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9 UNITED STATES DISTRICT COURT
10
11 CENTRAL DISTRICT OF CALIFORNIA
12
13 EASTERN DIVISION

14 Jose Ramon DURAN-GUIRIGAY,

15 Petitioner-Plaintiff,

16 v.

17 Fereti SEMAIA, Warden, Adelanto ICE
18 Processing Center; Ernesto SANTACRUZ JR.,
19 Los Angeles Field Office Director, Immigration
20 and Customs Enforcement, Enforcement and
21 Removal Operations; David J. VENTURELLA,
22 Senior Official, Immigration and Customs
23 Enforcement; Markwayne MULLIN, Secretary,
24 U.S. Department of Homeland Security; Todd
25 BLANCHE, Acting U.S. Attorney General,

26 Respondents-Defendants.

A 

Case No.

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS AND COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

I. INTRODUCTION

1. Petitioner Jose Ramon Duran Guirigay (“J.R.D.G.” or “Petitioner”) respectfully petitions this Court for a writ of habeas corpus and declaratory and injunctive relief to prevent the Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE”) from continuing to detain him at the Adelanto ICE Processing Center without first providing him a due process hearing before a neutral adjudicator.

2. J.R.D.G. has been detained since June 8, 2026, when ICE officers arrested him at his ICE check-in at 300 N Los Angeles St, Los Angeles, CA 90012, without advance notice, without cause, and without providing any hearing to determine whether he poses a danger or a flight risk, as required by the Fifth Amendment.

3. J.R.D.G. was previously released under conditional humanitarian parole on October 12, 2022 after being detained for one day in El Paso, Texas [Exhibit A, Parole Stamp]. He complied fully with all ICE reporting instructions and has a valid work permit and pending asylum application. He has maintained stable residence in Southern California and notified ICE of any change of residence. He paid taxes every year, built significant family ties, and worked full-time. No change in circumstances justified ICE’s abrupt decision to revoke his liberty and place him back into immigration detention.

4. The arrest and detention of individuals like J.R.D.G. – who have complied with every instruction given by DHS – are part of a new pattern in which ICE is re-detaining parolees without notice and without a hearing, and using detention punitively to strip individuals of their procedural rights, force them to forfeit applications for relief, and pressure them into fast-track removal. Because J.R.D.G. has a pending removal case under INA § 240, his detention is governed by 8 U.S.C. § 1226(a). Under that framework, the Constitution requires a hearing where DHS bears the burden to prove, by clear and convincing evidence, that he is a danger or

1 flight risk. *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017); *Singh v. Holder*, 638 F.3d 1196
2 (9th Cir. 2011). No such hearing occurred here.

3 5. Furthermore, a bond hearing before an IJ is an inadequate remedy because it is unlikely to
4 be a fair one. One principal concern is that IJs often cite little or no reasoning in determining that
5 noncitizens are a flight-risk. The mounting evidence that bond determination hearings conducted
6 in Immigration Court under § 1226(a) have preordained outcomes has become impossible to
7 ignore. As a result, courts across the country have, with increasing frequency, ceased “order[ing]”
8 even initial bond hearings in cases like this one involving unlawful detention under § 1225(b)
9 because Respondents’ conduct can no longer be attributed to mere negligence or ineptitude,...and
10 doing so would effectively allow the Government to transform an unlawful detention into a
11 lawful one through post-hoc justifications.” Zheng, 2026 WL 800203, at *11 (collecting cases).

12
13 6. J.R.D.G. now seeks immediate release from ICE custody without more onerous
14 supervision requirements than those he was subject to prior to his current detention, the return of
15 all his belongings confiscated during his arrest, and an order enjoining DHS from re-detaining
16 him in the future unless and until he is first provided notice and a hearing before a neutral
17 adjudicator.

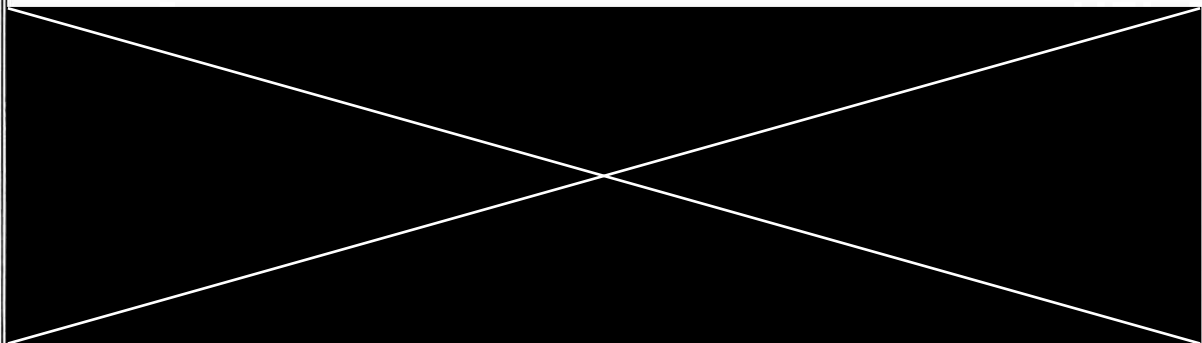
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19 7. J.R.D.G. is a Venezuelan citizen who entered the United States at or near El Paso, TX on
20 October 11, 2022. J.R.D.G. was then released on October 12, 2022, under conditional
21 humanitarian parole pursuant to INA § 212(d)(5) [Exhibit A, Parole Stamp]. ICE did not require
22 him to post a bond. He was instructed to report to an ICE office within 60 days of his release
23 [Exhibit B, I-831]. J.R.D.G. complied with all the conditions of his release, attending all his ICE
24 appointments and not committing any crimes [Exhibit C, Petitioner’s Declaration].

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26 8. J.R.D.G. went to live in Los Angeles, CA, where he quickly integrated into the
27 community. He spent his free time with his wife, who he lived with, and daughter, who is four
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1 years old. He and his wife have been together for thirteen (13) years and love each other very
2 deeply. Being away from his wife and daughter has been incredibly difficult, and they call each
3 other almost every day to keep in touch. J.R.D.G. misses his daughter very much and is
4 additionally worried about her well-being as she was present when J.R.D.G. was detained.
5 J.R.D.G.'s daughter was emotionally distraught and shocked when J.R.D.G. was detained at what
6 their family thought was a regular ICE check-in.

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8 9. J.R.D.G. is the primary provider of their household, and he is worried that he can't
9 support his family while he is detained. J.R.D.G. holds stable employment as a gathering
10 services worker for Uber and Doordash and previously held stable employment as a food service
11 worker at California Chicken Cafe in Encino, California and Northridge, California. J.R.D.G.,
12 his wife, and their daughter are suffering extreme emotional stress as a result of the shocking
13 separation and feel that their life has been paralyzed by J.R.D.G.'s detention. J.R.D.G. is at risk
14 of losing his home, as he can't support his wife in paying rent. J.R.D.G.'s wife is unemployed,
15 and J.R.D.G. has a daughter in the United States who depends on him financially. J.R.D.G. has
16 additionally paid his taxes annually. J.R.D.G. and his family have settled into their home on
17  which is where J.R.D.G. will return to if released.

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19 10. J.R.D.G. filed his asylum application with USCIS based on political and social
20 persecution and convention against torture he faced in Venezuela from its federal government.



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10 imprisonment and harm them. After continued persecution and threats, J.R.D.G. was forced to flee to
11 Colombia with his wife.

12 12. J.R.D.G. and his wife's daughter was born in Colombia, and the family lived in the
13 country with a temporary residence permit for a few years. [REDACTED]
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19 [REDACTED] After realizing
20 that Venezuelans had begun going missing in Colombia, J.R.D.G. and his family were forced to
21 leave their homes.

22 13. If J.R.D.G. were to return to Venezuela, he fears being unfairly arrested, disappeared, or
23 killed. J.R.D.G. is eager to have his asylum claim argued in immigration court.

24 14. J.R.D.G. affirms that he has no criminal history [Exhibit C, Petitioner's Declaration].

25 15. On June 8, 2026, in compliance with instructions from ICE, J.R.D.G. presented himself
26 for a scheduled check-in with ICE at 300 N Los Angeles St, Los Angeles, CA 90012. J.R.D.G.
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1 arrived at the facility for his appointment. J.R.D.G. and his family understood this appointment
2 to be a regular check-in about his asylum application. The officers asked if J.R.D.G. wanted to
3 go in front of an immigration judge to talk about his case, and he agreed. Without notice and
4 without further discussion with a judge, the officers summarily revoked his parole and detained
5 him in front of his wife and daughter.

6 16. J.R.D.G. went into shock. Officers arrested J.R.D.G., who didn't resist in any manner. He
7 immediately complied with the officers' commands and placed his hands behind his back to be
8 handcuffed. J.R.D.G. was immediately sent to the Adelanto Detention Center.

9 17. J.R.D.G.'s abrupt detention has caused significant and ongoing harm. J.R.D.G.
10 experiences emotional distress and constant worry about losing his home, as he has been unable
11 to help his wife pay rent. He also fears for the wellbeing of his daughter who he was financially
12 supporting. He speaks with his wife every day, sometimes crying because of all the uncertainty.
13 His wife, daughter, and friends miss him dearly and have felt his loss. J.R.D.G. is especially
14 concerned about being unlawfully deported to Venezuela because he will likely be persecuted,
15 threatened, tortured, and disappeared by the government for his participation in political
16 advocacy.

17 18. At Adelanto Detention Center, J.R.D.G. is full of nerves and feels unsafe because of all
18 the uncertainty and because no one has given him concrete information on his detention.
19 J.R.D.G. experiences sleep deprivation due to the conditions of confinement, inadequate
20 nutritional intake, and limited access to hygiene. J.R.D.G. must pay to call outside of detention,
21 too, which has also cost him greatly.

22 19. J.R.D.G. is not a flight risk or danger to society. J.R.D.G. has complied with all ICE
23 reporting requirements, has a pending asylum case and a work permit, has stable residence, has
24

1 strong family and community ties, has stable employment, and has no criminal history [Exhibit
2 C, Petitioner's Declaration].

3 20. By statute and regulation, as interpreted by the Board of Immigration Appeals (BIA), ICE
4 has the authority to re-arrest a noncitizen where there has been a material change in circumstances
5 since the individual's release. 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9); *Matter of Sugay*, 17
6 I&N Dec. 647, 640 (BIA 1981). The government has further clarified in litigation that any change
7 in circumstances must be "material." *Saravia v. Barr*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal.
8 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (emphasis
9 added). That authority, however, is proscribed by the Due Process Clause because it is well-
10 established that individuals released from incarceration have a liberty interest in their freedom. In
11 turn, to protect that interest, on the particular facts of J.R.D.G.'s case, due process requires notice
12 and a hearing, *before any re-arrest*, at which he is afforded the opportunity to advance his
13 arguments as to why his previous release status should not be revoked.
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15 21. That basic principle – that individuals placed at liberty are entitled to process before the
16 government imprisons them – has particular meaning here. A DHS officer previously found that
17 J.R.D.G. need not be incarcerated to prevent flight, or to protect the community, and no material
18 circumstances have changed that would justify re-arrest. Therefore, at a minimum, to lawfully re-
19 arrest J.R.D.G., the government must first establish, by clear and convincing evidence and before
20 a neutral decision maker, that he is a danger to the community or a flight risk, such that his
21 reincarceration is necessary. ICE's re-arrest of J.R.D.G. on June 8, 2026, violated these statutes,
22 regulations, case law authority, and due process.
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24 22. Petitioner respectfully seeks a writ of habeas corpus ordering the government to
25 immediately release him from his ongoing, unlawful detention, return his belongings seized during
26 his arrest, refrain from placing him on stricter monitoring than he had before his current detention,
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1 and prohibiting his re-arrest without a hearing to contest that re-arrest before a neutral
2 decisionmaker. In addition, to preserve this Court's jurisdiction, Petitioner also requests that this
3 Court order the government not to transfer him to another detention center outside of the District
4 for the duration of this proceeding. Such a transfer would cause hardship to Petitioner's wife,
5 daughter, and friends by moving him further away from North Hollywood, CA. Furthermore, it
6 would render any decision by this Court futile if J.R.D.G. is transferred to a detention center
7 outside of the Court's jurisdiction.
8

9 **II. CUSTODY**

10 23. Petitioner is currently in custody of ICE at the Adelanto ICE Processing Center in
11 Adelanto, California. J.R.D.G. is therefore in "'custody' of [the DHS] within the meaning of the
12 habeas corpus statute." *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).
13

14 **III. JURISDICTION AND VENUE**

15 24. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question),
16 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), 28 U.S.C.
17 § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), the
18 Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706 (Administrative
19 Procedure Act).
20

21 25. Venue is proper in this District and Division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C.
22 § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this District.
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24 **IV. REQUIREMENTS OF 28 U.S.C. § 2243**

25 26. The Court must grant the petition for writ of habeas corpus or issue an order to show
26 cause (OSC) to Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C.
27 § 2243. If an OSC is issued, the Court must require Respondents to file a return "within *three*
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1 days unless for good cause additional time, *not exceeding twenty days*, is allowed.” *Id.* (emphasis
2 added).

3 27. Courts have long recognized the significance of the habeas statute in protecting
4 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
5 important writ known to the constitutional law of England, affording as it does a *swift* and
6 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391,
7 400 (1963) (emphasis added).
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9 28. Habeas corpus must remain a swift remedy. Importantly, “the statute itself directs courts
10 to give petitions for habeas corpus ‘special, preferential consideration to ensure expeditious
11 hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations
12 omitted). The Ninth Circuit warned against any action creating the perception “that courts are
13 more concerned with efficient trial management than with the vindication of constitutional
14 rights.” *Id.*
15

16 **V. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

17 29. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional.
18 *Hernandez*, 872 F.3d at 988. A court may waive the prudential exhaustion requirement if
19 “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies
20 would be a futile gesture, irreparable injury will result, or the administrative proceedings would
21 be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and
22 quotation marks omitted)). J.R.D.G. asserts that exhaustion should be waived because
23 administrative remedies are (1) futile and (2) his continued detention results in irreparable harm.
24

25 30. It would be futile for J.R.D.G. to seek a bond hearing from an Immigration Judge. His
26 request would be summarily denied based on the current interpretation of the BIA’s recent
27 decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (B.I.A. 2025) and continued adherence to *Matter of*
28

YAJURE HURTADO, 29 I&N Dec. 216 (BIA 2025). Furthermore, a bond hearing before an IJ is an inadequate remedy as it is unlikely to be a fair one. IJs often cite little or no reasoning in determining that noncitizens are a flight-risk. The mounting evidence that bond determination hearings conducted in Immigration Court under § 1226(a) have preordained outcomes has become impossible to ignore. As a result, courts across the country have, with increasing frequency, ceased “order[ing] even initial bond hearings in cases like this one involving unlawful detention under § 1225(b) because Respondents’ conduct can no longer be attributed to mere negligence or ineptitude,...and doing so would effectively allow the Government to transform an unlawful detention into a lawful one through post-hoc justifications.” Zheng, 2026 WL 800203, at *11 (collecting cases).

31. Further, no statutory exhaustion requirements apply to J.R.D.G.’s claim of unlawful custody in violation of his due process rights, and there are no administrative remedies that he needs to exhaust. *Reno v Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (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).

VI. PARTIES

32. J.R.D.G. is a citizen and national of Venezuela who entered the U.S. on October 11, 2022, and has remained in the country since. The DHS deemed J.R.D.G. neither a danger to his community nor a flight risk and released him on his own recognizance on October 12, 2022. He established a life in Southern California. He has a work permit and a pending asylum application. He is gainfully self-employed and spends his free time with his wife, daughter, and friends.

33. Respondent Fereti SEMAIA is sued in his official capacity as the Warden of Adelanto ICE Processing Center, where Petitioner is currently detained. Respondent Fereti SEMAIA has

1 immediate physical custody over Petitioner pursuant to the facility's contract with ICE to detain
2 noncitizens, and is thereby a legal custodian of Petitioner.

3 34. Respondent Ernesto SANTA CRUZ JR. is sued in his official capacity as Field Office
4 Director for the Los Angeles Field Office of ICE. Adelanto ICE Processing Center is located within
5 the jurisdiction of the ICE Los Angeles Field Office, which has legal authority over all individuals
6 in ICE custody there. As Field Office Director, Ernesto SANTA CRUZ JR. is a custodian of
7 Petitioner with legal authority to produce and release his.

8
9 1. Respondent David J. VENTURELLA is sued in his official capacity as the Senior Official
10 of ICE, a component agency of DHS. ICE is responsible for enforcing U.S. immigration laws,
11 including detention of alleged noncitizens in removal proceedings, which the agency chooses to
12 accomplish through imprisonment and removal of noncitizens with final orders of removal. As
13 ICE's Senior Official, Respondent David J. VENTURELLA is a custodian of Petitioner, with legal
14 authority to produce and release him.

15
16 35. Respondent Markwayne MULLIN is sued in his official capacity as the Secretary of DHS.
17 He is responsible for overseeing DHS and its sub-agency, ICE, and has ultimate responsibility over
18 detention of alleged noncitizens in civil immigration custody, including Petitioner. Respondent
19 Markwayne MULLIN is a legal custodian of Petitioner.

20 36. Respondent Todd BLANCHE is sued in his official capacity as Acting Attorney General
21 of the United States. He is responsible for overseeing the Department of Justice (DOJ), and thereby
22 the Executive Office for Immigration Review (EOIR) and the Immigration Court system it
23 operates.
24

25 VII. STATEMENT OF FACTS

26 37. Since mid-May 2025, DHS has initiated an aggressive new enforcement campaign
27 targeting people who are in regular removal proceedings in Immigration Court, many of whom
28

1 have pending applications for asylum or other relief. This “coordinated operation” is “aimed at
 2 dramatically accelerating deportations” by arresting people at the courthouse or at the ICE
 3 office and placing them into expedited removal.¹ The Trump administration implemented a
 4 policy to drastically increase immigration arrests to a target of at least 3,000 per day. According
 5 to White House officials like Stephen Miller, this directive prioritized arrest numbers over the
 6 individuals' criminal history, encouraging agents to conduct mass roundups in public spaces
 7 rather than targeted investigations.
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9 38. As a result, arrests of non-citizens with no criminal record surged by over 800%, and two-
 10 thirds of those deported had no criminal history. This focus on quantity over public safety led to
 11 a new and aggressive tactic: systematically arresting immigrants at courthouses and ICE
 12 appointments, regardless of the status of their legal cases. This has created a climate of fear,
 13 discouraging people from attending their mandatory hearings or ICE appointments.
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15 39. In addition, individuals are now held for extended periods, sometimes days, in temporary
 16 holding cells that are not designed for overnight or prolonged detention, often under inhumane
 17 conditions. Government officials have justified these harsh conditions not as a matter of
 18 necessity, but as an intentional deterrent, which is not a constitutionally permissible reason for
 19 detention.
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21 40. The government's new campaign is also a significant shift from the previous DHS practice
 22 of re-detaining noncitizens like J.R.D.G. only after a material change in circumstances. *See*
 23 *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H.*
 24 *v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (describing prior practice).
 25

26 ¹ Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in Trump's*
 27 *Deportation Push*, Wash. Post, May 23, 2025,
 28 <https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>; see also 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>.

1 41. J.R.D.G. is a Venezuelan citizen who entered the United States at or near El Paso, TX on
2 October 11, 2022. He was processed by Border Patrol and held for one day in a detention center
3 and was then released on October 12, 2022, under conditional humanitarian parole pursuant to
4 INA § 212(d)(5) [Exhibit A, Parole Stamp]. ICE did not require him to post a bond. He was
5 instructed to report to an ICE office within 60 days of his release [Exhibit B, I-831]. J.R.D.G.
6 complied with all the conditions of his release, attending all his ICE appointments and not
7 committing any crimes [Exhibit C, Petitioner's Declaration].
8

9 42. J.R.D.G. went to live in Los Angeles, CA, where he quickly integrated into the
10 community. He spent his free time with his wife and daughter, who he lived with, and his
11 friends, who lived nearby. J.R.D.G. and his wife are married and have been together for thirteen
12 (13) years and love each other very deeply. Being away from each other has been incredibly
13 difficult; they call every day. J.R.D.G. and his wife are suffering extreme emotional stress from
14 separation. J.R.D.G. and his daughter are also very close. J.R.D.G.'s daughter was present when
15 he was detained, which has caused extreme emotional turmoil and distress. She misses her dad
16 very much and hopes to see J.R.D.G. home soon.
17

18 43. J.R.D.G. holds stable employment as a gathering services worker for Uber and Doordash
19 and previously held stable employment as a food service worker at California Chicken Cafe in
20 Encino, California and Northridge, California. J.R.D.G is at risk of losing his home since being
21 detained, as he can't support his wife in paying rent. J.R.D.G.'s wife is unemployed and relies on
22 J.R.D.G.'s income. J.R.D.G. also has a daughter who depends on him financially. J.R.D.G. has
23 paid his taxes annually.
24

25 44. J.R.D.G filed his asylum application with USCIS based on political and social
26 persecution and convention against torture he faced in Venezuela from [REDACTED]
27 [REDACTED]
28

1 [REDACTED] If returned to Venezuela, J.R.D.G fears being unfairly arrested,
2 disappeared, or killed. J.R.D.G is eager to have his asylum claim argued in immigration court.

3 45. J.R.D.G affirms that he has no criminal history [Exhibit C, Petitioner's Declaration].

4 46. On June 8, 2026, in compliance with instructions from ICE, J.R.D.G. presented himself
5 for a scheduled check-in with ICE at 300 N Los Angeles St, Los Angeles, CA 90012. J.R.D.G.
6 arrived at the facility for his appointment. J.R.D.G. and his family understood this appointment
7 to be a regular check-in about his asylum application. The officers asked J.R.D.G. if he wanted
8 to go before an immigration judge to talk about his case, and he agreed. Without notice and
9 without further discussion with a judge, the officers summarily revoked his parole and detained
10 him in front of his wife and daughter.

11 47. J.R.D.G. went into shock. Officers arrested J.R.D.G., who didn't resist in any manner. He
12 immediately complied with the officers' commands and placed his hands behind his back to be
13 handcuffed. J.R.D.G. was immediately sent to the Adelanto Detention Center.

14 48. J.R.D.G.'s abrupt detention has caused significant and ongoing harm. J.R.D.G.
15 experiences emotional distress and constant worry about losing his home, as he has been unable
16 to help his wife pay rent. He also fears for the wellbeing of his daughter who he was financially
17 supporting. He speaks with his wife every day, sometimes crying because of all the uncertainty.
18 His wife, daughter, and friends miss him dearly and have felt his loss. J.R.D.G. is especially
19 concerned about being unlawfully deported to Venezuela because he will likely be persecuted,
20 threatened, and tortured by the government for [REDACTED]

21 49. At Adelanto Detention Center, J.R.D.G. is full of nerves and feels unsafe because of all
22 the uncertainty and because no one has given him concrete information on his detention. J.R.D.G.
23 experiences sleep deprivation due to the conditions of confinement, inadequate nutritional intake,
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1 and limited access to hygiene. J.R.D.G. must pay to call outside of detention, which has also cost
2 him greatly.

3 50. J.R.D.G. is not a flight risk or danger to society. J.R.D.G. has complied with all ICE
4 reporting requirements, has a work permit and pending asylum case, has stable residence, has
5 strong family and community ties, has stable employment, and has no criminal history [Exhibit
6 C, Petitioner's Declaration].

7
8 51. Before re-detaining J.R.D.G., he must receive a hearing before a neutral adjudicator to
9 decide whether a material change in circumstances indicates that he is now a flight risk or danger
10 to the community. 8 C.F.R. § 236.1(c)(9). ICE did not afford J.R.D.G. a hearing, nor were there
11 any material changes to warrant re-detention.

12 52. Intervention from this Court is therefore required to ensure that (1), J.R.D.G. is
13 immediately released to return to his home in North Hollywood, CA; (2) that ICE returns his
14 belongings and refrains from implementing more onerous supervision requirements than existed
15 before his current detention; (3) that ICE provides him a hearing pursuant to the Due Process
16 Clause of the Fifth Amendment before any further attempts to re-detain; and (4) that the
17 government refrains from transferring him to another detention center outside of the District for
18 the duration of this proceeding.

20 VIII. LEGAL BACKGROUND

21 **Statutory Framework**

22 53. J.R.D.G.'s removal proceedings before the EOIR are governed by section 240 of the
23 Immigration and Nationality Act ("section 240 proceedings"). Section 240 proceedings provide
24 important statutory protections, including hearings before an Immigration Judge. See 8 U.S.C. §
25 1229a(a)(1), (a)(4).

27 **Right to a Hearing Prior to Re-incarceration**

54. In J.R.D.G.'s particular circumstances, the Due Process Clause of the Constitution makes it unlawful for Respondents to re-arrest him without first providing a pre-deprivation hearing before a neutral decision maker to determine whether circumstances have materially changed since his release from custody on June 8, 2026, such that detention would now be warranted on the basis that he is a danger or a flight risk by clear and convincing evidence.

55. The statute and regulations grant ICE the ability to unilaterally revoke any noncitizen's immigration bond determination or parole, and re-arrest the noncitizen at any time. 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9). Notwithstanding the breadth of the statutory language granting ICE the power to revoke an immigration bond "at any time," 8 U.S.C. 1226(b), in *Matter of Sugay*, 17 I&N Dec. at 640, the BIA has recognized an implicit limitation on ICE's authority to re-arrest noncitizens. There, the BIA held that "where a previous bond determination has been made by an immigration judge, no change should be made by [the DHS] absent a change of circumstance." *Id.* In practice, 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 circumstances. *Panosyan v. Mayorkas*, 854 F. App'x 787, 788 (9th Cir. 2021) ("Thus, absent changed circumstances ... ICE cannot redetain Panosyan.").

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

57. ICE's power to re-arrest a noncitizen who is at liberty following a release from custody is also constrained by the demands of due process. *See Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) ("the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process"). *See also Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (Due Process requires pre-deprivation hearing before revocation of probation); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in parole context). Petitioner's release from custody on October 12, 2022, and ties to his family, friends, and community provide him with a protected liberty interest. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. Nov. 22, 2019).

58. Federal district courts in California have repeatedly recognized that the demands of due process and the limitations on DHS's authority to revoke a noncitizen's release from custody set out in DHS's stated practice and *Matter of Sugay* both require a pre-deprivation hearing for a noncitizen on ICE's supervision, like J.R.D.G., before ICE re-detains him. *See, e.g., Meza v. Bonnar*, 2018 WL 2554572 (N.D. Cal. June 4, 2018); *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021); *Romero v. Kaiser*, No. 22-cv-02508-TSH, 2022 WL 1443250, at *3-4 (N.D. Cal. May 6, 2022) (Petitioner would suffer irreparable harm if re-detained, and required notice and a hearing before any re-detention); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL 1382859, at *3 (N.D. Cal. May 12, 2025) (temporary injunction warranted preventing re-arrest at plaintiff's ICE interview when he had been on bond for more than five years). *See also Doe v. Becerra*, No. 2:25-cv-00647-DJC-DMC, 2025 WL 691664, *4 (E.D. Cal. Mar. 3, 2025) (holding the Constitution requires a hearing before any re-arrest).

J.R.D.G.'s Protected Liberty Interest in His Conditional Release

1 59. The Due Process Clause protects J.R.D.G.'s liberty from immigration custody: "Freedom
2 from imprisonment—from government custody, detention, or other forms of physical restraint—
3 lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S.
4 678, 690 (2001).

5 60. Since October 12, 2022, J.R.D.G. exercised that freedom under ICE's order releasing him
6 from custody with humanitarian parole [Exhibit A, Parole Stamp]. As he was released from
7 custody, he retains a weighty liberty interest under the Due Process Clause of the Fifth
8 Amendment in avoiding unlawful re-incarceration. *See Young v. Harper*, 520 U.S. 143, 146-47
9 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey*, 408 U.S. at 482-483.
10 Respondents created a reasonable expectation that J.R.D.G. would be permitted to live and work
11 in the United States without being subject to arbitrary arrest and removal.

12 61. This reasonable expectation creates constitutionally-protected liberty and property
13 interests. *Perry v. Sindermann*, 408 U.S. 593, 601-03 (1972) (reliance on policies and practices
14 may establish a legitimate claim of entitlement to a constitutionally-protected interest); *see also*
15 *Texas v. United States*, 809 F.3d 134, 174 (2015), affirmed by an equally divided court, 136 S.
16 Ct. 2271 (2016) (explaining that "DACA involve[s] issuing benefits" to certain applicants). These
17 benefits are entitled to constitutional protections no matter how they may be characterized by
18 Respondents. *See, e.g., Newman v. Sathyavaglswaran*, 287 F.3d 786, 797 (9th Cir. 2002) ("[T]he
19 identification of property interests under constitutional law turns on the substance of the interest
20 recognized, not the name given that interest by the state or other independent source.") (internal
21 quotations omitted).

22 62. In *Morrissey*, the Supreme Court examined the "nature of the interest" that a parolee has
23 in "[their] continued liberty." 408 U.S. at 481-82. The Court noted that, "subject to the conditions
24 of [their] parole, [a parolee] can be gainfully employed and is free to be with family and friends
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1 and to form the other enduring attachments of normal life.” *Id.* at 482. The Court further noted
 2 that “the parolee has relied on at least an implicit promise that parole will be revoked only if
 3 [they] fail to live up to the parole conditions.” *Id.* The Court explained that “the liberty of a
 4 parolee, although indeterminate, includes many of the core values of unqualified liberty and its
 5 termination inflicts a grievous loss on the parolee and often others.” *Id.* In turn, “[b]y whatever
 6 name, the liberty is valuable and must be seen within the protection of the [Fifth] Amendment.”
 7 *Morrissey*, 408 U.S. at 482.

9 63. This basic principle – that individuals have a liberty interest in their conditional release –
 10 has been reinforced by both the Supreme Court and the circuit courts on numerous occasions.
 11 *See, e.g., Young v. Harper*, 520 U.S. at 152 (holding that individuals placed in a pre-parole
 12 program created to reduce prison overcrowding have a protected liberty interest requiring pre-
 13 deprivation process); *Gagnon v. Scarpelli*, 411 U.S. at 781-82 (holding that individuals released
 14 on felony probation have a protected liberty interest requiring pre-deprivation process). As the
 15 First Circuit has explained, when analyzing the issue of whether a specific conditional release
 16 rises to the level of a protected liberty interest, “[c]ourts have resolved the issue by comparing the
 17 specific conditional release in the case before them with the liberty interest in parole as
 18 characterized by *Morrissey*.” *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010)
 19 (internal quotation marks and citation omitted). *See also, e.g., Hurd v. District of Columbia*, 864
 20 F.3d 671, 683 (D.C. Cir. 2017) (“a person who is in fact free of physical confinement—even if
 21 that freedom is lawfully revocable—has a liberty interest that entitles [them] to constitutional due
 22 process before [they] are re-incarcerated”) (citing *Young*, 520 U.S. at 152, *Gagnon*, 411 U.S. at
 23 782, and *Morrissey*, 408 U.S. at 482).

26 64. In fact, it is well-established that an individual maintains a protectable liberty interest even
 27 where the individual obtains liberty through a mistake of law or fact. *See id.*; *Gonzalez-Fuentes*,

1 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982) (noting that due process
 2 considerations support the notion that an inmate released on parole by mistake, because he was
 3 serving a sentence that did not carry a possibility of parole, could not be re-incarcerated because
 4 the mistaken release was not his fault, and he had appropriately adjusted to society, so it “would
 5 be inconsistent with fundamental principles of liberty and justice” to return him to prison)
 6 (internal quotation marks and citation omitted).

7
 8 65. Here, when this Court ““compar[es] the specific release in [J.R.D.G.’s case], with the
 9 liberty interest in parole as characterized by *Morrissey*,”” it is clear that they are strikingly similar.
 10 *See Gonzalez-Fuentes*, 607 F.3d at 887. Just as in *Morrissey*, J.R.D.G.’s release “enables [him]
 11 to do a wide range of things open to persons”” who have never been in custody or convicted of
 12 any crime, including to live at home, care for his family and community, and “be with family and
 13 friends and to form the other enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482.

14
 15 **J.R.D.G.’s Liberty Interest Mandates a Hearing Before any Re-Arrest and Revocation of
 Release from Custody**

16 66. J.R.D.G. asserts that, here, (1) where his detention would be civil; (2) where he has been
 17 at liberty for over three years; (3) where no change in circumstances exist that would justify his
 18 lawful detention; and (4) where the only circumstance was ICE’s move to arrest as many people
 19 as possible because of the new administration, due process mandates that he be released from his
 20 unlawful custody and receive notice and a hearing before a neutral adjudicator *prior* to any re-
 21 arrest or revocation of his custody release.

22
 23 67. “Adequate, or due, process depends upon the nature of the interest affected. The more
 24 important the interest and the greater the effect of its impairment, the greater the procedural
 25 safeguards the [government] must provide to satisfy due process.” *Haygood v. Younger*, 769 F.2d
 26 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court must
 27

1 “balance [J.R.D.G.’s] liberty interest against the [government’s] interest in the efficient
2 administration of” its immigration laws in order to determine what process he is owed to ensure
3 that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357. Under the test set forth
4 in *Mathews v. Eldridge*, this Court must consider three factors in conducting its balancing test:
5 “first, the private interest that will be affected by the official action; second, the risk of an
6 erroneous deprivation of such interest through the procedures used, and the probative value, if
7 any, of additional or substitute procedural safeguards; and finally the government’s interest,
8 including the function involved and the fiscal and administrative burdens that the additional or
9 substitute procedural requirements would entail.” *Haygood*, 769 F.2d at 1357 (citing *Mathews v.*
10 *Eldridge*, 424 U.S. 319, 335 (1976)). Several district courts have applied the Mathews factors in
11 similar cases, and found that those in Petitioner’s position, noncitizens granted the liberty of
12 release pending removal proceedings, have due process rights. See e.g., *Calderon v. Kaiser*, No.
13 25-CV-06695-AMO, 2025 WL 2430609, at *3 (N.D. Cal. Aug. 22, 2025); *Ramirez Clavijo v.*
14 *Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263, at *5 (N.D. Cal. Aug. 21, 2025); *Pinchi v.*
15 *Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025); *Hernandez*
16 *Nieves v. Kaiser*, No. 25-CV-06921-LB, 2025 WL 2533110, at *4 (N.D. Cal. Sept. 3, 2025).

19 68. The Supreme Court “usually has held that the Constitution requires some kind of a hearing
20 before the State deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127
21 (1990) (emphasis in original). Only in a “special case” where post-deprivation remedies are “the
22 only remedies the State could be expected to provide” can post-deprivation process satisfy the
23 requirements of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where “one of the
24 variables in the *Mathews* equation—the value of pre-deprivation safeguards—is negligible in
25 preventing the kind of deprivation at issue” such that “the State cannot be required constitutionally
26 to do the impossible by providing pre-deprivation process,” can the government avoid providing
27

pre-deprivation process. *Id.*

69. In this case, ICE should be required to release J.R.D.G. from his unlawful custody and provide J.R.D.G. with notice and a hearing *prior* to any re-incarceration and revocation of his liberty. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinerman*, 494 U.S. at 985; *see also Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir. 1984) (holding that individuals awaiting involuntary civil commitment proceedings may not constitutionally be held in jail pending the determination as to whether they can ultimately be recommitted). Under *Mathews*, “the balance weighs heavily in favor of [J.R.D.G.’s] liberty” and requires a pre-deprivation hearing before a neutral adjudicator.

J.R.D.G.’s Private Interest in His Liberty is Profound

70. Under *Morrissey* and its progeny, individuals conditionally released from serving a criminal sentence have a liberty interest that is “valuable.” *Morrissey*, 408 U.S. at 482. In addition, the principles espoused in *Hurd* and *Johnson* – that a person who is in fact free of physical confinement, even if that freedom is lawfully revocable, has a liberty interest that entitles them to constitutional due process before they are re-incarcerated – apply with even greater force to individuals like J.R.D.G., who have been released pending civil removal proceedings, rather than parolees or probationers who are subject to incarceration as part of a sentence for a criminal conviction. Criminal parolees and probationers have a diminished liberty interest given their underlying convictions. *See, e.g., U.S. v. Knights*, 534 U.S. 112, 119 (2001); *Griffin v. Wisconsin*, 483 U.S. 868, 874 (1987). Nonetheless, even in the criminal parolee context, the courts have held that the parolee cannot be re-arrested without a due process hearing in which they can raise any claims they may have regarding why their re-incarceration would be unlawful. *See Gonzalez-*

1 *Fuentes*, 607 F.3d at 891-92; *Hurd*, 864 F.3d at 683. Thus, J.R.D.G. retains a truly weighty liberty
2 interest even though he is under conditional release.

3 71. What is at stake in this case for J.R.D.G. is one of the most profound individual interests
4 recognized by our legal system: whether ICE may unilaterally nullify a prior decision releasing
5 him from custody and to take away – without a lawful basis – his physical freedom, i.e., his
6 “constitutionally protected interest in avoiding physical restraint.” *Singh v. Holder*, 638 F.3d
7 1196, 1203 (9th Cir. 2011) (internal quotation omitted). “Freedom from bodily restraint has
8 always been at the core of the liberty protected by the Due Process Clause.” *Foucha v. Louisiana*,
9 504 U.S. 71, 80 (1992). *See also Zadvydas*, 533 U.S. at 690 (“Freedom from imprisonment – from
10 government custody, detention, or other forms of physical restraint – lies at the heart of the liberty
11 that [the Due Process] Clause protects.”); *Cooper v. Oklahoma*, 517 U.S. 348 (1996).

12 72. Thus, there is clearly a profound private interest at stake in this case, which must be
13 weighed heavily when determining what process J.R.D.G. is owed under the Constitution. *See*
14 *Mathews*, 424 U.S. at 334-35.
15

16
17 **The Government’s Interest in Re-Incarcerating J.R.D.G. Without a Hearing is Low and the**
18 **Burden on the Government to Refrain from Re-Arresting Him Unless and Until He is**
19 **Provided a Hearing That Comports with Due Process is Minimal**

20 73. The government’s interest in detaining J.R.D.G. without a due process hearing is low, and
21 when weighed against J.R.D.G.’s significant private interest in his liberty, the scale tips sharply
22 in favor of enjoining Respondents to release J.R.D.G. from his unlawful custody, return his
23 belongings, not place Petitioner under stricter supervision requirements, refrain from moving
24 Petitioner outside of the District during the proceedings of this case, and refrain from re-arresting
25 J.R.D.G. unless and until the government demonstrates by clear and convincing evidence that he
26 is a flight risk or danger to the community. It becomes abundantly clear that the *Mathews* test
27 favors J.R.D.G. when the Court considers that the process he seeks – notice and a hearing
28

1 regarding whether he has violated any conditions of his release, and, if so, providing J.R.D.G.
2 with a hearing before this Court (or a neutral decisionmaker) to determine whether there is clear
3 and convincing evidence that J.R.D.G. is a flight risk or danger to the community – would impose
4 only a *de minimis* burden on the government, because the government routinely provides this sort
5 of hearing to individuals like J.R.D.G.

6 74. As immigration detention is civil, it can have no punitive purpose. The government's only
7 interest in holding an individual in immigration detention can be to prevent danger to the
8 community or to ensure a noncitizen's appearance at immigration proceedings. *See Zadvydas*,
9 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any lawful basis
10 for detaining J.R.D.G. Petitioner has lived at liberty complying with the conditions of his release
11 since October 12, 2022, and has never missed any immigration reporting requirement or
12 proceeding.

13 14 75. ICE determined J.R.D.G. not to be a danger to the community or a flight risk on October
15 12, 2022, and he has done nothing to undermine that determination. To the contrary, he complied
16 with the terms of his release, attended every ICE check-in, fulfilled every reporting requirement,
17 and filed his asylum application. *See Morrissey*, 408 U.S. at 482 (“It is not sophistic to attach
18 greater importance to a person's justifiable reliance in maintaining [their] conditional freedom so
19 long as [they] abide by the conditions on [their] release, than to [their] mere anticipation or hope
20 of freedom”) (quoting *United States ex rel. Bey v. Connecticut Board of Parole*, 443 F.3d 1079,
21 1086 (2d Cir. 1971)).

22 23 76. It is difficult to see how the government's interest in ensuring his presence at the moment
24 of removal has materially changed since he was released on October 12, 2022, when he has
25 appeared at every ICE appointment, never missed a reporting requirement, and filed his asylum
26 application, which is currently pending with the Immigration Court. The government's interest in
27

1 detaining J.R.D.G. at this time is therefore low. That ICE has a new policy to make a minimum
2 number of arrests each day under the new administration does not constitute a material change in
3 circumstances or increase the government's interest in detaining him.²

4 77. Moreover, the "fiscal and administrative burdens" that his immediate release and a lawful
5 pre-detention hearing would impose is nonexistent in this case. *See Mathews*, 424 U.S. at 334-35.
6 J.R.D.G. does not seek a unique or expensive form of process, but rather a routine hearing
7 regarding whether his order of release should be revoked and whether he should be re-
8 incarcerated.
9

10 78. As the Ninth Circuit noted in 2017, which remains true today, "[t]he costs to the public of
11 immigration detention are 'staggering': \$158 each day per detainee, amounting to a total daily
12 cost of \$6.5 million." *Hernandez*, 872 F.3d at 996. ICE's unlawful action of placing J.R.D.G. in
13 custody is more of a financial burden than releasing him and providing a pre-custody hearing
14 before any future re-arrest occurs.
15

16 79. In addition, providing J.R.D.G. with a hearing before this Court (or a neutral
17 decisionmaker) regarding release from custody is a routine procedure that the government
18 provides to those in immigration jails on a daily basis. At that hearing, the Court would have the
19 opportunity to determine whether circumstances have changed sufficiently to justify his re-arrest.
20 But there is no justifiable reason to re-incarcerate J.R.D.G. prior to such a hearing taking place.
21 As the Supreme Court noted in *Morrissey*, even where the State has an "overwhelming interest
22 in being able to return [a parolee] to imprisonment without the burden of a new adversary criminal
23

24
25 ² See "Trump officials issue quotas to ICE officers to ramp up arrests," *Washington Post* (January 26, 2025), available
26 at: <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/>; "Stephen Miller's
27 Order Likely Sparked Immigration Arrests And Protests," *Forbes* (June 9, 2025),
28 <https://www.forbes.com/sites/stuartanderson/2025/06/09/stephen-millers-order-likely-sparked-immigration-arrests-and-protests/> ("At the end of May 2025, 'Stephen Miller, a senior White House official, told Fox News that the White House was looking for ICE to arrest 3,000 people a day, a major increase in enforcement. The agency had arrested more than 66,000 people in the first 100 days of the Trump administration, an average of about 660 arrests a day,' reported the New York Times. Arresting 3,000 people daily would surpass 1 million arrests in a calendar year.").

1 trial if in fact [they have] failed to abide by the conditions of [their] parole . . . the State has no
2 interest in revoking parole without some informal procedural guarantees.” *Morrissey*, 408 U.S. at
3 483.

4 80. J.R.D.G. should be released from unlawful custody, returned his belongings, not placed
5 under stricter supervision requirements, not removed from the District during these proceedings,
6 and his re-arrest enjoined until ICE (1) moves for a pre-deprivation bond hearing before an
7 Immigration Judge and (2) demonstrates by clear and convincing evidence that J.R.D.G. is a flight
8 risk or danger to the community. *Hernandez*, 872 F.3d at 996.

10 **Without a Due Process Hearing Prior to Any Re-Arrest, the Risk of an Erroneous**
11 **Deprivation of Liberty is High, and Due Process in the Form of a Constitutionally**
12 **Compliant Hearing Where ICE Carries the Burden Would Decrease That Risk**

13 81. Releasing J.R.D.G. from unlawful custody and providing J.R.D.G. a pre-deprivation
14 hearing would decrease the risk of J.R.D.G. being erroneously deprived of his liberty. Before
15 J.R.D.G. can be lawfully detained, he should be provided with a hearing before a neutral
16 adjudicator at which the government is held to show that there has been sufficiently changed
17 circumstances such that ICE’s October 12, 2022, release from custody determination should be
18 altered or revoked because clear and convincing evidence exists to establish that J.R.D.G. is a
19 danger to the community or a flight risk.

20 82. On June 8, 2026, J.R.D.G. did not receive this protection. Instead, he was detained by ICE
21 at his check-in appointment, without notice, when there have been no material changes in his
22 circumstances.

23 83. By contrast, the procedure J.R.D.G. seeks – a hearing in front of a neutral adjudicator at
24 which the government must prove by clear and convincing evidence that circumstances have
25 changed to justify his detention *before* any re-arrest – is much more likely to produce accurate
26 determinations regarding factual disputes, such as whether a particular occurrence constitutes a
27

1 “changed circumstance.” *See Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th Cir. 1989)
 2 (when “delicate judgments depending on credibility of witnesses and assessment of conditions
 3 not subject to measurement” are at issue, the “risk of error is considerable when just
 4 determinations are made after hearing only one side”). “A neutral judge is one of the most basic
 5 due process protections.” *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated*
 6 *on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth Circuit has
 7 noted that the risk of an erroneous deprivation of liberty under *Mathews* can be decreased where
 8 a neutral decisionmaker, rather than ICE alone, makes custody determinations. *Diouf v.*
 9 *Napolitano* (“*Diouf II*”), 634 F.3d 1081, 1091-92 (9th Cir. 2011).

11 84. Due process also requires consideration of alternatives to detention at any custody
 12 determination hearing that may occur. The primary purpose of immigration detention is to ensure
 13 a noncitizen’s appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is
 14 not reasonably related to this purpose if there are alternatives to detention that could mitigate risk
 15 of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly, alternatives to detention
 16 must be considered in any future determination of whether J.R.D.G.’s reincarceration is
 17 warranted.
 18

19 **IX. FIRST CAUSE OF ACTION**

20 **Procedural Due Process**

21 **U.S. Const. amend. V**

22 85. J.R.D.G. re-alleges and incorporates herein by reference, as is set forth fully herein, the
 23 allegations in all the preceding paragraphs.
 24

25 86. The Due Process Clause of the Fifth Amendment forbids the government from depriving
 26 any “person” of liberty “without due process of law.” U.S. Const. amend. V.

27 87. J.R.D.G. has a vested liberty interest in his lawful conditional release. Due Process does
 28

1 not permit the government to strip him of that liberty without a hearing before this Court. *See*
2 *Morrissey*, 408 U.S. at 487-488.

3 88. The Court should therefore order that ICE release J.R.D.G. from his current unlawful
4 custody, return his belongings that were seized at his June of 2026 arrest, and refrain from
5 implementing more onerous supervision requirements than were in place before his current
6 detention. The Court should also order the government to not transfer J.R.D.G. to a detention
7 center outside of the District during the proceedings of this case.
8

9 89. Prior to any re-arrest, the government must provide J.R.D.G. with a hearing before a
10 neutral adjudicator. At the hearing, the neutral adjudicator would evaluate, *inter alia*, whether
11 clear and convincing evidence demonstrates, taking into consideration alternatives to detention,
12 that J.R.D.G. is a danger to the community or a flight risk, such that his reincarceration is
13 warranted.
14

15 **X. SECOND CAUSE OF ACTION**

16 **Substantive Due Process**

17 **U.S. Const. amend. V**

18 90. J.R.D.G. re-alleges and incorporates herein by reference, as is set forth fully herein, the
19 allegations in all the preceding paragraphs.

20 91. The Due Process Clause of the Fifth Amendment forbids the government from depriving
21 individuals of their right to be free from unjustified deprivations of liberty. U.S. Const. amend. V.

22 92. J.R.D.G. has a vested liberty interest in his conditional release. Due Process does not
23 permit the government to strip him of that liberty without it being tethered to one of the two
24 constitutional bases for civil detention: to mitigate against the risk of flight or to protect the
25 community from danger. Since he entered the country in October of 2022, J.R.D.G. has attended
26 all of his ICE appointments, complied with all reporting instructions, submitted his asylum
27
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1 application, and has no criminal record, thus demonstrating that he is neither a flight risk nor a
2 danger. Re-arresting him now would be punitive and violate his constitutional right to be free
3 from the unjustified deprivation of his liberty.

4 93. For these reasons, J.R.D.G.'s continued unlawful custody and any subsequent re-arrest
5 without first being provided a pre-deprivation hearing would violate the Constitution.

6 94. J.R.D.G. therefore humbly requests that the Court order that he be released from custody,
7 returned his belongings that were taken from him at the time of his arrest, and that the government
8 abstain from implementing stricter monitoring requirements than Petitioner had before his arrest.

9 95. J.R.D.G. also requests that the Court order the government to not transfer him to another
10 detention facility outside of the District during these proceedings, and to not re-arrest him in any
11 subsequent action without a hearing before a neutral adjudicator. At the hearing, the neutral
12 adjudicator would evaluate, *inter alia*, whether clear and convincing evidence demonstrates,
13 taking into consideration alternatives to detention, that J.R.D.G. is a danger to the community or
14 a flight risk, such that his reincarceration is warranted.
15
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17 **XI. PRAYER FOR RELIEF**

18 WHEREFORE, J.R.D.G. prays that this Court grant the following relief:

- 19 (1) Assume jurisdiction over this matter;
- 20 (2) Declare that ICE's June 8, 2026, apprehension and detention of J.R.D.G. was
21 an unlawful exercise of authority because the ICE officer provided no real
22 reason that he presents a danger to the community or is a flight risk;
- 23 (3) Order ICE to immediately release J.R.D.G. from his unlawful detention;
- 24 (4) Order ICE to return J.R.D.G.'s belongings that were taken from him at the time
25 of his unlawful arrest;
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1 (5) Enjoin ICE from establishing more onerous supervision requirements than
2 J.R.D.G. had before his current detention;

3 (6) Order DHS to not transfer J.R.D.G. to another detention center out of this
4 District during the remainder of these proceedings;

5 (7) Enjoin DHS from re-arresting J.R.D.G. unless and until a hearing can be held
6 before a neutral adjudicator to determine whether his re-incarceration would
7 be lawful because the government has shown that he is a danger or a flight risk
8 by clear and convincing evidence;
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10 (8) Award costs, attorney's fees; and

11 (9) Grant such further relief as the Court deems just and proper.

12 Dated: July 1, 2026

13 Respectfully submitted,

14 /s/ Christopher Duran

15 Christopher Duran

16 Attorney for Petitioner
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XII. VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in the Petition. 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 July 1, 2026, in Los Angeles, California.

/s/ Christopher Duran
Christopher Duran
Attorney for Petitioner

EXHIBIT B

U.S. Department of Homeland Security

Continuation Page for Form

I385

Alien's Name
DURAN-GUIRIGAY, JOSE RAMONFile Number
Date
October 11, 2022

24. REMARK

AS A CONDITION OF YOUR PAROLE, YOU ARE TO REPORT TO THE IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) OFFICE NEAR YOUR FINAL DESTINATION WITHIN 60 DAYS OR FACE REMOVAL FROM THE UNITED STATES. VISIT WWW.ICE.GOV/CONTACT/FIELD-OFFICES# FOR ADDRESSES.

Signature

RS

Title

2 of 2 Pages

EXHIBIT C

Under penalty of perjury, I, **Jose Ramon Duran Guirigay**, declare the following:

1. My name is Jose Ramon Duran Guirigay.
2. I have lived in Southern California since October of 2022.
3. I was detained by ICE in Los Angeles, CA.
4. I do not have any criminal history.
5. I received humanitarian parole from DHS on October 12, 2022.
6. I complied with all the requirements of my release. I never missed an ICE appointment, I followed every reporting instruction, and I submitted my asylum application and received a work permit.

Jose Ramon Duran Guirigay

07/01/2026
Date

CERTIFICATION OF TRANSLATION

I, Karen Henriquez Fajardo, under penalty of perjury, state that I am competent to translate from Spanish to English and certify that the translation of this declaration is true and correct to the best of my abilities. Executed in Los Angeles, California on 07/01/2026.

Signature *Karen Henriquez Fajardo*

07/01/2026
Date

Karen Henriquez Fajardo
2533 W 3rd St, Studio 101, Los Angeles, CA 90057
213-348-1824

Bajo pena de perjurio, yo, **Jose Ramon Duran Guirigay**, declaro lo siguiente:

1. Mi nombre es Jose Ramon Duran Guirigay.
2. He vivido en el sur de California desde octubre de 2022.
3. Fui detenido por ICE en Los Angeles, CA.
4. No tengo antecedentes penales.
5. Recibí libertad humanitaria del DHS el 12 de octubre de 2022.
6. Cumplí con todos los requisitos de mi liberación. Nunca fallé cita con ICE, seguí todas las instrucciones de informes, y presenté mi solicitud de asilo y recibí un permiso de trabajo.

Jose Ramon Duran Guirigay

07/01/2026
Date

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 1, 2026, I served a copy of this Petition for Writ of Habeas Corpus by email to the following individual:

Daniel Beck
Chief of the Civil Division
U.S. Attorney's Office
300 N. Los Angeles St. Ste 7516
Los Angeles, CA 90012-3341
Email: David.M.Harris@usdoj.gov

/s/ Christopher Duran
Christopher Duran
Attorney for Petitioner