava_Settlement_ICE_Warrantless_Arrest-Vehicle_Stop_Policy_2021.pdf.

FACTUAL BACKGROUND

Respondents' Detention and Deportation Policies

50. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

51. In late May, Respondent Secretary Noem and White House Deputy Chief of Staff Stephen Miller met with ICE leadership, setting a new arrest quota of 3,000 arrests per day and reportedly threatening job consequences if officials failed to meet arrest quotas. 5

52. On May 28, Miller confirmed that "[u]nder President Trump's leadership, we are looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President Trump is going to keep pushing to get that number up higher each and every single day." 6

5. Elizabeth Findell, et al., The White House Marching Orders That Sparked the L.A. Migrant Crackdown, The Wall Street Journal (June 9, 2025), https://www.wsj.com/us-news/protests-losangeles-immigrants-trump-f5089877; Julia Ainsley, et al., A sweeping new ICE operation shows how Trump's focus on immigration is reshaping federal law enforcement, NBC News (June 4, 2025), https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focusimmigration-reshape-federal-lawenforcement-rcna193494; Brittany Gibson & Stef W. Kight, Scoop: Stephen Miller, Noem tell ICE to supercharge immigration arrests, Axios (May 28, 2025), available at https://www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller.

6 Hannity, Stephen Miller says the admin wants to create the strongest immigration system in

53. Following the directive from Noem and Miller, ICE agents were instructed in an e-mail to "turn the creativity knob up to 11" and aggressively "push the envelope" in arrests, including by pursuing "collaterals"—individuals who by definition would not have warrants.7

As another e-mail put it: "If it involves handcuffs on wrists, it's probably worth pursuing."8

54. The overriding message, communicated by and to Respondents, is that agents and officers carrying out immigration operations on the ground must prioritize arrest numbers, regardless of the law. As one ICE official put it earlier this year, all that matters is "numbers, pure numbers, [q]uantity over quality."9

Petitioner's Background and Arrest

55. Mr. Carlos Duran-Alvarado is a 20-year-old, single male, native of El Salvador. He entered the United States without inspection, along with his mother on or about July 25, 2016, when he was 10-year-old. Petitioner and his mother were attending regularly scheduled ICE check-ins at their local Camarillo, CA ICE field office.

56. Petitioner and mother on July 29, 2025, were detained at their regularly scheduled ICE check-in.

57. On information and belief, on or about July 29, 2025, Petitioner was arrested and detained by immigration agents without no lawful basis as decision on their asylum claim was still pending.

58. On information and belief, at no point during the detention did any agent produce a warrant, explain why Petitioner had been detained, or provide any documents of any kind.

59. On information and belief, no point during the detention did any agent ask Petitioner any questions about her family, employment, or community ties.

60. On information and belief, at no time during the detention did any officer conduct an assessment of whether Petitioner was a flight risk.

61. On information and belief, at no time during the detention did any officer conduct an individualized assessment of whether Petitioner was a danger to the community.

CLAIMS FOR RELIEF

COUNT ONE
Violation of the Fourth Amendment of the United States Constitution
Unreasonable Seizure

62. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

63. Except at the border and its functional equivalents, the Fourth Amendment to the U.S. Constitution prohibits Respondents from conducting a detention stop to question a person without reasonable suspicion that a person is a noncitizen unlawfully in the United States. Likewise, the Fourth Amendment prohibits Respondents from making an arrest without probable cause to believe that a person is a noncitizen unlawfully in the United States.

64. "A person's mere propinquity to others independently suspected of [unlawful] activity does not, without more, give rise to probable cause to search [or seize] that person." *Perez Cruz v. Barr*, 926 F.3d 1128, 1138 (9th Cir. 2019) (quotation omitted). "'Reasonable suspicion' is no different." Id.

65. Race or apparent ethnicity, standing alone, cannot form the basis for reasonable suspicion. *United States v. Brignoni-Ponce*, 422 U.S. 873, 886-87 (1975). Because probable cause is a more demanding standard than reasonable suspicion, race or apparent ethnicity, standing alone, is also necessarily insufficient to form the basis for probable cause.

66. Respondents had no basis to detain Petitioner and inquire about their immigration status other than her race and apparent ethnicity. Likewise, Respondents had no basis to arrest Petitioner other than their race and apparent ethnicity. No other salient factors existed to suggest that Petitioner might not be a citizen of the United States. Because Respondents only detained Petitioner because of his race, they did not have reasonable suspicion, and the detention violated the Fourth Amendment.

67. Petitioner was detained by Respondents for questioning despite officers' lack of any reasonable suspicion that Petitioner was unlawfully in the United States, as she had a pending asylum claim. Petitioner was also ultimately arrested despite officers' lack of probable cause to believe that Petitioner was either a flight risk or present unlawfully in the United States.

68. Respondents' stop of Petitioner without reasonable suspicion and arrest of Petitioner without probable cause violate the Fourth Amendment to the U.S. Constitution.

COUNT TWO

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Violation of 8 C.F.R. § 287.8(b)(2) Detentive Stop Without Reasonable Suspicion

69. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

70. Under the APA, a court shall "hold unlawful and set aside agency action" that is not in accordance with law or an abuse of discretion. 5 U.S.C. § 706(2)(A).

71. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

72. 8 C.F.R. § 287.8(b)(2) requires that before detaining an individual for questioning, an immigration officer must have "a reasonable suspicion, based on specific articulable facts, that the person being questioned is, or is attempting to be, engaged in an offense against the United States or is an alien illegally in the United States."

73. Respondents' detention stop of Petitioner, without any reasonable suspicion of a qualifying offense, violates the APA and Respondents' authority under 8 C.F.R. § 287.8(b)(2).

74. Separate from the APA, Respondents' detention of Petitioner without any reasonable suspicion is *ultra vires*.

COUNT THREE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Violation of 8 U.S.C. § 1357(a)(2), 8 C.F.R. § 287.8(c)(2)(i) Warrantless Arrest Without Probable Cause of Immigration Violation

75. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

76. Under the APA, a court shall "hold unlawful and set aside agency action" that is "not in accordance with law;" "contrary to constitutional right;" "in excess of statutory jurisdiction, authority, or limitations;" or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D).

77. 8 U.S.C. § 1357(a)(2) permits an immigration officer to conduct a warrantless

arrest only if that officer has "reason to believe" that an individual is in the United States in violation of the immigration laws. A "reason to believe" is equivalent to "the constitutional requirement of probable cause." *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

78. 8 C.F.R. § 287.8(c)(2)(i) requires that before making a warrantless arrest, an immigration officer must have probable cause "to believe that the person to be arrested has committed an offense against the United States or is an alien illegally in the United States."

79. Because criminal penalties may attach to some immigration offenses, the Fifth Amendment right to remain silent may be properly invoked during a civil immigration arrest. See U.S. Const., amend. V. An immigration officer may not establish probable cause on the basis of a noncitizen's silence pursuant to his Fifth Amendment rights. See *Hurd v. Terhune*, 619 F.3d 1080, 1088 (9th Cir. 2010) (affirming "the fundamental principle that a suspect's silence in the face of questioning cannot be used as evidence against him at trial").

80. Respondents questioned Petitioner as part of an unlawful detention stop. Petitioner invoked his Fifth Amendment right to silence.

81. Respondents' warrantless arrest of Petitioner, based on no information beyond his race and his lawful invocation of his constitutional right to silence, is "final agency action" that is "in excess of statutory jurisdiction, authority, or limitations" under 8 U.S.C. § 1357(a)(2) and federal regulations. 5 U.S.C. §§ 704, 706(2)(C).

82. Separate from the APA, Respondents' warrantless arrest of Petitioner without probable cause that Petitioner had committed an immigration violation is ultra vires.

COUNT FOUR

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Violation of 8 U.S.C. § 1357(a)(2), 8 C.F.R. § 287.8(c)(2)(ii) Warrantless Arrest Without Probable Cause of Likelihood of Escape

83. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein. 74. 8 U.S.C. § 1357(a)(2) permits an immigration officer to conduct a warrantless arrest only if that officer has "reason to believe" that an individual is "likely to escape before a warrant can be obtained for [their] arrest." To meet this requirement, officers must have "grounds for a reasonable belief that they were

particularly likely to escape." *Mountain High Knitting, Inc. v Reno*, 51 F.3d 216, 218 (9th Cir. 1995). A "reason to believe" is equivalent to "the constitutional requirement of probable cause." *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

84. 8 C.F.R. § 287.8(c)(2)(ii) requires that before making a warrantless arrest, an immigration officer must make an individualized determination that an individual is "likely to escape before a warrant can be obtained."

85. Respondents' warrantless arrest of Petitioner without an individualized determination that Petitioner was "likely to escape" before a warrant is issued is "final agency action" that is "in excess of statutory jurisdiction, authority, or limitations" under 8 U.S.C. § 1357(a)(2) and federal regulations. 5 U.S.C. §§ 704, 706(2)(C).

86. Separate from the APA, Respondents' warrantless arrest of Petitioner without probable cause that Petitioner was likely to escape before a warrant could be obtained is *ultra vires.*

COUNT FIVE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Violation of *Castañon Nava* Settlement Agreement / Nationwide Policy on Warrantless ICE Arrests and Vehicle Stops

87. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

88. Respondent ICE is bound by the *Castañon Nava* settlement agreement to consider a delineated set of factors before effectuating a warrantless arrest. In particular, before concluding whether or not the person is at risk of fleeing before a warrant is obtained, ICE must consider "the totality of circumstances," including the following factors: "the ICE Officer's ability to determine the individual's identity, knowledge of that individual's prior escapes or evasions of immigration authorities, attempted flight from an ICE Officer, ties to the community (such as a family, home, or employment) or lack thereof, or other specific circumstances that weigh in favor or against a reasonable belief that the subject is likely to abscond." Settlement Agreement, *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.), available at https://immigrantjustice.org/sites/default/files/content-type/page/documents/2025-

01/Nava_Settlement_ICE_Warrantless_Arrest-vehicle_Stop_Policy_2021.pdf.

89. Moreover, ICE Officers "may stop a vehicle to enforce civil immigration laws only if they are aware of specific, articulable facts that reasonably warrant suspicion that the vehicle contains an [noncitizen] who may be illegally in the country." *Id.*

90. On information and belief, Respondent ICE conducted a warrantless arrest of Petitioner without considering the totality of circumstances or the required factors delineated in its nationwide policy, pursuant to the *Castañon Nava* settlement. Respondent ICE also stopped Petitioner's vehicle without any "specific, articulable facts that reasonably warrant suspicion", as required by the settlement. Respondents' traffic stop and warrantless arrest of Petitioner violate the Administrative Procedure Act.

COUNT SIX

Violation of Fifth Amendment Right to Due Process Procedural Due Process

91. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

92. 83. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001); *accord Flores*, 507 U.S. at 306.

93. Due process requires that government action be rational and non-arbitrary. See *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). Due process also requires notice and "the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting Armstrong v. Manzo, 380 U.S. 545, 552 (1965)).

94. Here, Petitioner has been arrested, and detained in an arbitrary manner, without any notice of the basis for Petitioner's arrest and continued detention and not based on a rational and individualized determination of whether Petitioner should be detained based on the individual facts and circumstances pertaining to whether Petitioner was a flight risk or unlawfully present in the United States.

95. Respondents' stop, arrest, and continued detention of Petitioner are violations of his due process rights under the Fifth Amendment to the U.S. Constitution.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully request this Court to grant the following:

96. Assume jurisdiction over this matter;

97. Issue an immediate Order prohibiting the Respondents from transferring Petitioner from the district of Arizona without notice to and approval by the Court;

98. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

99. 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.

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

101. Declare that Petitioner's detentive stop without reasonable suspicion violates the APA, the INA, and the Fourth Amendment;

102. Declare that Petitioner's warrantless arrest without probable cause violates the Fourth Amendment, the APA, the INA, and implementing regulations;

103. Declare that Petitioner's warrantless arrest without reasonable suspicion violate Respondents' nationwide policy pursuant to the Castañon Nava settlement;

104. Declare that Petitioner's deprivation of liberty through his unlawful stop and arrest violates the Due Process Clause of the Fifth Amendment;

105. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

106. Grant any further relief this Court deems just and proper.

Dated: Aril 21, 2026

Respectfully submitted,

/s/ Jose L. Chaidez
Jose L. Chaidez
Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of Mr. Carlos Duran Alvarado because I am his attorney. I have discussed with Petitioner the events described in the Petition and Complaint. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief are true and correct to the best of my knowledge.

Executed on this April 21, 2026, in Phoenix, Arizona

/s/ Jose L Chaidez
Jose L. Chaidez
Attorney for Petitioner
Mr. Carlos Duran Alvarado