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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FREDDY EVARISTO GARMENDIA RUIZ,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of the United States Department of Homeland Security; TODD BLANCHE, Acting Attorney General of the United States; DAVID VENTURELLA, Acting Director of United States Immigration and Customs Enforcement; JEREMY CASEY, Warden, Imperial Regional Detention Facility, in their official capacities,

Respondents.

Case No. '26CV3996 JAO GC

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

VERIFIED PETITION

PETITIONER'S DHS NO: [redacted]

"The freedom to live fearlessly, the opportunity of liberty, and the American dream. That is all Plaintiffs seek. Instead, they are told to atone for their race, leave because of their names, and purify their blood. The Court disagrees."[1] – The Honorable Trina L. Thompson

"[I]f the APA's mandate of genuine, non-arbitrary decision-making means anything, it surely means that an agency cannot openly express stereotype-based animus toward a group of immigrants from certain countries and a predetermined intent to sweep away their protections, and then expect a court to blindly accept a post hoc rationalization that its decision was actually the product of a technical administrative concern. We as the judiciary should not pretend to be blind to what the American public can easily observe for themselves."[2]—The Honorable Salvador Mendoza, Jr.

INTRODUCTION

1. In violation of the U.S. Constitution and the Immigration and Nationality Act ("INA") and its implementing regulations, Freddy Evaristo Garmendia Ruiz ("Petitioner") has been unlawfully detained by Respondents at the Imperial Regional Adult Detention Facility in Calexico, California ("Imperial") under the control and at the direction of Immigration and Customs Enforcement ("ICE") for over seven months. Petitioner respectfully seeks a writ of habeas corpus requiring Respondents to immediately release him from detention and prohibiting his re-arrest without individualized notice of the basis of the impending revocation

[1] *Nat'l TPS All. v. Noem*, 798 F. Supp. 3d 1008, 1015 (N.D. Cal. 2025) (granting motion to postpone date of agency action terminating temporary protected status).

[2] *National TPS All. v. Noem*, 166 F.4th 739, 753 (9th Cir. 2026), *rehearing en banc denied*, 169 F. 4th 796 (9th Cir. 2026) (Mendoza, S., concurring).

of his parole and a pre-deprivation hearing to contest such re-arrest before a neutral decisionmaker. In addition, to preserve this Court's jurisdiction, Petitioner requests that this Court enjoin Respondents from transferring him outside of the District or deporting him for the duration of these habeas proceedings.[3]

2. Petitioner, a Nicaraguan citizen who has the full support of his community, is lawfully seeking asylum in the United States because he is fleeing persecution by the Nicaraguan Sandinista dictatorship. LeRoy Decl. ¶¶ 1, 4.

3. Since December 9, 2025, Petitioner has been detained at Imperial. Petitioner was re-arrested and re-detained by ICE officers without reasonable suspicion of criminal conduct or a warrant through a traffic stop targeting Latino individuals on December 9, 2025 that was conducted by ICE officers in Yuma, Arizona, while Petitioner was driving a truck for his employer, a moving company. LeRoy Decl. ¶¶ 15, 16.

4. Petitioner fled Nicaragua in 2021 to escape political persecution, and seek asylum in the United States. Petitioner entered the United States on January 11, 2022 at Otay Mesa, California and was apprehended by Customs and Border Patrol ("CPB"). LeRoy Decl. ¶ 4.

[3] Facts asserted in this Petition for Writ of Habeas Corpus are drawn from the attached declaration of Carrie LeRoy, counsel for Petitioner, and from exhibits to that declaration. Further citation will be made directly to the individual exhibits attached to the declaration, or to the declaration itself, hereinafter "LeRoy Decl."

5. Petitioner expressed his fear of returning to Nicaragua. At that time, January, 2022, he was subject to the Migrant Protection Protocol ("MPP") program. Exh. B; LeRoy Decl. ¶ 5. The MPP requires asylum seekers who present themselves at the Mexican border to remain in Mexico while waiting for an immigration court date. *Id.*

6. Petitioner was issued an I-213 and a notice of MPP which instructed him to return to the U.S. San Ysidro border crossing on February 3, 2022. Exhs. A, B; LeRoy Decl. ¶ 6. He was then returned to Mexico consistent with the MPP. LeRoy Decl. ¶ 6.

7. In Mexico, Petitioner underwent a credible fear interview before an asylum officer who determined that he had a credible fear of being persecuted or tortured if forced to return to Nicaragua. LeRoy Decl. ¶ 7.

8. Since Petitioner passed his credible fear interview and because immigration officials necessarily determined that he posed neither a flight risk nor danger to others, he was paroled into the United States on April 14, 2022 in order to pursue his asylum claim. LeRoy Decl. ¶ 8. Petitioner did not receive notice from U.S. immigration officials that his parole was for humanitarian or public benefit purposes and he was not required to post bond or wear any kind of electronic monitoring device as a condition of his parole. *Id.*

9. On February 21, 2023, Petitioner timely submitted his Application for

Asylum and Withholding of Removal to the Immigration Court. LeRoy Decl. ¶ 9.

10. On April 11, 2023, his removal proceedings before the Immigration Court were dismissed so that he could apply for affirmative asylum before the United States Citizenship and Immigration Services ("USCIS"). Exh. C; LeRoy Decl. ¶ 10.

11. Petitioner was granted work authorization from the U.S. government which is valid until May 19, 2030. Exh. D; LeRoy Decl. ¶ 11.

12. Upon his parole into the United States on April 14, 2022, Petitioner began to build his life in California. LeRoy Decl. ¶ 12. He moved in with family members in Panorama City, obtained a California driver's license and found employment as a driver with a moving company. *Id.*

13. Petitioner has never been arrested for any crimes and was living peaceably for almost four years with the express knowledge and consent of the U.S. government prior to his re-detention. LeRoy Decl. ¶ 13. Indeed, in the government's own record, the I-213, the government admits, "no wants or warrants were found." *Id.*; Exh. A.

14. Petitioner was waiting to be scheduled for an interview with USICS to present his affirmative asylum claim when he was unexpectedly re-detained by ICE officers without individualized notice, a pre-deprivation hearing or cause. LeRoy Decl. ¶ 14.

15. On December 9, 2025, Petitioner was traveling from Yuma, Arizona

to the warehouse where he worked for a moving company when ICE officers stopped him around 10 a.m. at the Highway 86 checkpoint, and asked for his documents. LeRoy Decl. ¶ 15. Petitioner reports that there was no reason for the traffic stop, other than his apparent Latino ethnicity and race. *Id.* Petitioner handed his driver's license and work permit—valid until June 2030—to the ICE officer, V. Ibarra. LeRoy Decl. ¶ 16. The ICE officer then went to his booth to check the documents, but when he returned, suddenly forcibly and roughly pulled Petitioner out of the truck he was driving and handcuffed him. *Id.* The ICE officer did not show Petitioner a warrant or explain why Petitioner was being arrested. *Id.* The ICE officer asked where he was from and he replied that he was Nicaraguan. *Id.* The ICE officer then told Petitioner that he "would soon be spending Christmas in Nicaragua." *Id.* Although Petitioner did not resist his re-arrest, the ICE officer appeared angry and treated him roughly, with undue aggression and animus because of his Latino ethnicity. *Id.*

16. Petitioner was taken to Imperial, within the Southern District of California. LeRoy Decl. ¶ 17. He remains detained at Imperial. *Id.*

17. On December 10, 2025, Petitioner was issued a Notice to Appear ("NTA"), which charged him with 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as a noncitizen who, at the time of application for admission, was not in possession of a proper travel document. Exh. E; LeRoy Decl. ¶ 18.

18. On March 2, 2026, the Immigration Judge summarily denied Petitioner's asylum claim. LeRoy Decl. ¶ 19. Petitioner has appealed this decision to the Board of Immigration Appeals ("BIA") and the appeal is currently pending. *Id.*; Exh. F.

19. Petitioner has never been arrested for, charged with or otherwise accused of a crime. LeRoy Decl. ¶ 20. Petitioner has not received any notice from the Department of Homeland Security ("DHS") or otherwise suggesting that he has committed any crimes or presented a national security risk or threat to others. *Id.*; Exhs. A, E.

20. Since his initial release from custody on April 14, 2022, Petitioner has at all times complied with the law, including immigration laws, as well as the conditions of his 2022 parole and other DHS ICE requirements applicable to him. LeRoy Decl. ¶ 21. He dutifully appeared at his court hearings in California, and completed all related requirements. *Id.*

21. Petitioner was shocked when he was re-arrested. LeRoy Decl. ¶ 22. Upon his re-arrest, he was not afforded an opportunity to contest the basis of the revocation of his parole and was not provided with individualized notice suggesting that he was a flight risk or a danger to others. *Id.* To this day, Petitioner does not understand the basis for his re-arrest, in particular since he was in compliance with all immigration law requirements, had been living in California with the express

knowledge and consent of the government for almost four years, and is not subject to a final order of removal. *Id.*

22. Petitioner is experiencing extreme hardship at Imperial. LeRoy Decl. ¶ 23. He is cut off from his family, friends and community and is experiencing extreme emotional distress as a result of his unlawful detention. *Id.* He is depressed at being jailed for over seven months and fears that, at any moment, he will simply be deported by the government. *Id.*

23. Petitioner has significant and meaningful connections to his community in the United States. Exh. G; LeRoy Decl. ¶ 24. He has family members in California, including his sister, and many friends, as evidenced by letters of support for Petitioner. *Id.*

24. The basis for Petitioner's re-arrest and re-detention was arbitrary and unlawful, as there were no changed circumstances, violation of the conditions of his parole or other lawful basis for his re-arrest and re-detention in December 2025. LeRoy Decl. ¶¶ 15, 16, 20, 21, 22.

25. Petitioner's re-arrest and re-detention had nothing to do with his individual case, as he is not a flight risk, has no criminal record and is not a threat to others. *See id.* Instead, his arrest and re-detention are part of a nationwide DHS strategy of targeting and making warrantless arrests of brown-skinned individuals who happen to be passing through certain locations, detaining them, and seeking to

re-route them to fast-track deportations.

26. Since May of 2025, DHS has implemented a coordinated practice of immigration detention to strip people like Petitioner of their due process rights and pressure them into deportation, which could amount to a death sentence in Nicaragua for Petitioner. This coordinated operation is aimed at dramatically accelerating deportations to meet ICE deportation quotas.[4]

27. Petitioner's summary, unlawful re-arrest and indefinite re-detention flout the Constitution. The only legitimate interests that civil immigration detention serves are mitigating flight risk and preventing danger to the community. When those interests are absent, the Fifth Amendment's Due Process Clause squarely prohibits detention. Additionally, by summarily arresting and detaining Petitioner without a pre-deprivation hearing or making any affirmative showing of material changed circumstances or providing the notice and individualized reasons for his parole revocation required by the implementing regulations of 8 U.S.C. § 1226, Respondents violated Petitioner's procedural due process and statutory rights.

28. At the very least, prior to his re-detention, Petitioner was (1) constitutionally entitled to a hearing before a neutral decision maker prior to

[4] *See* José Olivares, *US Immigration Officers Ordered to Arrest More People Even Without Warrants*, THE GUARDIAN, June 4, 2025, https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests; *see also* Alyssa Chen, *ICE Labeled 1,300 Arrests During Operation Metro Surge As 'Collateral'*, MINNESOTA REFORMER, April 8, 2026, https://minnesotareformer.com/2026/04/08/ice-labeled-1300-arrests-during-operation-metro-surge-as-collateral/

December 9, 2025, at which the government should have justified his re-detention by showing changed circumstances—or been ordered to release him and (2) entitled to individualized written notice prior to his parole revocation. Instead, Petitioner has been arbitrarily detained at Imperial since December 9, 2025, without any due process protections. LeRoy Decl. ¶¶ 14, 15, 22.

29. As a result of his unlawful re-arrest and re-detention, Petitioner is suffering irreparable and ongoing harm. In addition to his fear of deportation, Petitioner has been separated from his friends and community and is experiencing emotional distress resulting from his detention. LeRoy Decl. ¶ 23.

30. All individuals within the United States have constitutional rights. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001). Petitioner, who was arrested arbitrarily during a racially motivated ICE traffic stop, has deep ties to his community in the United States and is not a flight risk. Exhs. A, E, G; LeRoy Decl. ¶¶ 15, 16, 21, 22. To the contrary, Petitioner has fully complied with the conditions of his release, including his ICE check-ins and immigration law obligations. LeRoy Decl. ¶¶ 21, 22.

31. Petitioner is actively pursuing his statutory remedies. LeRoy Decl. ¶¶ 9, 10, 19. He filed his I-589 Application for Asylum and Withholding of Removal

on February 21, 2023 and timely appealed the immigration judge's decision denying his application on March 2, 2026. Exh. F; LeRoy Decl. ¶¶ 9, 19. Accordingly, he is not subject to a final removal order and should be able to pursue his asylum claim on appeal upon his release from custody.

32. If Respondents may simply re-arrest a noncitizen without notice or cause, Respondents would be incentivized to trample on the due process and statutory rights of all law-abiding, previously paroled non-citizens for which there are no changed circumstances at the time of their re-arrest and re-detention in order to meet their deportation quotas. Accordingly, Petitioner seeks a writ of habeas corpus requiring that Petitioner be immediately released from his unlawful detention upon the parole conditions that applied to him prior to the date on which his unlawful detention commenced—on December 9, 2025.

JURISDICTION AND VENUE

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

34. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically

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

REQUIREMENTS OF 28 U.S.C. § 2243

35. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 20 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

36. Petitioner is a law-abiding refugee from Nicaragua who is seeking asylum in the United States being paroled into the United States in 2022 to pursue

his asylum claim without an obligation to post bond.

37. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees ICE, which is responsible for Petitioners' detention. Mr. Mullin has ultimate custodial authority over Petitioner. He is sued in his official capacity.

38. Respondent Todd Blanche is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review, and the Board of Immigration Appeals and immigration court system it operates, is a component agency. He is sued in his official capacity.

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

40. Respondent Jeremy Casey is the Warden of the Imperial, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued

in his official capacity.

EXHAUSTION

41. Exhaustion should be waived because administrative remedies are futile and Petitioner's continued detention results in irreparable harm. It is well established that the deprivation of constitutional rights "'unquestionably constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). There is no requirement to exhaust administrative remedies because no other forum exists in which Petitioner can raise the claims herein. There is no statutory exhaustion requirement prior to challenging the constitutionality of an arrest or detention or challenging a policy under the Administrative Procedure Act. Only an order of this Court could effectively grant Petitioner relief.

42. Prudential exhaustion is not required here because it would be futile, and Petitioner will "suffer irreparable harm if unable to secure immediate judicial consideration" of his case. *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). A court may waive the prudential exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Laing v. Ashcroft,* 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation

marks omitted)); *Mosqueda v. Noem,* No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025); *Zarei v. LaRose*, No.: 26-cv-02335-GPC-MMP, 2026 U.S. Dist. LEXIS 112276, 2026 WL 1415042, at *5 (S.D. Cal. May 19, 2026) (waiving exhaustion in part to avoid delay and ongoing irreparable harm experienced by an unlawfully detained petitioner).

43. Any requirement of exhaustion in immigration court is not appropriate in Petitioner's case because a *post*-deprivation bond hearing is not the appropriate remedy for the egregious violation of his due process rights. *See Guillermo M. R. v. Kaiser*, No. 25-CV-05436-RFL, 2025 WL 1983677, at *9 (N.D. Cal. July 17, 2025); *United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 53, 59–61 (1993) ("We tolerate some exceptions to the general rule requiring predeprivation notice and hearing, but only in extraordinary situations where some valid governmental interest is at stake that justifies postponing the hearing until after the event[,]" such as "executive urgency"). There is no "extraordinary situation" or valid "governmental interest" to justify Respondents' arbitrary re-arrest and re-detention of Petitioner without individualized notice, cause or a material change of circumstances in violation of his due process rights. *See also Garcia v. Noem*, No. 25-CV-3759-LL-BLM, 2026 U.S. Dist. LEXIS 14094, 2026 WL 194745, at *2 (S.D. Cal. Jan. 26, 2026) (explaining the protected liberty interest under the Due Process Clause that noncitizens gain following a period of parole within the United States); *Pinchi v. Noem*, 792 F. Supp.

3d 1025, 1032 (N.D. Cal. 2025) (same). In ordering the release of the petitioner in *Hasratyan v. Bondi et al.*, 2026 WL 288909, Case No. 5:26-cv-00210-MCS-ADS (C.D. Cal. Feb. 2, 2026), the court explained:

> the process Petitioner received at her January 2026 bond hearing before the immigration judge was deficient. Any remedy to that deficiency by way of review by the Board of Immigration Appeals is doubtlessly months away. Accordingly, the post-detention process Petitioner received and will receive is no substitute for the *predetention* process she was owed. *Id.* at *4 (emphasis added).

44. Petitioner is not eligible or required to seek release on bond in immigration court under *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS, F. Supp. 3d, 2025 U.S. Dist. LEXIS 231977, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025), *reconsideration granted in part*, F. Supp. 3d, 2025 U.S. Dist. LEXIS 18864, 2025 WL 3713982 (C.D. Cal. Dec. 18, 2025), *amended and superseded on reconsideration*, 813 F. Supp. 3d 1084, 2025 WL 3713987 (C.D. Cal. 2025), *final judgment entered*, 813 F. Supp. 3d 1084, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025) ("*Bautista*"). Petitioner is not a member of the bond-eligible *Bautista* class, which consists of "[a]ll noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." *Bautista*, 2025 U.S. Dist. LEXIS 231977, 2025 WL 3288403, at *9. Unlike the bond-eligible class members in *Bautista* who entered the United States

without apprehension, Petitioner was previously detained, placed in removal proceedings, found to be neither a flight risk nor a danger to the community, and granted parole. LeRoy Decl. ¶ 8; *Bautista*, 813 F. Supp. 3d 1084, 2025 WL 3713987, at *24-25 (assessing class certification requirements and noting that at the time of their arrest, petitioners were already in the United States, charged as inadmissible, detained, and denied a bond hearing); *see also Xie v. LaRose*, No. 25-03649, 2026 U.S. Dist. LEXIS 6665, 2026 WL 92066, at *2 (S.D. Cal. Jan. 13, 2026) (finding that petitioner was not a *Bautista* class member under similar factual circumstances).

45. Accordingly, there is no exhaustion requirement, and Petitioner properly seeks immediate release to remedy the due process and statutory violations that resulted in his unlawful re-arrest and re-detention in December 2025.

LEGAL BACKGROUND

A. Constitutional Violations

46. 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.

47. 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).

48. 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. 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, 519–20, 527–28, 531 (2003).

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

50. 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.*

51. This reasoning applies with equal if not greater force to people released from civil immigration detention with no criminal record, like Petitioner. Noncitizens living in the United States like Petitioner have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. Moreover, "[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).

52. Due process required that Respondents provide Petitioner with notice

and a pre-deprivation bond hearing *prior* to revocation of his parole. See, e.g., *Mata Velasquez v. Kurdorfer*, WL 1953796 at *17 (W.D.N.Y. 2025) ("To mitigate the risk of erroneous deprivation due process requires, at a minimum, the opportunity for Mata Velasquez to submit evidence relevant to whether the government should revoke his parole before it makes a revocation decision"); *Valdez v. Joyce*, 2025 WL 1707737, *4 (S.D.N.Y. 2025) ("In the context of revocation of civil release, an individual whose release is sought to be revoked is entitled to due process such as notice of the alleged grounds for revocation, a hearing, and the right to testify at such a hearing") (internal quotation marks omitted);*Y-Z-H-L v Bostock,* 2025 WL 1898025, at *10-12 (D. Or July 9, 2025) (explaining the parole process in immigration cases and noting that before parole may be revoked, the parolee must be given written notice of the impending revocation, which must include a cogent description of the reasons supporting the revocation decision); *See also*, *Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021, 1036 (N.D. Cal. 2025) ("absent evidence of urgent concerns, a pre-deprivation hearing is required to satisfy due process.").

53. Petitioner's arbitrary re-arrest and re-detention on December 9, 2025 as part of an unlawful traffic stop without a warrant or reasonable suspicion also violated the Fourth Amendment. *See United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975) ("[T]he Fourth Amendment forbids stopping vehicles at random to inquire if they are carrying aliens who are illegally in the country, it also forbids

stopping or detaining persons for questioning about their citizenship on less than a reasonable suspicion that they may be aliens.").

B. Statutory Violations

54. Petitioner's removal proceedings are governed by Section 240 and his detention is subject to 8 U.S.C. §1226, as he was not paroled for humanitarian purposes or for the public benefit. *See* LeRoy Decl. ¶ 8. Pursuant to 8 U.S.C. §1226, the detention of noncitizens is authorized in standard non-expedited removal proceedings before an immigration judge. *See* 8 U.S.C. §1229a. Individuals in §1226(a) detention are entitled to a bond hearing at the outset of their initial detention, *see* 8 C.F.R. §§1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c). The INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(1) and for other recent arrivals seeking admission referred to under § 1225(2).

55. This case concerns the detention provisions at §1226(a). The detention provisions at §1226(a) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104--208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(a) was most recently amended last year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

56. Pursuant to § 1226(b), "[t]he Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien." 8 U.S.C. § 1226(b). A warrant of arrest may be issued only by those immigration officers listed in § 287.5(e)(2) of 8 CFR chapter I and may be served only by those immigration officers listed in § 287.5(e)(3) of 8 CFR chapter I. "[I]f an immigration judge has determined the noncitizen should be released, the DHS may not re-arrest that noncitizen absent a change in circumstance." *J.S.H.M. v. Wofford*, 2025 WL 2938808, at *4 (E.D. Cal. 2025). Similarly, "[w]here the release decision was made by a DHS officer, not an immigration judge, the government's practice has been to require a showing of changed circumstances before re-arrest." *Id.*; *see also Saravia v. Sessions*, 280 F.Supp.3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom., Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) ("According to government counsel, DHS has incorporated . . . into its practice, requiring 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.").

57. Thus, it is well established that in cases of individuals previously released by DHS, re-detention requires an individualized determination of a material change in circumstances relating to flight risk or danger. *See Ortega,* 415 F.Supp.3d at 968 ("DHS re-arrests individuals only after a 'material' change in circumstances."

(citing *Saravia,* 280 F.Supp.3d at 1197)*; see also Matter of Sugay,* 171 I&N Dec. 637, 640 (B.I.A. 1981).

58. The specific permissible grounds for re-detaining an individual under the INA must include a "material change of circumstances." *Duong v. Kaiser,* 2025 U.S. Dist. LEXIS 185024, *22 (N.D. Cal. Sept. 19, 2025); *see also Qazi v. Albarran*, 2025 No. 2:25-cv-02791-TLN-SCR, 2025 WL 2769837, at *3 (E.D. Cal. Sept. 29, 2025) ("Petitioner was previously released pursuant to a finding that he was not at risk of fleeing or harming others, and as such, due process prevents him from being redetained except upon a showing of a material change in circumstances."); *Yan Lu v. Los Angeles Field Dir., et al.*, No. 5:26-CV-575-JAK-SP, 2026 WL 1455317, at *3 (C.D. Cal. May 7, 2026); *Lesic v. Larose*, No. 25-cv-2746-LL-BJW,2025 WL 3158675, at *2 (S.D. Cal. Nov. 12, 2025); *Rios v. Noem*, No. 25-CV-2866-JES-VET, 2025 WL 3141207, at *2 (S.D. Cal. Nov. 10, 2025); *Faizyan v. Casey*, No. 25-02884, 2025 U.S. Dist. LEXIS 225957, 2025 WL 3208844, at *7 (S.D. Cal. Nov. 17, 2025) (finding that respondents' summary revocation of petitioner's conditional parole without an opportunity to be heard deprived him of his due process rights). Once a noncitizen has been released, the law prohibits federal agents from re-arresting him merely because he is subject to removal proceedings. Rather, federal agents must be able to present evidence of a materially changed circumstance—namely, evidence that the noncitizen is in fact dangerous, has become a flight risk, or is subject to a final

order of removal. Absent a material change in circumstances, the re-detention of noncitizens previously released by DHS pursuant to §1226(a) violates the INA because it does not serve the purpose of the statute. Moreover, because Petitioner complied with the terms and conditions of his 2022 parole, "before Respondents may increase the conditions or amount of Petitioner's prior OSUP,[5] Respondents must show a material change of circumstances that require the increased conditions or amount." *Yousef v. Mullin*, No. 8:26-cv-01280-AJR, 2026 U.S. Dist. LEXIS 120863, at *12 (C.D. Cal. June 1, 2026).

59. Petitioner was re-arrested and re-detained by ICE during an ICE traffic stop targeting individuals on the basis of their ethnicity without notice, cause, or any procedural protections at all. LeRoy Decl. ¶¶ 14, 15, 16. At the time of his re-arrest on December 9, 2025, no warrant was presented to Petitioner and there was no evidence of any "material change of circumstance" since Petitioner was paroled into the U.S. in 2022. *See id.* Petitioner was not arrested through reinstatement of "the original warrant" by the Attorney General (8 U.S.C. § 1226(b)) or by DHS officials in accordance with 8 C.F.R. § 1236.1(c)(9). Although 8 C.F.R. § 1236.1(c)(9), provides that a non-citizen's "release may be revoked at any time" it also states that only certain officials may exercise revocation authority: "the district director, acting district director, deputy district director, assistant district director for investigations,

[5] "OSUP" means an order of supervision specifying parole conditions issued by ICE.

assistant district director for detention and deportation, [and] officer in charge (except foreign)." *See id.* (custody and release procedures). Here, an ICE agent at a traffic stop targeting Latino individuals revoked Petitioner's parole. LeRoy Decl. ¶¶ 14, 15, 16. Such an agent is not an official with authority to revoke supervision under 8 C.F.R. § 1236.1(c)(9). *See United States v. Gemmill*, 535 F.2d 1145, 1152 (9th Cir. 1976) (agency officials not explicitly granted authority in regulation lack authority to act).

60. Petitioner was re-arrested by a belligerent ICE officer who mocked him and treated him roughly because Petitioner is Latino and a noncitizen. *See* LeRoy Decl. ¶¶ 15, 16. The government's failure to comply with even the limited process required by 8 U.S.C. § 1226 and its implementing regulations (8 C.F.R. § 1236.1(c)(9)) underscores the risk of erroneous deprivation in Petitioner's case. Nothing had changed for Petitioner in December 2025—except Respondents' plan to violate the constitutional and statutory rights of thousands of noncitizens—and even federal court orders—to achieve the current administration's mass deportation goals.[6]

61. Noncitizens such as Petitioner, who was released from immigration

[6] *See* Nate Raymond, Kristina Cooke and Brad Heath, *Courts Have Ruled 4,400 Times That ICE Jailed People Illegally. It Hasn't Stopped*, REUTERS, February 14, 2026, https://www.reuters.com/legal/government/courts-have-ruled-4400-times-that-ice-jailed-people-illegally-it-hasnt-stopped-2026-02-14/; *see also*, Mattathias Schwartz, Zach Montague and Ernesto Londoño, *Judges Grow Angry Over Trump Administration Violating Their Orders*, N.Y. TIMES, Feb. 23, 2026, https://www.nytimes.com/2026/02/23/us/politics/judges-contempt-immigration-trump.html; Kyle Cheney, *'ICE Will Comply': Top Minnesota Judge Threatens Criminal Contempt For Continued Defiance,* POLITICO, Feb. 26, 2026 https://www.politico.com/news/2026/02/26/ice-minnesota-judge-criminal-contempt-00803285.

custody, are entitled to notice and an opportunity to contest their re-detention *prior* to any re-detention. *See 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. Govt.* 864 F. 3d 671, 683 (D.C. Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (holding that re-detention after pre-parole conditional supervision requires a pre-deprivation hearing).

62. Courts in this District have consistently granted the relief sought by Petitioner upon a finding that the government violated the detained petitioner's due process rights. *See, e.g., Monroy Martinez v. Lyons*, 2026 U.S. Dist. LEXIS 85166, 2026 WL 1047937, at * 5 (S.D. Cal. Apr. 17, 2026) (granting a writ of habeas corpus on due process grounds where the petitioner's release on bond was revoked); *Navarro Sanchez v. LaRose*, 2025 U.S. Dist. LEXIS 190593, 2025 WL 2770629, at *5 (S.D. Cal. Sept. 26, 2025) (granting a writ of habeas corpus releasing petitioner from custody to the conditions of her preexisting parole on due process grounds); *Garcia v. Noem*, No. 25cv3759-LL-BLM, 2026 U.S. Dist. LEXIS 14094, 2026 WL 194745, at *4 (S.D. Cal. Jan. 26, 2026) (granting a writ of habeas corpus releasing petitioner from custody and requiring ICE to return all of Petitioner's belongings, including his identification documents).

63. Because Petitioner was re-detained without notice or a pre-deprivation hearing in violation of the Due Process Clause, his detention is unlawful and he

should be ordered immediately released and the parties returned to the status quo prior to the date on which Petitioner's unlawful detention commenced. The Ninth Circuit defines the status quo as "the last uncontested status preceding the lawsuit." *Flathead-Lolo-Bitterroot Citizen Task Force v. Montana*, 98 F.4th 1180, 1191 (9th Cir. 2024).

FACTUAL ALLEGATIONS

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

65. Since mid-May 2025, DHS has initiated an aggressive enforcement campaign targeting people who are in regular removal proceedings in immigration court, many of whom have pending applications for asylum or other relief. This coordinated operation is aimed at dramatically accelerating deportations by making warrantless "collateral arrests" of immigrants who happen to be in a certain area and thereafter claiming without a proper basis that they are subject to mandatory,

indefinite detention.

66. DHS's aggressive tactics appear to be motivated by the current Administration's imposition of a new daily quota of 3,000 ICE arrests. In part as a result of this campaign, ICE's arrests of noncitizens with no criminal record have increased dramatically since before January 2025.[7]

67. The government's aggressive deportation campaign is also a significant shift from previous DHS practice of re-detaining noncitizens only *after* a material change in circumstances. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (describing prior practice); *see also Duong v. Kaiser,* 2025 U.S. Dist. LEXIS 185024, *22 (N.D. Cal Sept 19, 2025) (requiring "material change of circumstances" before bond can be revoked or modified (citations omitted)). Petitioner's detention is a result of DHS's new unlawful enforcement campaign.

[7] *See* Rebecca Santana, *ICE, the agency central to Trump's mass deportation plans, undergoes a shakeup*, ASSOCIATED PRESS (May 30, 2025), https://perma.cc/3RL3-Y9ZU ("White House deputy chief of staff Stephen Miller said on Fox News earlier this week that the administration was setting a goal of 3,000 arrests by ICE each day and that the number could go higher."); Ted Hesson & Kristina Cooke, *ICE's Tactics Draw Criticism as it Triples Daily Arrest Targets*, REUTERS, June 10, 2025, https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/; Alayna Alvarez & Brittany Gibson, *ICE Ramps Up Immigration Arrests in Courthouses Across the U.S.*, AXIOS, June 12, 2025, https://www.axios.com/2025/06/12/ice-courthouse-arrests-trump; José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under Trump*, THE GUARDIAN, June 14, 2025, https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures; Hamed Aleaziz, *Immigrant Arrests Surge to 10,000 in 5 Days as ICE Clamps Down,* N.Y. TIMES, July 1, 2026, https://www.nytimes.com/2026/07/01/us/politics/ice-immigrant-arrests-surge.html?smid=url-share (documenting that ICE "has doubled its daily arrest numbers without the fanfare of last year's large urban operations, sowing fear in immigrant communities.").

68. Petitioner's arrest had nothing to do with his individual case. Petitioner, like thousands of other noncriminal asylum seekers, is just another casualty of the current DHS strategy of trampling on the due process rights of noncitizens to meet deportation quotas. On December 9, 2025, Petitioner was arbitrarily re-arrested and re-detained due to racial profiling and anti-immigrant sentiment. LeRoy Decl. ¶¶ 14, 15, 16. There is no indication of any changed circumstances in his case. LeRoy Decl. ¶¶ 16, 21, 22.

69. Respondents have not alleged in any immigration proceedings or notices to Petitioner that he has a criminal record, is a national security risk, or poses a flight risk or threat to the community. Exh. A; LeRoy Decl. ¶¶ 13, 20, 21, 22. Nor are there any records to suggest that Petitioner has engaged in any criminal conduct or intends to flee or otherwise disregard his obligations under immigration law. *Id.* To the contrary, the record, including letters of support for Petitioner, demonstrates that he is a well-regarded, law-abiding individual who has integrated into his community and has strong community ties and support in the United States. Exh. G; LeRoy Decl. ¶¶ 12, 24.

70. Although DHS regulations do not permit re-detention absent a showing that the "[c]ircumstances of the case have changed," 8 C.F.R. Section 239.2(a)(7)(c), and an individualized, cogent explanation of the basis for the revocation of parole, DHS is arbitrarily re-detaining asylum seekers such as

Petitioner in violation of their due process rights. *See Y-Z-H-L v. Bostock*, 2025 WL 1898025, at *10–12 (D. Or. July 9, 2025); *Mata Velasquez v. Kurzdorfer*, No.25-CV-493-LJV, 2025 WL 1953796, at *11 (W.D. N.Y. July 16, 2025) (holding in the that "both common sense and the words of the statute require parole revocation to be analyzed on a case-by-case basis and that a decision to revoke parole 'must attend to the reasons an individual [noncitizen] received parole.'") (citations omitted).

71. Releasing Petitioner to return the parties to the status quo before his unlawful detention commenced does *not* include additional burdensome parole conditions, such as electronic/GPS monitoring. *See* LeRoy Decl. ¶ 8; *Flathead-Lolo-Bitterroot Citizen Task Force*, 98 F.4th at 1191.

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process—Detention)

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

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

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

74. Petitioner was not on December 9, 2025, and is not presently, a flight risk or danger to the community. Respondents' detention of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in violation of the Due Process Clause of the Fifth Amendment.

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

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Procedural Due Process—Detention)

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

77. As part of the liberty protected by the Due Process Clause, Petitioner

has a weighty liberty interest in avoiding re-incarceration after his release. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following release on bond); *Gutierrez-Paniagua v. Mullin*, 2026 U.S. Dist. LEXIS 135353, 2026 WL 1747297, at *11-12 (S.D. Cal. June 17, 2026) (same).

78. Petitioner's re-detention was unlawful such that he should not be required to seek release on bond. The weight of authority from this District, the Ninth Circuit and Supreme Court makes it abundantly clear that "the post-detention process Petitioner received and will receive is no substitute for the *pre-detention* process she was owed." *Hasratyan v. Bondi*, No. 5:26-cv-00210-MCS-ADS, 2026 WL 288909, at *4 (C.D. Cal. Feb. 2, 2026) (ordering petitioner's immediate release on nearly identical salient facts and legal issues) (emphasis added); *see also Rosales v. Noem*, No. 5:26-cv-00112-JWH-MBK (C.D. Cal. Mar. 16, 2026) (discussing *Hasratyan v. Bondi* and granting preliminary injunction at Dkt. No. 23 at 11 ordering the immediate release of a previously paroled asylum seeker and requiring that "any future enforcement actions after release must comply with Due Process requirements of at least a *pre-detention* hearing before a neutral adjudicator.") (emphasis added).

79. Accordingly, "[i]n the context of immigration detention, it is well-

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

80. Petitioner's arbitrary re-detention on December 9, 2025, without notice or a pre-deprivation hearing, violated due process. After deciding to release Petitioner from custody in 2022, Respondents re-detained Petitioner with no notice, no explanation of the justification for his re-detention, and no opportunity to contest his re-detention before a neutral adjudicator before being taken into custody.

81. Petitioner has a profound personal interest in his liberty. Because he received no procedural protections prior to his re-arrest on December 9, 2025, the risk of erroneous deprivation in his case is high. The government has no legitimate interest in re-detaining Petitioner without a material change of circumstances on or before the date of his re-arrest on December 9, 2025.

THIRD CLAIM FOR RELIEF

Violation of the Fourth Amendment to the United States Constitution

(Unlawful Arrest)

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

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

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

85. DHS agents released Petitioner from custody without bond or

electronic monitoring on April 14, 2022. He had not engaged in any conduct in the intervening time that made him a flight risk or danger to the community. No material change in circumstances justified Petitioner's re-arrest on December 9, 2025.

86. ICE officers effectuated an unlawful re-arrest of Petitioner without a warrant on the basis of his Latino appearance and ethnicity. If placing someone under arrest without a warrant, an immigration officer must have probable cause that a person is "likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2); *Mountain High Knitting, Inc. v. Reno*, 51 F.3d 216, 218 (9th Cir. 1995); *see also B.D.A.A. v Bostock*, No. 25-2062, 2025 U.S. Dist. LEXIS 250425, 2025 WL 3484912, at *7 (D. Or. Dec. 4, 2025) ("Respondents do not say that they conducted a flight risk assessment. And they provide no facts or documentation to discern any basis to make such assessment," but the petitioner was nonetheless arrested without a warrant); *A.B.D. v. Wamsley*, No. 25-2014, 2026 U.S. Dist. LEXIS 11720, 2026 WL 178306, at *1 (D. Or. Jan. 22, 2026) ("The parties do not dispute that ICE officers did not make an individualized assessment of each Petitioners' flight risk as required to make a warrantless arrest under 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(c)(2)(ii).").

87. A traffic stop must be supported by at least reasonable suspicion. *See Kansas v Glover*, 589 U.S. 376, 380 (2020). To justify a stop, "[a]n officer cannot rely only upon generalizations that would cast suspicion on large segments of the

law-abiding population." *United States v. Manzo-Jurado*, 457 F.3d 928, 935 (9th Cir. 2006). The Supreme Court held that these requirements apply in the immigration context, when officers seek to enforce the INA. *See United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975). *Brignoni-Ponce* held that mere belief that a person is of Mexican descent, is sufficient to "justify neither a reasonable belief that they were aliens, nor a reasonable belief that the car concealed other aliens who were illegally in the country." 422 U.S. at 886.

88. There was no probable cause, reasonable suspicion or other constitutionally sufficient basis for stopping and arresting Petitioner without a warrant on December 9, 2025.

89. Respondents' racial profiling to conduct a traffic stop to re-arrest Petitioner on December 9, 2025 violated the Fourth Amendment. Petitioner's re-arrest and detention by Respondents on the basis of Petitioner's race and ethnicity without reasonable suspicion that he violated any law and absent any material change in circumstances constitute an unreasonable search and seizure in violation of the Fourth Amendment.

FOURTH CLAIM FOR RELIEF

Violation of the Administrative Procedure Act

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

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

92. The government's quota-driven policy of re-arresting previously paroled asylum seekers with no notice or changed circumstances and on the basis of their race and ethnicity is in excess of statutory authority in violation of the APA, 5 U.S.C. § 706(2)(C). The government has provided no reasoned or adequate explanation for the policy, which is a dramatic shift from recent and longstanding agency policy and practice.

93. Respondents' policy of re-detaining individuals such as Petitioner without an individualized explanation for the basis of their parole revocation and pre-deprivation notice violated the Administrative Procedure Act. *See Y-Z-H-L v. Bostock*, 2025 WL 1898025, at *10–12 (D. Or. July 9, 2025) (holding that before parole may be revoked, the parolee must be given written notice of the impending revocation, which must include a cogent description of the reasons supporting the revocation decision and finding that the absence of such description resulted in a violation of the Administrative Procedure Act); *see also Noori v. LaRose*, 807 F. Supp. 3d 1146, 1168 (S.D. Cal. 2025), 2025 U.S. Dist. LEXIS 194953, 2025 WL 2800149, at *3 ("Petitioner's parole was revoked without an individualized determination or provided

reasoning, which violated the APA"); *Sanchez*, 2025 U.S. Dist. LEXIS 190593, 2025 WL 2770629, at *4 (finding revocation of the petitioner's parole arbitrary and capricious because respondents did not state any reasons for the revocation). Such policy is arbitrary and capricious, in violation of 5 U.S.C. § 706(2)(A)).

94. Petitioner's arbitrary re-arrest and re-detention without individualized suspicion, cause, notice or a pre-deprivation hearing before a neutral arbiter pursuant to the government's policy constitute final agency actions that violate the Administrative Procedure Act. *See* 5 U.S.C. § 706(2).

FIFTH CLAIM FOR RELIEF

Violation of the Immigration and Nationality Act (INA)

8 U.S.C. § 1226

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

96. Petitioner is subject to 8 U.S.C. § 1226(a).

97. Petitioner was re-detained at an ICE traffic stop on the basis of his Latino ethnicity without a warrant or notice. Detention must serve a legitimate government purpose of mitigating danger or preventing flight. *See Zadvydas,* 533 U.S. at 690.

98. Petitioner's prior release by DHS in April 2022 necessarily reflects a determination that he is neither a flight risk nor a danger to the community. 8 C.F.R.

1236.1(c)(8) (outlining requirements for release); 8 C.F.R. 212.5(b) (outlining requirements for parole). Thus, his re-detention required an individualized determination of a material change in circumstances *on or before* December 9, 2025, going to flight risk or danger in order for his re-detention to serve a legitimate regulatory purpose. *See Y-Z-H-L v. Bostock*, 2025 WL 1898025, at *10–12.

99. Petitioner's re-detention commencing on December 9, 2025, violated the INA, given that he was not provided an individualized pre-deprivation notice of the basis for the revocation of his parole on December 9, 2025, no warrant was presented to him, DHS officials authorized by the implementing regulations of § 1226 to revoke his parole did not do so; it was arbitrarily revoked by an ICE agent at an unlawful traffic stop.

100. Moreover, there was no determination by a neutral arbiter of any material change in circumstances related to flight risk or danger to justify his re-detention required by 8 U.S.C. § 1226 and its implementing regulations as confirmed by DHS longstanding prior practice.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody and to return to him all documents,

identification cards and other items confiscated by Respondents upon their unlawful re-arrest of Petitioner on December 9, 2025;

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

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

5. Enjoin Respondents from re-arresting and re-detaining Petitioner in violation of his constitutional rights and the INA and specifically, without an individualized pre-deprivation notice of the basis for the revocation of his parole and a hearing before a neutral arbiter at which Respondents must provide by clear and convincing evidence of a material change of circumstances regarding Petitioner's flight risk or danger to others at the time of his re-arrest in accordance with 8 U.S.C. § 1226 and its implementing regulations;

6. Enjoin Respondents from placing any monitoring devices, such as an ankle monitor, on Petitioner's person in violation of his constitutional rights without an individualized notice of the basis for such device and a hearing before a neutral arbiter at which Respondents must provide by clear and convincing evidence of a material change of circumstances regarding Petitioner's flight risk or danger requires such monitoring;

7. Set aside Respondents' unlawful practices and policies pursuant to 5 U.S.C. Section 706(2) as contrary to law, contrary to constitutional rights and in excess of statutory authority;

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

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

Date: July 12, 2026

Respectfully submitted,

/s/ Carrie LeRoy
Carrie LeRoy
Pro Bono Attorney for Petitioner

VERIFICATION

I, Carrie LeRoy, declare as follows:

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

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on July 12, 2026.

/s/ Carrie LeRoy
Carrie LeRoy
Pro Bono Attorney for Petitioner