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**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF CALIFORNIA**
**SAN FRANCISCO DIVISION**

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| ANDRES FELIPE OME OSORIO,<br><br>Petitioner,<br><br>v.<br><br>SERGIO ALBARRAN, Field Office Director of the San Francisco Immigration and Customs Enforcement Office; DAVID J. 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,<br><br>Respondents. | CASE No. 3:26-cv-8783<br><br>**PETITION FOR WRIT OF HABEAS CORPUS** |

## INTRODUCTION

1. Petitioner Andres Felipe Ome Osorio is a 19-year-old national of Colombia who arrived in the United States as an unaccompanied minor in 2024. He was placed under the protective custody of the Sonoma County Juvenile Court and fostered in stable care. While he has some criminal history, Petitioner has no criminal convictions. He works, attends educational programs, complies with all court orders and supervision requirements, and is actively pursuing humanitarian relief through pending asylum and Special Immigrant Juvenile Status applications. Ex. B.

2. On August 21, 2026, while attending a scheduled Immigration Services and Monitoring Program (ISAP) check-in at ICE's San Francisco office, Petitioner was arrested without prior notice and without any hearing before a neutral decisionmaker. He remains in civil immigration detention at 630 Sansome Street, San Francisco, California.

3. Petitioner's detention violates the Due Process Clause of the Fifth Amendment because it exposes him to imminent risk of death and has been effected without any lawful process or medical safety plan. Petitioner suffers from a life-threatening cardiac condition characterized by episodes of syncope-sudden loss of consciousness accompanied by cessation of heart function and cessation of breathing. Ex. A. On September 17, 2025, Petitioner suffered a medical emergency severe enough to require emergency hospitalization at Sonoma Valley Hospital, followed by emergency transfer to Marin General Hospital for specialized cardiac care. The hospital transfer records explicitly document that "there is also potential for worsening of medical condition during transport resulting in possible disability and/or death." Ex. A. On September 29, 2025, Petitioner underwent surgical implantation of [redacted] This device is wireless-connected to his cell phone. *Id.* The device automatically alerts his medical team if life-threatening arrhythmias are detected. *Id.* His condition remains under active investigation by Stanford Cardiology and UCSF Neurology specialists; the underlying cause has not been determined. Respondents have established no medical safety plan for Petitioner's detention. No protocols exist for monitoring his cardiac device, ensuring he retains access to the

cell phone the device requires, or addressing a syncope episode in custody. During his detention intake at ICE's San Francisco office on August 21, 2026, Petitioner's immigration attorney was prevented from being present during a nurse's medical evaluation. When the attorney repeatedly asked ICE officers, "What about his heart?" and raised the medical device and syncope risk, officers did not respond and offered no plan for his care. Petitioner faces imminent risk of death from cardiac arrest or related medical emergency, combined with a complete absence of medical safety protocols. This violates substantive due process under the Fifth Amendment.

4. Additionally, Petitioner's re-detention violates procedural due process. He was previously released by the Office of Refugee Resettlement and subsequently placed in foster care under judicial order by Sonoma County Juvenile Court. These release decisions created a constitutionally protected liberty interest that cannot be revoked without a pre-deprivation hearing before a neutral decisionmaker.

5. Petitioner respectfully seeks a writ of habeas corpus ordering his immediate release from unlawful detention. Additionally, Petitioner seeks an order prohibiting Respondents from re-detaining him in the future unless and until they obtain a pre-deprivation hearing before a neutral decisionmaker at which they demonstrate, by clear and convincing evidence, that Petitioner poses a genuine flight risk or danger to the community, based on material changed circumstances.

## JURISDICTION AND VENUE

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

7. Venue is proper in this district and division pursuant to 28 U.S.C. Section 2241(a) and 28 U.S.C. Section 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district at ICE's facility at 630 Sansome Street, San Francisco, California, and a substantial part of the events giving rise to these claims occurred in this district.

## PARTIES

8. Petitioner Andres Felipe Ome Osorio is a national of Colombia, born [redacted] He is an unaccompanied child who entered the United States in 2024, was initially released by the Office of Refugee Resettlement, and subsequently came under the jurisdiction of Sonoma County Juvenile Court. He was recently the legal dependent and foster resident of Sonoma County (Court File No. [redacted] and is currently residing with a relative in Santa Rosa, California. He is presently detained in ICE custody.

9. Respondent Sergio Albarran is the Field Office Director of the San Francisco Immigration and Customs Enforcement Office. He is responsible for the administration and enforcement of immigration laws and the execution of immigration enforcement and detention policy within ICE's San Francisco Area of Responsibility, including the detention of Petitioner. He is sued in his official capacity.

10. Respondent David J. Venturella is the Acting Director of U.S. Immigration and Customs Enforcement. He is responsible for the administration and enforcement of immigration laws and is legally responsible for any effort to detain and remove Petitioner. He is sued in his official capacity.

11. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security and has ultimate authority over DHS. He is legally responsible for any effort to detain and remove Petitioner. He is sued in his official capacity.

12. Respondent Todd Blanche is the Acting Attorney General of the United States. He is responsible for overseeing implementation and enforcement of federal immigration laws. He is sued in his official capacity.

## EXHAUSTION

13. No exhaustion is required. No other forum exists in which Petitioner can raise constitutional challenges to his arrest and detention. There is no statutory exhaustion requirement prior to challenging the constitutionality of detention. Prudential exhaustion is not required because Petitioner faces imminent medical danger and will suffer irreparable harm-including

death-if unable to secure immediate judicial consideration of his claims. *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Any exhaustion requirement would be unreasonable and contrary to the urgency of Petitioner's medical condition.

**LEGAL BACKGROUND**

14. The Due Process Clause applies to "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "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. These protections extend with particular force to unaccompanied minors. Congress enacted the Trafficking Victims Protection and Reauthorization Act (TVPRA) precisely to protect children from unnecessary detention. In making custody determinations for unaccompanied children, the government must consider "danger to self, danger to the community, and risk of flight." 8 U.S.C. Section 1232(c)(2)(A). When ORR determines that an unaccompanied child can be safely released, that determination reflects a governmental finding that the child poses no danger and no flight risk. 45 C.F.R. Section 410.1201.

16. Immigration detention is civil, not criminal, and thus is permissible for only two limited and legitimate purposes: (1) ensuring a noncitizen's appearance at immigration proceedings, and (2) preventing danger to the community. Zadvydas, 533 U.S. at 690-92; *Demore v. Kim*, 538 U.S. 510, 519-20, 527-28, 531 (2003). Where a noncitizen is neither a flight risk nor a danger, detention violates substantive due process.

17. Courts have consistently held that detention of individuals with serious, unmanaged medical conditions that create imminent risk of serious harm or death violates substantive due process. *Hoptowit v. Ray*, 682 F.2d 1237 (9th Cir. 1982). Where an individual's medical condition requires specialized care that detention cannot provide, and where the individual's medical device or treatment regimen is incompatible with detention conditions, continued detention violates due process and may constitute cruel and unusual punishment.

18. The constitutional violation is heightened when: (a) the government has been

directly informed of the medical condition and its severity; (b) the government has no plan to manage the condition during detention; (c) the condition creates imminent risk of death; and (d) the detaining agency fails to establish any medical safety protocols.

19. A noncitizen whom the government has chosen to release, or chosen not to detain, acquires a constitutionally protected liberty interest in remaining free. *Kharitonova v. Albarran*, No. 26-cv-01362-JSC, 2026 WL 531441, at *2 (N.D. Cal. Feb. 25, 2026); *Garcia v. Albarran*, No. 26-CV-04839, 2026 WL 1454512, at *2 (N.D. Cal. May 21, 2026). This principle applies with even greater force to children placed in foster custody by judicial order. His liberty interest in continued freedom is robust and constitutionally protected.

20. "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 requirement applies even where the liberty at issue is lawfully revocable. *Young v. Harper*, 520 U.S. 143, 152 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Where an individual has been released from custody, due process mandates a pre-deprivation hearing before a neutral decisionmaker before that person can be re-detained. *Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021, 1036 (N.D. Cal. 2025).

21. Once a noncitizen has been released from custody, "the law prohibits federal agents from rearresting him merely because he is subject to removal proceedings. Rather, the federal agents must be able to present evidence of materially changed circumstances-namely, evidence that the noncitizen is in fact dangerous or has become a flight risk, or is now subject to a final order of removal." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd*, 905 F.3d 1137 (9th Cir. 2018). No material changed circumstances exist here. Petitioner has never been convicted of any crime. He appears at all scheduled government appointments. He maintains stable housing, employment, and educational engagement.

## FACTUAL ALLEGATIONS

22. Petitioner is a 19-year-old national of Colombia. He arrived in the United States in 2024 as an unaccompanied minor, fleeing violence and instability in his country of origin.

23. Upon arrival, Petitioner was apprehended by DHS officials at the border and transferred to the custody of the Office of Refugee Resettlement (ORR) pursuant to the TVPRA. ORR conducted an assessment and determined that Petitioner posed no danger to the community and was not a flight risk. ORR released him from federal custody, placing him with a family member. This release decision reflected the government's explicit determination that Petitioner was safe for community placement.

24. Subsequently, Petitioner came under the jurisdiction of Sonoma County Juvenile Court. Through formal court proceedings, Sonoma County and the Juvenile Court determined that foster care placement was appropriate. Petitioner was placed at Hanna Center, a residential treatment facility, where he became a legal dependent and foster resident of Sonoma County. The State of California, through Sonoma County, became his legal guardian.

25. Petitioner has no criminal convictions. He is a legal dependent of Sonoma County with a documented history of positive progress in foster care and employment.

26. Since his placement at Hanna Center in May 2025, Petitioner has demonstrated exceptional commitment to positive change and compliance with all court-ordered requirements: He works regularly and contributes to his own support; he is enrolled in educational programs (HiSET and English language classes); he participates regularly in counseling and case management; Hanna Center staff describe him as "consistently positive" and note that he is "frequently seen smiling and is regarded as one of the hardest-working youth in the program" and he is working toward greater independence (obtaining identification, Social Security card, bank account).

27. Petitioner suffers from a serious cardiac and/or neurological condition that poses imminent risk of death if not properly monitored and managed with specialized medical care.

28. Beginning in April 2025, Petitioner experienced episodes of syncope-sudden loss of consciousness accompanied by cessation of heart function and cessation of breathing. These episodes have required emergency medical resuscitation on multiple occasions.

29. On September 17, 2025, Petitioner suffered a medical emergency of grave severity. On that date, Petitioner was rushed to Sonoma Valley Hospital for emergency medical

evaluation and stabilization. His condition was so serious that he required emergency transfer to Marin General Hospital for specialized cardiac care under the care of Dr. Mohini.

30. The Sonoma Valley Hospital transfer records dated September 17, 2025, document the severity of his condition: "There is also potential for worsening of medical condition during transport resulting in possible disability and/or death." The transfer was authorized because "service [was] unavailable" at Sonoma Valley. "Higher level of service available at receiving facility" (Marin General). The physician documented: "The patient's emergency medical condition has been stabilized such that, within reasonable medical probability, no material deterioration in the patient's condition, nor chances for recovery, will likely result from, or occur during, the patient's transfer."

31. Petitioner's counsel, Julianna Rivera, immediately contacted ICE's San Francisco Outreach office via email on September 17, 2025, requesting that Petitioner's scheduled September 18, 2025 ERO check-in be postponed due to his active hospitalization and ongoing medical emergency treatment. Medical records from Sonoma Valley Hospital were attached to this email to ICE. Ex.A.

32. On September 29, 2025-twelve days after emergency hospitalization-Petitioner underwent surgical implantation of [redacted] This is a permanent medical device implanted in his body. The device: Monitors his cardiac rhythm continuously, 24 hours per day; is wireless-connected to Petitioner's cell phone; automatically transmits alert notifications to his medical team if dangerous arrhythmias are detected; and contains patient information and emergency contact details on his Abbott Patient Identification Card. Ex.A.

33. As of the date of this petition, Petitioner's underlying cardiac condition has not been diagnosed. The condition appears to have both cardiac and neurological components. [redacted] approximately two months, suggesting a neurological component. [redacted] and is currently not taking any regular medications. He remains in active medical triage with Stanford Cardiology and UCSF Neurology to determine the etiology of his

syncope episodes.

34. The Abbott cardiac monitor device is essential to Petitioner's medical management and survival. The device: Requires continuous wireless connection to his cell phone to function; requires that he maintain the cell phone on him at all times; transmits critical cardiac data to his medical team in real time; and provides automatic alerts if life-threatening arrhythmias occur. Ex. A.

35. Immigration detention in ICE custody is incompatible with Petitioner's medical condition and the requirements of his cardiac device. ICE facilities: Lack the ability to manage implanted cardiac devices; cannot reprogram or replace the device if malfunction occurs; cannot ensure 24/7 access to specialized cardiac monitoring; cannot guarantee Petitioner's cell phone will remain with him (particularly critical if detained in segregated housing); have no written protocols for managing patients with implanted cardiac devices; and cannot provide the specialized cardiology and neurology care Petitioner requires.

36. Respondents have established no medical safety plan for Petitioner. During the August 21, 2026 detention intake at ICE's San Francisco office, no discussion occurred regarding: How to monitor Petitioner's cardiac device; how to ensure he retains access to his cell phone (required for device function); what protocols exist if he experiences a syncope episode; how to respond to medical alerts from his device; where he will receive emergency medical care if his heart stops; or how to manage his ongoing cardiology and neurology triage.

37. Petitioner's immigration attorney was prevented from being present during the only medical evaluation conducted by ICE-a nurse's assessment. During this evaluation, the attorney repeatedly raised Petitioner's cardiac condition, the syncope episodes, and the existence of the implanted cardiac device. The attorney asked ICE officers repeatedly: "What about his heart?" No officer responded. There was no answer. No medical plan was discussed. No protocols were established. No acknowledgment was made. This procedural violation-preventing Petitioner's counsel from being present during a medical evaluation at detention intake-deprived Petitioner of an opportunity to ensure that his medical condition and the requirements of his cardiac device were properly documented and addressed.

38. Continued detention exposes Petitioner to a serious risk of death. Petitioner's syncope episodes have occurred repeatedly and without warning, and during such an episode his heart and breathing stop. Although his implanted cardiac monitor detects arrhythmias and alerts his medical team, Respondents have no plan for emergency response, no protocols for a medical emergency in custody, and no means to replace or reprogram the device if it malfunctions during detention. As a result, a syncope episode in ICE custody could go unrecognized and untreated, with fatal consequences. This risk is neither hypothetical nor speculative: it is documented by Petitioner's hospital records, reflected in the surgical implantation of his cardiac monitor, and borne out by his prior emergency episodes.

## CLAIMS FOR RELIEF

### FIRST CLAIM FOR RELIEF

***Subjecting Petitioner to this Medical Emergency Without Medical Safety Plan is a Violation of the Fifth Amendment Due Process Clause***

39. Petitioner repeats and re-alleges all preceding paragraphs as if fully set forth herein.

40. The Due Process Clause of the Fifth Amendment protects all persons from deprivation of liberty "without due process of law." U.S. Const. amend. V.

41. Detention that exposes an individual to imminent risk of serious harm or death violates substantive due process, particularly where the detaining authority has established no medical safety plan.

42. Petitioner suffers from a documented, life-threatening cardiac and neurological condition characterized by episodes of syncope requiring resuscitation. He requires continuous monitoring via an implanted cardiac device that is wireless-connected to his cell phone. His condition remains under active investigation; the underlying cause is unknown.

43. Petitioner's cardiac device is incompatible with immigration detention. Detention provides no way to ensure proper device function, no emergency protocols for syncope episodes, and no access to the specialized cardiac and neurological care Petitioner requires.

44. Respondents have established no medical safety plan for Petitioner's detention. No monitoring protocols, emergency procedures, or staff training exist to address his cardiac condition in custody. This reflects not merely inadequate medical care but detention undertaken without any plan for medical safety, in the face of a known and documented risk of death from cardiac arrest.

45. Continued detention of Petitioner under these circumstances violates the Fifth Amendment's guarantee of substantive due process.

## SECOND CLAIM FOR RELIEF

### *Deliberate Indifference to Petitioner's Serious Medical Needs is a Violation of the Fifth Amendment Due Process Clause*

46. Petitioner incorporates by reference all preceding paragraphs of this Petition.

47. The Fifth Amendment's Due Process Clause, not the Eighth Amendment, governs his conditions of confinement. *Bell v. Wolfish*, 441 U.S. 520, 535-37 (1979); *Zadvydas v. Davis*, 533 U.S. 678, 690, 693 (2001); *Jones v. Blanas*, 393 F.3d 918, 931-32 (9th Cir. 2004) (civil detainees are entitled to "more considerate treatment" than persons held to be punished).

48. When the government takes a person into custody and holds him against his will, it assumes an affirmative duty to provide for his basic needs, including medical care and reasonable safety. *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 199-200 (1989); *Youngberg v. Romeo*, 457 U.S. 307, 315-16, 321-22 (1982). To comply with the Fifth Amendment, immigration detention facilities must identify detainees' health needs and risk factors, maintain continuity of care, including by supplying necessary medications and medical devices, and respond promptly to routine and emergent needs. *Gomez Ruiz v. U.S. Immigr. & Customs Enf't*, No. 3:25-cv-09757-MMC, 2026 WL 851980 (N.D. Cal. Mar. 27, 2026).

49. In the Ninth Circuit, a civil detainee's medical care claim is measured by an objective deliberate indifference standard. Petitioner must show that (1) Respondents made an intentional decision with respect to the conditions under which he is confined; (2) those conditions put him at substantial risk of suffering serious harm; (3) Respondents did not take

reasonable available measures to abate that risk, even though a reasonable official in the circumstances would have appreciated the high degree of risk involved; and (4) by not taking such measures, Respondents caused his injury. *Gordon v. County of Orange*, 888 F.3d 1118, 1124-25 (9th Cir. 2018); *Castro v. County of Los Angeles*, 833 F.3d 1060, 1071 (9th Cir. 2016) (en banc); *Fraihat v. U.S. Immigr. &* Customs Enf't, 16 F.4th 613, 636 (9th Cir. 2021). The standard requires more than negligence but does not require subjective intent; conduct amounting to reckless disregard suffices. Gordon, 888 F.3d at 1125.

50. Petitioner has a serious medical need. He suffers from a cardiac and neurological condition and depends on an implanted cardiac monitoring device, [redacted] The device transmits cardiac data to, and is controlled through, a paired cellular telephone that must remain charged and within range. Without a charged, paired telephone, the device cannot transmit arrhythmia alerts or record cardiac events to his treating physicians, and Petitioner's treating physicians cannot monitor him. A lapse in monitoring exposes Petitioner to sudden cardiac arrest without warning or intervention. A condition that may produce death or serious harm if untreated is a serious medical need. *Estelle v. Gamble*, 429 U.S. 97, 104 (1976); *Coronel v. Decker*, 449 F. Supp. 3d 274, 283 (S.D.N.Y. 2020) (cardiac conditions recognized as serious in immigration detention).

51. Respondents know of Petitioner's condition and his dependence on the device. Counsel notified Respondents in writing on September 17, 2025 via email, and by statements during the August 21, 2026 detention intake. Each communication identified the device, explained that it requires a charged and paired cellular telephone, and asked Respondents to state how they would keep the device operating in custody. The September 17, 2025 email included Sonoma Valley Hospital medical records documenting the cardiac emergency. Respondents have confirmed that the supervisory deportation officer assigned to Petitioner's case is aware of the device.

52. Respondents have not answered counsel's inquiries with a medical safety plan. In response to counsel's repeated inquiries, Respondents have stated only that Petitioner will be

transferred "shortly," pending paperwork, to an unidentified facility that may be Golden State Annex in McFarland, California. Respondents have not identified the destination facility. Respondents have not identified the officer responsible for Petitioner's medical needs. Respondents have not stated whether Petitioner will retain access to a charged telephone, whether the facility will charge and pair a telephone for him, whether facility medical staff know how the device works, whether the device's data will reach his treating physicians, or what will happen to the device during transport.

53. A generalized assurance of "medical capacity" is not a plan. Courts have repeatedly held that the government cannot satisfy its constitutional obligation to a detainee with a known, specific medical need by pointing to general facility-wide capabilities; it must show concrete, individualized measures responsive to that need. Coronel, 449 F. Supp. 3d at 286-88 (finding likely deliberate indifference where the government could identify no specific action taken to protect petitioners with known medical vulnerabilities); *Avendano Hernandez v. Decker*, 450 F. Supp. 3d 443, 451-52 (S.D.N.Y. 2020) (same, where petitioner with cardiac conduction abnormality had notified ICE in writing and the government could point to no responsive action); *Gomes v. U.S. Dep't of Homeland Sec.*, 460 F. Supp. 3d 132, 147-49 (D.N.H. 2020) (officials who had no system to identify or protect high-risk detainees were likely deliberately indifferent).

54. Respondents' failure to plan is an intentional decision about the conditions of Petitioner's confinement. Respondents chose to detain Petitioner, chose to transfer him, and chose to do so without determining how his device would function in transport or at the receiving facility. A reasonable official who knew that a detainee's cardiac monitor depended on a charged telephone would appreciate the obvious risk of placing him in custody without arranging for that telephone, and would take the simple, available steps of confirming the receiving facility, confirming access to charging and pairing, and communicating the plan to counsel. Respondents have taken none of these steps.

55. The impending transfer compounds the risk. Transfers between facilities are a recognized point of failure for continuity of care, and courts have found deliberate indifference where ICE transferred a medically vulnerable detainee without ensuring that his medication or

equipment traveled with him. *Munoz Materano v. Arteta*, 804 F. Supp. 3d 395, 423-26 (S.D.N.Y. 2025) (deliberate indifference where ICE inconsistently administered medications while transferring petitioner repeatedly among facilities); *Peruano v. Wesling*, No. 26-cv-10300-LTS, 2026 WL 1413758 (D. Mass. May 20, 2026) (deliberate indifference where ICE failed to provide seizure medication during transfer and denied a known medically necessary accommodation). Respondents' refusal to identify even the destination facility makes it impossible for Petitioner, his physicians, or counsel to verify that the device will work there.

56. Petitioner need not wait for a cardiac event to state a claim. A condition of confinement that is sure or very likely to cause serious harm in the near future violates the Constitution even if the detainee presently shows no acute symptoms. *Helling v. McKinney*, 509 U.S. 25, 33-34 (1993); *D.N.N. v. Liggins*, 822 F. Supp. 3d 543 (D. Md. 2026) (applying Helling to immigration detainees and holding that detention personnel may not ignore a dangerous medical condition because the detainee shows no serious current symptoms). Each hour the device is unpowered is an hour in which a cardiac event would go undetected.

57. Because Respondents have shown that they cannot or will not provide for Petitioner's known medical needs in custody, his continued detention is itself unconstitutional, and release is the appropriate remedy. Conditions claims are cognizable in habeas under 28 U.S.C. Section 2241 where, as here, the conditions bear on whether the fact of confinement is constitutional in light of the petitioner's medical needs. *Ochoa v. Kolitwenzew*, 464 F. Supp. 3d 972, 982-84 (C.D. Ill. 2020); *Camacho Lopez v. Lowe*, 452 F. Supp. 3d 150, 159-60 (M.D. Pa. 2020); Coronel, 449 F. Supp. 3d at 281-82.

58. Respondents' conduct violates Petitioner's right to substantive due process under the Fifth Amendment.

**THIRD CLAIM FOR RELIEF**

***Re-Detention Without Notice and a Pre-Deprivation Hearing is a Violation of the Due Process Clause of the Fifth Amendment***

59. Petitioner incorporates the preceding paragraphs by reference.

60. The Fifth Amendment forbids the federal government from depriving any person of liberty without due process of law. Freedom from physical restraint lies at the heart of the liberty the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

61. The Office of Refugee Resettlement released Petitioner after determining that Petitioner posed neither a danger to the community nor a risk of flight. Petitioner was subsequently placed in foster care by Sonoma County Juvenile Court after the Court determined that Petitioner was safe for community placement. Both the ORR release and the juvenile court placement created a protected liberty interest in remaining free from custody. Once the government releases a person on conditions, it may revoke that release only after notice and a hearing before a neutral adjudicator. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

62. Respondents re-detained Petitioner without notice of the basis for revocation, without an opportunity to be heard, and without any finding by a neutral adjudicator that Petitioner poses a danger to the community or a risk of flight, or that circumstances had materially changed since release.

63. Absent evidence of urgent concerns, due process requires a pre-deprivation hearing before the government may re-detain a person previously released by order of a court or immigration authority. *Guillermo M.R. v. Kaiser*, 791 F. Supp. 3d 1021, 1036 (N.D. Cal. 2025); *Rodriguez v. Kaiser*, No. 1:25-cv-01111-KES-SAB (HC), 2025 WL 2855193, at *7 (E.D. Cal. Oct. 8, 2025) (collecting cases); *Chacon v. Hermosillo*, No. 2:25-cv-02299-TMC, 2025 U.S. Dist. LEXIS 257776, at *8 (W.D. Wash. Dec. 12, 2025).

64. District courts within the Ninth Circuit have repeatedly required a pre-deprivation hearing even where intervening events or arrests occurred after release. In Guillermo M.R., the court enjoined re-detention of a noncitizen released on bond and later arrested on felony charges

until Respondents first provided a pre-deprivation hearing. 791 F. Supp. 3d at 1026-27, 1036. *See also Gonzalez-Gutierrez v. Warden of the Adelanto Det. Facility*, No. 5:26-cv-02648-DFM, 2026 WL 1838135, at *1 (C.D. Cal. June 22, 2026) (granting writ where intervening events occurred after release); *Cajina v. Wofford*, No. 1:25-cv-01566-DAD-AC (HC), 2025 WL 3251083, at *6 (E.D. Cal. Nov. 21, 2025) (ordering release and enjoining re-arrest without a pre-deprivation hearing); *Garcia v. Andrews*, No. 2:25-cv-01884-TLN-SCR, 2025 WL 1927596, at *4 (E.D. Cal. July 14, 2025) (granting preliminary injunction despite intervening events); *Arzate v. Andrews*, No. 1:25-cv-00942-KES-SKO (HC), 2025 WL 2230521 (E.D. Cal. Aug. 19, 2025) (granting temporary restraining order requiring pre-deprivation hearing); *Roa v. Albarran*, No. 25-cv-07802-RS, 2025 WL 2732923 (N.D. Cal. Sept. 25, 2025) (same); *Hortua v. Chestnut*, No. 1:25-cv-01670-TLN-JDP, 2025 WL 3525916 (E.D. Cal. Dec. 9, 2025) (same); *Elias C.M. v. Warden of the Golden State Annex Det. Facility*, No. 1:25-cv-02043-TLN-EFB, 2026 U.S. Dist. LEXIS 9502 (E.D. Cal. Jan. 16, 2026) (same).

65. Respondents afforded Petitioner none of this process. Their re-detention of Petitioner without notice and a pre-deprivation hearing before a neutral adjudicator violated the Due Process Clause of the Fifth Amendment.

## FOURTH CLAIM FOR RELIEF

***Violation of the Due Process Clause of the Fifth Amendment***
***An Arrest Without Conviction Is Not a Finding of Dangerousness or Changed Circumstances***

66. Petitioner incorporates the preceding paragraphs by reference.

67. Petitioner has not been convicted of any criminal charges. Any pending charge carries with it the presumption of innocence. An arrest is not evidence of guilt, and it is not a finding of dangerousness. No neutral arbiter has determined that any intervening event shows Petitioner to be a danger to the community or a risk of flight, or that circumstances have materially changed enough to justify revoking release.

68. Respondents cannot substitute an unreviewed arrest for the neutral adjudication that the Constitution requires. A person who faces pending charges remains entitled to a

determination whether those pending charges warrant modification of a prior release order. *Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO, 2025 WL 2617256, at *6 (E.D. Cal. Sept. 9, 2025); *see Selis Tinoco v. Noem*, No. 1:25-cv-01762-DC-JDP (HC), 2025 WL 3567862, at *6 (E.D. Cal. Dec. 14, 2025) (pending charges did not justify re-detention where no neutral arbiter had determined whether those facts showed danger or flight risk); *Ericka P.S. v. Chestnut*, No. 1:25-cv-02049-TLN-CKD, 2025 WL 3764211, at *2 (E.D. Cal. Dec. 30, 2025) (intervening events did not lessen petitioner's liberty interest).

69. Because no neutral adjudicator has found that any intervening event renders Petitioner a danger to the community or a risk of flight, or that circumstances have materially changed since the ORR release determination and the juvenile court's foster placement order, Respondents' re-detention violated the Due Process Clause of the Fifth Amendment.

## FIFTH CLAIM FOR RELIEF

***Detention Without Material Changed Circumstances Violates Substantive Due Process***

70. Petitioner repeats and re-alleges all preceding paragraphs as if fully set forth herein.

71. Immigration detention is constitutionally permissible only when it serves the legitimate governmental purpose of ensuring appearance at immigration proceedings or preventing danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690-92 (2001).

72. Petitioner was previously released from custody-first by ORR and then by Sonoma County Juvenile Court. Those release decisions constituted determinations that Petitioner posed no danger to the community and was not a flight risk. ORR's release determination carries particular weight because it was made under a statutory scheme that required the government to assess dangerousness and flight risk: in making custody determinations for a child who entered the United States as an unaccompanied minor, the Trafficking Victims Protection Reauthorization Act directs the government to "consider danger

to self, danger to the community, and risk of flight." 8 U.S.C. Section 1232(c)(2)(A). ORR released Petitioner only after making those determinations in his favor.

73. No material changed circumstances exist to justify re-detention: Petitioner has never been convicted of any crime; Petitioner appears at all scheduled government appointments; Petitioner maintains stable housing, employment, and educational engagement; and Petitioner maintains strong community ties through his foster placement.

74. Detention without changed circumstances-and without any renewed determination that Petitioner is a danger to the community or a flight risk-violates substantive due process under the Fifth Amendment.

**PRAYER FOR RELIEF**

75. 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; (3) Declare that Petitioner's arrest and detention violates the INA, the TVPRA, implementing regulations, and the Due Process Clause of the Fifth Amendment; (4) Declare that Petitioner's detention in the absence of any medical safety plan for a life-threatening cardiac condition constitutes a violation of the Fifth Amendment guarantee of substantive due process; (5) Declare that Respondents acted with deliberate indifference to Petitioner's serious medical needs in violation of the Fifth Amendment's Due Process Clause; (6) Declare that Petitioner's re-detention without a pre-deprivation hearing violates the Fifth Amendment guarantee of procedural due process; (7) Declare that Respondents' re-detention was not supported by material changed circumstances and disregarded the danger and flight-risk determination ORR made under the TVPRA, in violation of substantive due process; (8) Enjoin Respondents from transferring Petitioner outside this District or deporting Petitioner pending these proceedings; (9) Enjoin Respondents from re-detaining Petitioner unless and until: Respondents obtain a pre-deprivation hearing before a neutral arbiter; Respondents prove, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community; and Respondents demonstrate material changed circumstances since Petitioner's prior release determination; (10) 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. Section 2412; and (11) Grant such further relief as the Court deems just and proper.

Respectfully Submitted,

*/s/ Elizabeth Knowles*

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