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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
Immigration Case

PRABHJOT KAUR
[redacted]

Petitioner,

v.

CHRISTOPHER CHESTNUT, Warden of the California City Immigration Processing Center; **DAVID VENTURELLA**, Acting Director of United States Immigration and Customs Enforcement; **MARKWAYNE MULLIN**, Secretary of the United States Department of Homeland Security; **TODD BLANCHE**, Acting Attorney General of the United States, acting in their official capacities,

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS (28 U.S.C. § 2241)

Date Filed: July 10, 2026

I. INTRODUCTION

1. Petitioner, **Prabhjot Kaur**, urgently requests this Court to order her release from unlawful detention. She asks the Court to issue an Order to Show Cause affording no

more than 5 days to respond. There are no factual disputes in this case, and the law is well-settled.

2. **Prabhjot Kaur** ("Petitioner") is an asylum seeker who fled **India**. She arrived in the U.S. on or about August 18, 2022, as an F-1 student. **Ex. 3.**

3. Within one year of her arrival, as a statutory requirement to file an asylum application, Petitioner filed I-589, an application for asylum and withholding of removal under INA § 208 or 8 U.S.C. § 1158 directly with the USCIS. **Ex. 2.**

4. While residing in the United States, Petitioner pursued her education, successfully obtained her Registered Nurse (RN) license, and established strong ties to this country. **Ex. 6.**

5. On May 1, 2023, she married her United States citizen husband, Talvender Singh. **Ex. 5.**

6. On [redacted] Petitioner and her United States citizen husband were blessed with the birth of their daughter, [redacted] who is a United States citizen by birth. **Ex. 5.**

7. Petitioner's husband filed an I-130 petition and an I-485 application on Feb 19, 2026. **Ex. 4.**

8. On or about July 7, 2026, Petitioner and her United States citizen husband appeared for their scheduled USCIS interview regarding the pending Forms I-130 and I-485 at the USCIS Field Office in Tustin, California. Immediately following the interview, ICE officers arrested Petitioner, asserting that she had overstayed her F-1 status despite the absence of any new circumstances warranting her detention.

9. Petitioner was taken into custody on the same day (July 7, 2026) despite the absence of any material change in her circumstances, including any evidence that she posed a flight

risk or a danger to the community. Petitioner was provided with no advance notice or opportunity to be heard before her liberty was taken. She was thereafter transported to the California City Immigration Processing Center in California City, California, where she remains detained. **Ex. 1.**

10. Petitioner has no criminal record, has complied with all U.S. laws, has kept Respondents apprised of his current address and contact information, and has complied with all requirements of the process, under U.S. laws, to seek protection through asylum.

11. Petitioner initially asks this Court to issue an order requiring her release from custody because her re-arrest following initial detention and release, without a change in circumstance, violates her Constitutional rights. Additionally, Petitioner requests a declaration/injunction ordering that any detention of Petitioner, until and unless she is subject to a final order of removal, is pursuant to 8 U.S.C. 1226 and that she is not subject to mandatory detention under Section 1225.

12. Civil Immigration Detention is generally only permissible for two reasons: to ensure a noncitizen's appearance at immigration hearings and to prevent danger to the community. *Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 U.S. Dist. LEXIS 190934, 2025 WL 2741654, at *10 (N.D. Cal. Sept. 26, 2025) (citing *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001).

13. Petitioner's detention has caused immediate and irreparable harm. She has been separated from her United States citizen husband and infant daughter, is unable to continue her employment as a registered nurse and faces substantial obstacles in preparing her immigration case while detained.

14. The Constitution protects Petitioner—and every other person present in this country—from arbitrary arrest and detention and guarantees him due process of law. While the Executive Branch has broad authority over the regulation of noncitizens, those powers

remain "subject to important constitutional limitations." *Zadvydas*, 533 U.S. at 695. "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

15. **Immediate release is the appropriate remedy**. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) (finding "that the traditional function of the writ is to secure release from illegal custody").

16. Petitioner respectfully and urgently seeks a writ of habeas corpus ordering the government to release her from unlawful detention, prohibiting her re-arrest absent a finding that she is a danger to her community or a flight risk from a neutral decisionmaker. In addition, to preserve this Court's jurisdiction, Petitioner asks for an order that the government refrain from deporting her for the duration of this proceeding.

II. JURISDICTION AND VENUE

17. 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).

18. 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. Petitioner is currently detained at the California City Immigration Processing Center, located at 22844 Virginia Boulevard, California City, CA 93505.

III. PARTIES

19. Petitioner, **Prabhjot Kaur**, is a 28-year-old native and citizen of **India**. She is currently in the physical custody of U.S. Immigration and Customs Enforcement (ICE) at

California City Immigration Processing Center, 22844 Virginia Blvd, California City, CA 93505.

20. Respondent **Christopher Chestnut**, Warden of California City Immigration Processing Center, is responsible for the day-to-day operations of the facility where Petitioner is detained. He is sued in his official capacity.

21. Respondent, **David Venturella**, is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States, routinely transacts business in this District, and is legally responsible for pursuing any effort to detain and remove the Petitioner. Respondent Venturella is sued in his official capacity.

22. Respondent **Markwayne Mullin** is the Secretary of Homeland Security and has ultimate authority over DHS. In that capacity and through their agents, Respondent Mullin has broad authority over and responsibility for the operation and enforcement of the immigration laws; routinely transacts business in this District; and is legally responsible for pursuing any effort to detain and remove the Petitioner. Respondent Mullin is sued in his official capacity.

23. Respondent **Todd Blanche** is the Acting Attorney General of the United States and the most senior official at the Department of Justice. In that capacity and through his agents, he is responsible for overseeing the implementation and enforcement of the federal immigration laws. The Attorney General delegates this responsibility to the Executive Office for Immigration Review, which administers the immigration courts and the BIA. Respondent Blanche is sued in his official capacity.

IV. EXHAUSTION

24. There is no requirement to exhaust because no other forum exists in which Petitioner can raise the claims herein. There is no statutory exhaustion requirement before challenging the constitutionality of an arrest or detention, or a policy under the

Administrative Procedure Act. Prudential exhaustion is not required here because it would be futile, and Petitioner will "suffer irreparable harm if unable to secure immediate judicial consideration of [their] claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Any further exhaustion requirements would be unreasonable or futile.

25. Exhaustion, before the Agency, would be futile. EOIR has recently provided guidance to all immigration judges that *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025) controls and that any noncitizen who entered without inspection is ineligible for custody redetermination before an immigration judge due to lack of jurisdiction. Courts in this District have noted that nearly all immigration judges have cited *Hurtado,* finding that they lack jurisdiction to conduct a bond hearing where a noncitizen entered without inspection. *See e.g. Daley v. Andrews* (E.D.Cal. Jan. 14, 2026), No. 1:25-cv-00922-KES-CDB (HC)) 2026 LX 91108, at *13.

26. "The holding in *Matter of Hurtado* was effectively neutralized within this district following the final judgment in *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). However, the Government appealed the *Maldonado Bautista,* and the Ninth Circuit issued an administrative stay pending appeal of a district court declaratory judgment and enforcement order relating to immigration detention procedures. The decision was entered on March 6, 2026. The court temporarily stayed the district court's orders only to the extent they applied outside the Central District of California, while allowing the judgment to remain in effect within the Central District during the pendency of the government's stay motion. The court emphasized that the government's motion did not challenge the district court's interpretation of 8 U.S.C. § 1225(b)(2), which was already the subject of separate appellate proceedings. *Bautista v. U.S. Department of Homeland Security*, No. 26-1044 (9th Cir. Mar. 6, 2026).

27. **Flight risk loopholes:** the Respondents routinely argue during bond proceedings that if a person doesn't have a U.S. citizen or Permanent Resident (LPR) spouse, parent, or

child, they lack an "anchor" in the U.S. and will simply vanish if released. Based on this presumption, each and every bond request [in such a situation] is being flatly denied on the grounds of "flight risk."

V. LEGAL BACKGROUND

A. The Constitution prohibits the arbitrary arrest and detention of non-citizens

28. The Constitution affords and requires 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.

29. 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).

30. These protections extend to noncitizens 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.

31. Substantive due process requires that all forms of civil detention—including immigration detention—bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 531 (2003).

32. Secondly, the Due Process Clause's procedural protections require that even permissible forms of detention only be imposed where procedural safeguards are in place and have been followed. *Lopez v. Heinauer*, 332 F.3d 507, 512 (8th Cir. 2003) ("The Supreme Court has long recognized that deportable aliens are entitled to constitutional protections of due process.")

33. Except in rare situations, "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).

34. 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*, 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.*

35. This reasoning applies with equal or greater force to people released from civil immigration detention. Noncitizens residing in the United States, like Petitioner, have a protected liberty interest in their ongoing freedom from detention. *See Zadvydas*, 533 U.S. at 690. Further, "[g]iven the civil context [of immigration detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

B. Due Process and the Immigration and Nationality Act Protect Noncitizens from Summary Removal Without a Hearing.

36. Deportation, like detention, constitutes a deprivation of liberty protected by the Due Process Clause. A noncitizen's interest in deportation proceedings "is, without question, a weighty one" because "he stands to lose the right 'to stay and live and work in this land of freedom.'" *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (quoting *Bridges v. Wixon,* 326 U.S. 135, 154 (1945)).

37. Removal proceedings under Section 240 of the Immigration and Nationality Act ("Section 240" proceedings) accordingly provide important substantive and procedural protections. Noncitizens placed in Section 240 proceedings following initial arrest (as was the petitioner in this case) are entitled to full hearings in immigration court before immigration authorities can remove them. 8 U.S.C. § 1229a. Congress has afforded statutory rights and protections, including the right to be represented by counsel of their choice and the right to present and confront evidence. 8 U.S.C. § 1229a(4). They are also entitled to administrative appellate review at the Board of Immigration Appeals and further judicial review in the federal Courts of Appeals. *See* 8 C.F.R. § 1003.1(b) (Board of Immigration Appeals); 8 U.S.C. § 1252(a)(5) (Courts of Appeals).

C. Detention under the Immigration & Nationality Act: 8 U.S.C. §§ 1225 & 1226

38. Detention of noncitizens who have not been ordered removed is generally governed by one of two sections of the Immigration and Nationality Act: INA §§ 235 & 236 (8 U.S.C. §§ 1225, 1226). Section 235 is titled "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing." The statute provides:

> An alien present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission. . .Subject to subparagraphs (B) and (C), in the case of an alien who is an

> applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title. 8 U.S.C. § 1225(a)(1), (b)(2)(A).

39. An applicant is seeking "admission," as that term is defined by § 1101(a)(13)(A), if he is seeking entry "lawful entry . . . after inspection" and authorization. *Tovar v. Noem*, No. 5:25-CV-1509-JKP, 2025 U.S. Dist. LEXIS 250408, at *13 (W.D. Tex. 2025).

40. An "[a]rriving alien means an applicant for admission coming or attempting to come into the United States . . . regardless of the means of transport." 8 C.F.R. § 1.2. "Admission" and "admitted" mean "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A).

41. Noncitizens subject to mandatory detention under § 235(b) may be released only if they are "paroled 'for urgent humanitarian reasons or significant public benefit.'" *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at *2 (D. Mass. July 7, 2025) (quoting 8 U.S.C. § 1182(d)(5)(A)); *see also Hyppolite v. Noem*, No. 25-CV-4304 (NRM), 2025 U.S. Dist. LEXIS 197628, 2025 WL 2829511, at *7 (E.D.N.Y. Oct. 6, 2025) (describing mandatory detention under § 235).

42. Section 1226 (INA 236), titled "Apprehension and detention of aliens," states:

> On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General
>
> (1) may continue to detain the arrested alien; and
>
> (2) may release the alien on—

> (A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or
>
> (B) conditional parole . . ..8 U.S.C. § 1226(a). INA § 236 therefore creates a "discretionary detention framework" for noncitizens arrested and detained on a warrant issued by the Attorney General. *Gomes*, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at *2. It "authorizes the [g]overnment to detain certain aliens already in the country pending the outcome of removal proceedings." *Jennings*, 583 U.S. at 289.

43. The arresting immigration officer has authority to make the initial custody determination. *See Gomes*, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at *2 (citing 8 C.F.R. § 1236.1(c)(8)).

44. The noncitizen then "ha[s] the right to request a custody redetermination (i.e., bond) hearing before an Immigration Judge." *Id.* (citing 8 C.F.R. § 1236.1(c)(8), (d)(1)). "Bond may be denied only if the government 'either (1) prove[s] by clear and convincing evidence that [the noncitizen] poses a danger to the community or (2) prove[s] by a preponderance of the evidence that [the noncitizen] poses a flight risk.'" *Id.* (alterations in original) (quoting *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021)).

45. Section 236(a)(2)(B) also allows release "on an Order of Recognizance, which is a form of conditional parole." *Id.* (citations omitted).

46. Thus, § 236(a) requires "an individualized bond determination before a noncitizen may be taken into custody." *Hyppolite*, 2025 U.S. Dist. LEXIS 197628, 2025 WL 2829511, at *8 (citation omitted).

VI. FACTUAL ALLEGATIONS

A. DHS and EOIR seek to increase arrests and detentions

47. Since early last year, DHS has implemented a series of policies aimed at detaining noncitizens present in the United States without inspection and even those who had previously been released from custody on bond, recognizance, or on parole.

48. DHS's policies appear to be motivated by the Administration's imposition of quotas of 3,000 ICE arrests per day. In part as a result of this campaign, ICE's arrests of noncitizens with no criminal record have increased more than 800% since before January 2025.[1]

49. The government's new campaign is also a significant shift from previous DHS practice, guided by clear judicial precedent, of only re-detaining noncitizens previously released only upon a material change in circumstances. *See e.g., Lorenzo C.P. v. Noem,* No. 1:25-cv-181, 2025 U.S. Dist. LEXIS 264574, at *7-8 (S.D. Tex. 2025*); De Jesús Aguilar v. English, No. 3:25-CV-898 DRL-SJF, 2025 U.S. Dist. LEXIS 231463, at *15 (N.D. Ind. Nov. 25, 2025); Salinas v. Woosley*, No. 4:25 Civ. 121, 2025 U.S. Dist. LEXIS 228539, 2025 WL 3243837, at *2 (W.D. Ky. Nov. 20, 2025); *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);

B. ***Petitioner's unlawful arrest and detention***

50. Petitioner is a 28-year-old citizen and native of **India**. **Ex. 2.**

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[1] 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"https://www.theguardian.com/us-news/2025/jun/14/ice

51. Petitioner entered the United States on August 18, 2022, as an F-1 student. **Ex. 3.**

52. Petitioner filed an asylum application with the USCIS within one year of her arrival. **Ex. 2.**

53. Petitioner got her EAD and continued pursuing her career in the health care industry, and she got her Registered Nurse (RN) License. **Ex. 6.**

54. On May 1, 2023, Petitioner married Talvender Singh, who is a United States Citizen. **Ex. 5.**

55. [redacted] Petitioner and her husband were blessed with a baby daughter in Stanislaus County, CA. **Ex. 5.**

56. Petitioner's USC husband had petitioned for I-130, and the petitioner also filed an I-485 application on Feb 19, 2026. **Ex. 4.**

57. On July 7, Petitioner and her husband appeared for an interview pertaining to her pending I-485 application.

58. On or around July 7, 2026, Respondents detained Petitioner without any valid reason or new circumstances to justify the re-detention.

59. Respondents did not provide adequate hearing or consider whether changed circumstances justified his rearrest as a flight risk or danger.

60. NTA has not been found as of July 10, 2026, so the factual allegations cannot be determined.

61. Petitioner remains detained in Respondents' custody to this date.

62. Petitioner has fully complied with all requirements to apply for asylum protection, to appear at immigration appointments when requested, and to comply with the laws of the United States following his unlawful entry to the U.S.

63. Petitioner has no criminal history.

64. Petitioner has never been determined to be a flight risk or danger to the community; her detention is not related to either of the permissible justifications for civil immigration detention. Her detention does not further any legitimate government interest.

C. Bond hearing before Respondents is an inadequate remedy

65. Petitioner is unlikely to receive a fair bond hearing before an immigration judge.

66. EOIR leadership has given formal and informal directives instructing that nearly all bond cases should result in denial of bond.

67. The BIA has issued 'precedential' decisions relating to bond denials/reversals where normal procedures regarding publication of decisions are not followed.

68. The new 'precedential' decisions do not announce new rules or law or address unsettled areas of the law.

69. Scores of judges have been fired, resigned, or retired in the wake of unprecedented interference with their independence and quasi-judicial function.

70. On Information and belief, Respondents have issued directives to immigration judges encouraging and, effectively ordering, that most bond requests should be denied on 'flight-risk' grounds.

71. Immigration Judges continue to report that they or their colleagues are pressured to deny bond requests.

72. Immigration attorneys and independent observers continue to report that bond hearings are not being conducted fairly and that the overall impression is that the bond hearings are a 'sham.'

73. Even where bond hearings are granted, they are conducted in rushed and grossly unfair settings. Noncitizens often have difficulty hearing judges or translators during video conferences from detention centers, have limited access to counsel to prepare,

and have hearings conducted rapidly without full consideration of evidence or testimony.

74. Immigration Judges often give full weight to uncorroborated ICE/CBP reports, including Form I-213, even where it contains obvious inaccuracies and even in light of growing reports of ICE and CBP fabrications in court testimony, reports, and other settings.

75. Immigration Judges often do not even permit testimony from noncitizens or their witnesses before entering a judgment.

76. Immigration Judges do not have time to review filings submitted in support of a request for release on bond prior to hearings.

77. Immigration Judges are not given the time or resources to adequately conduct fair bond or merits hearings in the detained or non-detained setting.

78. Immigration Judges often cite little or no reasoning in determining that noncitizens are a flight risk.

79. Appeals from Bond decisions take more than 6 months and are unlikely to result in reversal of a judge's finding.

80. Counsel is unaware of any bond denial being reversed by the BIA in the last 15 months, despite conversing with scores of practitioners regularly about this and related issues.

81. Respondents are in possession of data showing that bond denial rates, both within this District and nationwide, have sharply increased from January 2025 until the present, though the factors for release on bond have remained unchanged.

82. Respondents are in possession of data showing that bond denial rates have increased in response to specific directives and instructions from EOIR leadership.

83. Respondents are in possession of data showing that bond denial rates have risen markedly within the Eastern District of California in parallel with an increase in Federal District Court orders requiring Immigration Judges to conduct bond hearings.

84. EOIR leadership has coordinated with DHS in providing training materials and directives to immigration court leaders and directly to immigration judges as to how

to rule on bond requests, how to word denials based on jurisdictional grounds, and how to word denials of bond and/or evade judicial review.

85. EOIR leadership has provided specific email instructions to immigration judges advising them as to whether they should conduct bond hearings or deny for lack of jurisdiction.

D. *Petitioner is suffering irreparable and ongoing harm as a result of unlawful detention*

86. Petitioner is being deprived of her liberty without lawful basis or permissible justification.

87. Petitioner is unable to work with legal counsel to prepare her case, is incarcerated in penal institution-like conditions, and is unable to work to support herself or her family.

VII. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process—Detention)

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

89. 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.

90. 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.*

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

92. Moreover, Petitioner's detention is punitive as it bears no "reasonable relation" to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly "nonpunitive in purpose and effect"). Here, the purpose of Petitioner's detention appears to be "not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons"—namely, to meet newly imposed DHS quotas and transfer immigration court venue away from an IJ who refused to facilitate DHS's new expedited removal scheme. *Demore v. Kim*, 538 U.S. 510, 532–33 (2003) (Kennedy, J., concurring).

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Procedural Due Process—Detention)

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

94. Petitioner has a strong liberty interest under the Due Process Clause in not being re-incarcerated after prior release. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an IJ's bond determination); *Nadia Cristina DA Rocha Rosado v. Fred Figueroa, Warden, Eloy Det. Ctr.*, 2025 U.S. Dist. LEXIS 156344, *35

95. 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 noncitizens pose 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).

96. Petitioner's re-detention without a pre-deprivation hearing or notice of parole revocation violated due process. Nearly a year after deciding to release Petitioner, Respondents have re-detained Petitioner without prior notice, hearing, or change in circumstances.

97. Petitioner's continued detention without prior hearing constitutes an ongoing violation of petitioner's Constitutional right under the Due Process Clause.

THIRD CLAIM FOR RELIEF

Violation of the Fourth Amendment to the United States Constitution

(Unlawful Arrest)

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

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

100. Respondents failed to consider probative evidence.

101. Respondents failed to apply the correct legal standard.

102. On or about July 7, 2026, Respondent (DHS) arrested Petitioner despite the absence of any changed circumstances or new facts suggesting that Petitioner posed a danger or flight risk. Petitioner had complied with all reporting requirements, previously appeared for a scheduled interview, and was taken into custody while reporting in person pursuant to his order of release.

VIII. VERIFICATION OF PETITION

103. I, Laxman Adhikari, hereby swear and affirm, subject to penalty of perjury, that the contents of this petition are true and correct to the best of my knowledge and based on discussion with Petitioner and review of his electronic record of proceedings maintained by the Immigration Court (EROP).

VIII. 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

3. Petitioner from custody to the conditions of release that existed prior to his rearrest;

4. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment and the Immigration and Nationality Act;

5. Respondents from detaining Petitioner under § 1226(a) unless his detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community;

6. Order that Respondents may not arrest Petitioner while INA § 1229a proceedings are ongoing, including during any direct appeal from dismissal of proceedings by

the IJ absent a material change in circumstances;

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

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

Respectfully submitted this 10th Day of July 2026,

/s/Laxman Adhikari
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