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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MALAQUIAS ELIONAI RAMIREZ CARDONA,

Petitioner,

v.

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, Attorney General of the United States, acting in their official capacities,

Respondents.

CASE No. _____

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

IMMIGRATION HABEAS CASE

INTRODUCTION

1. This is a petition for a writ of habeas corpus. Petitioner Malaquias Elionai Ramirez Cardona has lived in San Mateo, California, for approximately the last 5 years. He works for a local plumbing business and is an active member of his church, which he attends several times a week. Until the events of today, he had never had any contact with immigration authorities, and had never been placed in removal proceedings.

2. On October 20, 2026, Petitioner was riding to work as a passenger in his employer's marked work van when it was stopped by ICE. He was not driving, he was not the subject of the stop, and no officer had any particularized reason to suspect him of anything. ICE officers nonetheless handcuffed him at the same time they handcuffed the subject of the stop. At the time they handcuffed him, they only asked whether he had a criminal record. ICE took Petitioner into custody in what was, by every available indication, a collateral arrest. He was transferred to the ICE San Francisco Field Office, 630 Sansome Street, San Francisco, California.

3. Petitioner seeks relief on independent statutory and constitutional grounds. **First**, ICE arrested him without a warrant and without any determination that he was likely to escape before a warrant could be obtained, in violation of 8 U.S.C. § 1357(a)(2) and ICE's own regulations. Another court in this District ordered release the same day on materially identical facts: men arrested without warrants during a vehicle stop conducted as part of an ICE operation targeting someone else. *Izazaga Cardenas v. Albarran*, No. 26-cv-06435-JD, Dkt. No. 10 (N.D. Cal. July 2, 2026), slip op. at 1–4. **Second**, his detention without any individualized determination by a neutral decisionmaker violates procedural due process. **Third**, his detention violates substantive due process because he is neither a danger to the community nor a flight risk, so his confinement serves no legitimate purpose.

4. Petitioner asks the Court to order his immediate release. To preserve the Court's jurisdiction, he asks the Court to order Respondents not to transfer him outside this District or remove him from the United States while this proceeding is pending. This is a verified habeas petition. However, Petitioner is submitting a declaration in support of this Petition and the anticipated Motion for Temporary Restraining Order.

JURISDICTION AND VENUE

5. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); Article I, § 9, cl. 2 of the Constitution (Suspension Clause); and the Fourth and Fifth Amendments. The Court may grant relief under 28 U.S.C. §§ 2241 and 2243, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–02, the All Writs Act, 28 U.S.C. § 1651, and the Administrative Procedure Act, 5 U.S.C. §§ 701–706.

6. No provision of 8 U.S.C. § 1252 strips this Court of jurisdiction. Petitioner does not challenge a decision to commence proceedings, adjudicate a case, or execute a removal order, § 1252(g), and his challenge to the legal authority for his detention does not "aris[e] from" any action taken to remove him, § 1252(b)(9). *See Jennings v. Rodriguez*, 583 U.S. 281, 292–95 (2018) (plurality opinion). Nor does § 1226(e) bar review, because Petitioner challenges the statutory framework under which he is held, not a discretionary judgment; § 1226(e) does not limit habeas jurisdiction over constitutional claims or questions of law. *Id.* at 295–96; *Hernandez v. Sessions*, 872 F.3d 976, 987 (9th Cir. 2017); *Martinez v. Clark*, 124 F.4th 775, 781 (9th Cir. 2024).

7. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2), (e)(1) and 2241(a) because Petitioner is physically detained within this District, at 630 Sansome Street, San Francisco, and a substantial part of the events giving rise to his claims occurred here. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434–35, 443 (2004). Because this petition is filed while Petitioner is detained in this District, the Court's jurisdiction is not defeated by any later transfer. *See Ex parte Endo*, 323 U.S. 283, 304–07 (1944); *Padilla*, 542 U.S. at 441. Assignment to the San Francisco Division is proper under Civil Local Rule 3-2(c)–(d).

PARTIES

8. Petitioner **Malaquias Elionai Ramirez Cardona** has been assigned A-number [redacted]. He is in ICE custody at 630 Sansome Street, San Francisco, California.

9. Respondent **Sergio Albarran** is the Field Office Director of the San Francisco Field Office of U.S. Immigration and Customs Enforcement. He is responsible for the administration of the immigration laws and the execution of immigration enforcement and

detention policy within ICE's San Francisco Area of Responsibility, including the detention of Petitioner, and he is Petitioner's immediate custodian. He maintains an office and regularly conducts business in this District. He is sued in his official capacity.

10. Respondent **David J. Venturella** is the Acting Director of ICE. He is responsible for the administration and enforcement of the immigration laws, routinely transacts business in this District, 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 Homeland Security and has ultimate authority over the Department of Homeland Security. He 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 any effort to detain and remove Petitioner. He is sued in his official capacity.

12. Respondent **Todd Blanche** is the Attorney General of the United States. He is responsible for overseeing the implementation and enforcement of the federal immigration laws, a responsibility delegated in part to the Executive Office for Immigration Review, which administers the immigration courts and the Board of Immigration Appeals. He is sued in his official capacity.

EXHAUSTION

13. No exhaustion requirement applies. No statute requires exhaustion before challenging the lawfulness of an arrest or detention under § 2241 or challenging a policy under the Administrative Procedure Act. Prudential exhaustion is not required because it would be futile, and because Petitioner will "suffer irreparable harm if unable to secure immediate judicial consideration of [his] claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992); *see Hernandez*, 872 F.3d at 986–88; *Laing v. Ashcroft*, 370 F.3d 994, 1000–01 (9th Cir. 2004). Respondents have made no individualized custody determination, and no immigration judge has authority to rule on the lawfulness of Petitioner's warrantless arrest or on his constitutional claims. *See Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992) (immigration judges and the Board "lack jurisdiction to rule upon the constitutionality of the Act and the regulations"); *Zamorano v. Garland*, 2 F.4th

1213, 1224 (9th Cir. 2021); *Norberto C.M. v. Warden, Cent. Valley Annex*, No. 26-cv-04674-MWJS, 2026 WL 1992747, at *3–4 (E.D. Cal. July 9, 2026) (constitutional challenges that arise before any bond hearing are beyond the agency's competence, rendering exhaustion futile). No administrative forum exists in which Petitioner could raise his Fourth Amendment or constitutional claims.

LEGAL BACKGROUND

A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and Detention.

14. The Due Process Clause protects "all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Hernandez*, 872 F.3d at 990 (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)). These protections are both substantive and procedural.

15. "[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 governmental objective," *County of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). "In 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). "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; *see also Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

16. Substantive due process requires that all 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 purposes for immigration detention: ensuring the 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).

17. Procedural due process 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). "[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).

B. The Fourth Amendment and § 1357(a)(2) Limit Immigration Stops and Warrantless Arrests.

18. The Fourth Amendment protects "[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures." U.S. Const. amend. IV. When a vehicle is stopped, every passenger is seized. *Brendlin v. California*, 551 U.S. 249, 251 (2007). An officer may briefly detain a person for investigation only on a reasonable, particularized, and objective basis for suspecting that the specific person stopped is engaged in unlawful activity. *Terry v. Ohio*, 392 U.S. 1, 21–22, 30 (1968); *United States v. Cortez*, 449 U.S. 411, 417–18 (1981). Reasonable suspicion must rest on the totality of the circumstances and be particularized to the individual stopped—not based on generalizations that would cast suspicion on large segments of the law-abiding population. *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000) (en banc); *United States v. Manzo-Jurado*, 457 F.3d 928, 935 (9th Cir. 2006). An arrest, in turn, "qualifies as a 'seizure' of a 'person' . . . and so must be reasonable under the circumstances." *Ashcroft v. al-Kidd*, 563 U.S. 731, 735–36 (2011). And "a person's mere propinquity to others independently suspected of criminal activity does not, without more, give rise to probable cause." *Ybarra v. Illinois*, 444 U.S. 85, 91 (1979).

19. ICE's statutory authority to arrest without a warrant is narrow. Section 1226(a) authorizes arrest and detention "[o]n a warrant issued by the Attorney General." An officer may arrest without a warrant only if the officer has reason to believe both that the person is in the United States unlawfully *and* that the 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). ICE's regulations impose the same requirements. 8 C.F.R. § 287.8(c)(2)(ii) ("A

warrant of arrest shall be obtained except when the designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained."). The "reason to believe" standard is the equivalent of the Fourth Amendment's probable-cause standard, *Perez Cruz v. Barr*, 926 F.3d 1128, 1137 (9th Cir. 2019), and arrests in violation of the governing regulations are unlawful, *Sanchez v. Sessions*, 904 F.3d 643, 650 (9th Cir. 2018); *Perez Cruz*, 926 F.3d at 1137. A person arrested without a warrant must also be examined by an officer other than the arresting officer. 8 C.F.R. § 287.3(a). Unlawful presence alone is not evidence of a likelihood of escape, and a noncitizen's failure to dispute his status when confronted "alone is not enough under Section 1357(a)(2) to authorize a warrantless arrest." *Izazaga Cardenas*, slip op. at 3; *see Arizona v. United States*, 567 U.S. 387 (2012). A warrant issued after the fact does not cure an unlawful warrantless arrest. *Izazaga Cardenas*, slip op. at 3–4; *Ramirez Ovando v. Noem*, 810 F. Supp. 3d 1209, 1226 (D. Colo. 2025); *Alfaro v. Mullin*, No. 26-0766 (GRB), 2026 WL 734348, at *5 (E.D.N.Y. Mar. 16, 2026). Courts have held that "[i]ssuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a)," and that release is the remedy when the government cannot identify one. *Choglo Chafla v. Scott*, — F. Supp. 3d —, 2025 WL 2688541, at *11 (D. Me. Sept. 21, 2025); *J.A.C.P. v. Wofford*, No. 1:25-cv-01354, 2025 WL 3013328, at *8 (E.D. Cal. Oct. 27, 2025); *Gilton A. v. Bondi*, No. 26-cv-558 (ECT/ECW), slip op. at 4–6 (D. Minn. Jan. 25, 2026), ECF No. 7.

C. Detention of a Noncitizen Arrested in the Interior Is Governed by 8 U.S.C. § 1226(a).

20. For nearly three decades after the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, every administration treated noncitizens who entered without inspection and were later arrested in the interior as detained under § 1226(a). *See* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Section 1226(a) requires an individualized custody determination as to whether the noncitizen poses "a danger to property or persons" and is "likely to appear for any future proceeding." 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *see Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021); *Velesaca v. Decker*, 458 F. Supp. 3d 224, 241 (S.D.N.Y. 2020). A person detained under § 1226(a) may seek a bond redetermination hearing before an immigration

judge. 8 C.F.R. § 1003.19; *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2022).

21. In July 2025, ICE reversed course and began treating all such noncitizens as mandatorily detained under § 1225(b)(2)(A); the Board of Immigration Appeals adopted that position in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In *Rodriguez Vazquez v. Bostock*, 183 F.4th 1160 (9th Cir. 2026), the Ninth Circuit rejected it. The court held that § 1225(b)(2)(A) "is best construed as applying to aliens entering the United States at the border," while § 1226 governs noncitizens "present in the interior of the United States." 183 F.4th at 1172. The government's reading renders the phrase "seeking admission" superfluous, is in "significant tension, if not outright conflict," with *Torres v. Barr*, 976 F.3d 918 (9th Cir. 2020) (en banc), would render much of § 1226(c) redundant, and contradicts thirty years of consistent Executive practice. 183 F.4th at 1175–80, 1184–86, 1190–92. The Second, Sixth, Tenth, and Eleventh Circuits agree. *Barbosa da Cunha v. Freden*, 175 F.4th 61 (2d Cir. 2026); *Lopez-Campos v. Raycraft*, 175 F.4th 713 (6th Cir. 2026); *Santillan Quiroz v. Mullin*, 2026 WL 1876709 (10th Cir. June 30, 2026); *Hernandez Alvarez v. Warden*, 175 F.4th 1258 (11th Cir. 2026).

22. Courts in this District have likewise held that detention of long-resident noncitizens arrested in the interior is governed by § 1226(a), and that due process requires release. As one court explained:

> Mr. Garcia has been in the United States since childhood, has lived here for decades, and was arrested in Northern California on the way to work. Courts addressing similar circumstances have repeatedly held that detention in such cases is governed by § 1226(a), not § 1225(b)(2), and that due process demands immediate release and a hearing prior to any further detention.

Garcia v. Albarran, No. 26-cv-04839, 2026 WL 1454512, at *2 (N.D. Cal. May 21, 2026); *see also Bernal v. Albarran*, No. 25-cv-09772-RS, 2025 WL 3281422, at *6 (N.D. Cal. Nov. 25, 2025), *appeal dismissed sub nom. Hernandez Bernal v. Albarran*, No. 26-484, 2026 WL 1133189 (9th Cir. Feb. 25, 2026); *Cuy Comes v. DeLeon*, No. 25-cv-09283 (AT), 2025 WL 3206491, at *3–5 (S.D.N.Y. Nov. 14, 2025); *Lepe v. Andrews*, 801 F. Supp. 3d 1104 (E.D. Cal. 2025).

23. *Rodriguez Vazquez* is binding on this Court. "[O]nce a federal circuit court issues a decision, the district courts within that circuit are bound to follow it and have no authority to

await a ruling by the Supreme Court before applying the circuit court's decision as binding authority." *Yong v. INS*, 208 F.3d 1116, 1119 n.2 (9th Cir. 2000). The Supreme Court's grant of certiorari in *Rhoney v. Barbosa da Cunha*, No. 26-104 (U.S. Oct. 1, 2026), therefore does not alter the governing law.

FACTUAL ALLEGATIONS

A. Petitioner's Background and Ties to the United States.

24. Petitioner has lived peacefully in San Mateo for the last five years.

25. Petitioner is an active member of the Evangelical Church in San Mateo, which he attends approximately four times a week. He also volunteers at the church, helping with cleaning and selling food. Ramirez Cardona Decl. ¶ 2.

26. Petitioner works hard to support himself. For approximately the last four months, he has worked for Navarro Plumbing, a plumbing business owned by his employer. Ramirez Cardona Decl. ¶¶ 2, 4.

27. Petitioner has never been arrested by police. He has no criminal record. Ramirez Cardona Decl. ¶¶ 3, 6.

28. Until October 20, 2026, Petitioner had never been arrested by immigration officials. Ramirez Cardona Decl. ¶ 3. Nothing in his history brings him within any mandatory-detention category of 8 U.S.C. § 1226(c).

29. Petitioner's fixed residence, steady work, deep ties to his church community, and lack of any criminal record confirm that he is neither a danger to the community nor a flight risk.

B. The Stop and Collateral Arrest on October 20, 2026.

30. On October 20, 2026, Petitioner was on his way to work, riding as a passenger in a van driven by his employer, the owner of Navarro Plumbing. The van was marked "Navarro Plumbing" on the outside. They had just left his employer's house in San Mateo. Ramirez Cardona Decl. ¶ 4.

31. Shortly after they left, a black Tahoe with flashing police lights appeared, and Petitioner's employer stopped the van. Petitioner was afraid. Officers immediately ordered both men out of the van. Ramirez Cardona Decl. ¶ 5. When the officers stopped the van, Petitioner

was seized within the meaning of the Fourth Amendment.

32. At the time of the stop, the officers had no individualized, reasonable suspicion that Petitioner was engaged in any unlawful activity. He was a passenger in his employer's marked work van on the way to work. On information and belief, the officers were looking for the driver, Petitioner's employer, Mr. Navarro, and Petitioner was arrested only because he was present.

33. Officers handcuffed Petitioner immediately. While they were handcuffing him, one officer asked him in Spanish whether he had a criminal record. He does not. The officers did not tell Petitioner the reason for his arrest. Ramirez Cardona Decl. ¶ 6.

34. Officers arrested Petitioner without showing him a warrant for his arrest. Ramirez Cardona Decl. ¶ 6. On information and belief, no officer made an individualized determination that Petitioner was likely to escape before a warrant could be obtained. Petitioner, a long-time resident with a fixed address, steady work, and deep ties to his church, posed no such risk.

C. Petitioner's Detention.

36. Officers took Petitioner and his employer to a parking lot, transferred them to another van, and brought them to the ICE San Francisco Field Office at 630 Sansome Street, Ramirez Cardona Decl. ¶ 6, where he remained into the afternoon.

37. On information and belief, ICE has not made any individualized determination that Petitioner is a danger or a flight risk.

38. Petitioner is at imminent risk of transfer from 630 Sansome to a detention facility outside this District. A transfer would separate him from counsel and his community.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fourth Amendment, 8 U.S.C. § 1357(a)(2), and Implementing Regulations (Warrantless Arrest)

39. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth here.

40. Under the Fourth Amendment, "[a]n arrest, of course, qualifies as a 'seizure' of a 'person' . . . and so must be reasonable under the circumstances." *al-Kidd*, 563 U.S. at 735–36. Furthermore, the warrantless arrest of Petitioner violated 8 U.S.C. § 1357(a)(2) and 8 C.F.R. §§ 287.3(a) and 287.8(c)(2)(ii). Section 1357(a)(2) provides that a warrantless arrest may take place only if an officer "has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation *and is likely to escape before a warrant can be obtained for his arrest*." 8 U.S.C. § 1357(a)(2) (emphasis added).

41. Respondents arrested Petitioner without a warrant and without "reason to believe" that he was "likely to escape before a warrant can be obtained," in violation of 8 C.F.R. § 287.8(c)(2)(ii). The reason-to-believe standard is the probable-cause standard of the Fourth Amendment. *Perez Cruz*, 926 F.3d at 1137. No officer could reasonably have concluded that a long-time resident with steady work and deep ties to his church, seated as a passenger in his employer's work van, was likely to escape before a warrant could be obtained.

42. Petitioner was not presented with a signed warrant before or upon his arrest. As of the filing of this petition, he has not been served with a properly executed warrant for his arrest.

43. Arrests in violation of the regulations are unlawful. *Sanchez*, 904 F.3d at 650; *Perez Cruz*, 926 F.3d at 1137. On materially identical facts, where ICE officers pulled over and arrested men seen leaving the home of the person they were seeking, without warrants and without any individualized escape determination, the court held that "each of the arrests violated 8 U.S.C. § 1357(a)(2)" and ordered release. *Izazaga Cardenas*, slip op. at 1–5. Any warrant issued after Petitioner's arrest cannot cure the violation. *Id.* at 3–4; *Ramirez Ovando*, 810 F. Supp. 3d at 1226. And because Petitioner was not arrested "[o]n a warrant issued by the Attorney General," § 1226(a) supplies no authority for his detention, and § 1225 provides no fallback. *Izazaga Cardenas*, slip op. at 4 (citing *Caicedo Hinestroza v. Kaiser*, No. 25-cv-07559-JD, Dkt. No. 8 (N.D. Cal. Sept. 9, 2025)); *Choglo Chafla*, 2025 WL 2688541, at *11; *J.A.C.P.*, 2025 WL 3013328, at *8; *Gilton A.*, slip op. at 4–6. The remedy is release. *Munaf v. Geren*, 553 U.S. 674, 693 (2008).

SECOND CLAIM FOR RELIEF

Violation of the Immigration and Nationality Act

(Detention Governed by 8 U.S.C. § 1226(a), Not § 1225(b)(2)(A))

44. Petitioner repeats and re-alleges the allegations in the preceding paragraphs as if fully set forth here.

45. Section 1226(a) and its regulations require ICE to make an individualized custody determination as to whether the noncitizen poses a danger to persons or property or is unlikely to appear for future proceedings. 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). No such determination was made here. There is "nothing to suggest that DHS exercised any discretion at all in detaining [Petitioner] . . . in contravention of the basic procedural requirements of § 1226(a)." *Cuy Comes*, 2025 WL 3206491, at *4 (citation omitted).

46. Respondents' refusal to make an individualized custody determination violates the INA and its implementing regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

THIRD CLAIM FOR RELIEF

Violation of the Fourth Amendment

(Seizure and Arrest of a Passenger Without Reasonable Suspicion or Probable Cause)

47. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth here.

48. The Fourth Amendment prohibits Respondents from seizing or arresting individuals for an immigration violation without reasonable suspicion or probable cause particularized to them. When officers stopped the van in which Petitioner was riding, they seized him. *Brendlin*, 551 U.S. at 251. An arrest is likewise a seizure that "must be reasonable under the circumstances." *al-Kidd*, 563 U.S. at 735–36.

49. Petitioner was riding to work as a passenger in his employer's marked plumbing van in San Mateo when officers in a black Tahoe with police lights on stopped the van. On information and belief, the officers were looking for the driver, Mr. Navarro. Officers immediately ordered both men out, handcuffed Petitioner, asked him only whether he had a criminal record, and arrested him without telling him why. Ramirez Cardona Decl. ¶¶ 4–6.

50. Even assuming officers had a lawful basis to stop the van to look for Mr. Navarro, that did not justify what they did to Petitioner. Officers may order a passenger out of a lawfully stopped vehicle and detain him for the duration of the stop, *Maryland v. Wilson*, 519 U.S. 408, 415 (1997); *Arizona v. Johnson*, 555 U.S. 323, 333 (2009), but authority for the seizure ends when the tasks tied to the stop are completed, and any further detention requires independent reasonable suspicion, *Rodriguez v. United States*, 575 U.S. 348, 354 (2015). That suspicion must be particularized to the individual, not based on generalizations that would cast suspicion on large segments of the law-abiding population. *Montero-Camargo*, 208 F.3d at 1129; *Manzo-Jurado*, 457 F.3d at 935; *see Terry*, 392 U.S. at 21–22; *Cortez*, 449 U.S. at 417–18. And a custodial arrest of a passenger requires probable cause particularized to him: "a person's mere propinquity to others independently suspected of criminal activity does not, without more, give rise to probable cause." *Ybarra*, 444 U.S. at 91. Officers here did not conduct a brief detention of Petitioner incident to a stop of Mr. Navarro; they immediately handcuffed and arrested him, asking only whether he had a criminal record. Handcuffing ordinarily converts an investigative stop into an arrest that requires probable cause. *See Washington v. Lambert*, 98 F.3d 1181, 1187–89 (9th Cir. 1996). No officer had probable cause, or even reasonable suspicion, particularized to Petitioner.

51. Petitioner's detention is the direct product of this unlawful seizure and arrest. Where detention lacks a lawful predicate, the habeas remedy is release. *Munaf*, 553 U.S. at 693 ("The typical remedy for [unlawful executive] detention is, of course, release."); *cf. A.B.D. v. Wamsley*, No. 6:25-cv-02014-AA, 2026 WL 178306 (D. Or. Jan. 22, 2026) (granting habeas relief to farmworkers stopped by ICE while riding to work).

FOURTH CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Procedural Due Process — Detention Without an Individualized Determination)

52. Petitioner repeats and re-alleges the allegations in the preceding paragraphs as if fully set forth here.

53. Petitioner has a weighty liberty interest in freedom from physical restraint. *Zadvydas*, 533 U.S. at 690. 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).

54. Respondents may argue that because ICE never previously detained or released Petitioner, he has no liberty interest for the Due Process Clause to protect. Courts in this District have rejected that argument. In *Chaparro Ayala v. Albarran*, No. 26-cv-09430-CRB, 2026 WL 2722780 (N.D. Cal. Sept. 15, 2026), the petitioner had lived in the Bay Area for roughly seven years without any encounter with immigration authorities before ICE arrested him. *Id.* at *1. The court held that the government's argument "oversimplifies" the petitioner's due process rights, *id.* at *3, and that the absence of any prior contact with the government "is not determinative," because "individuals can obtain liberty interests even without them," *id.* at *4. Under the government's view, a person's interest in being free "would depend on the government first depriving them of that freedom . . . . That cannot be right." *Id.* "An interest in liberty that could only be bestowed by the government would provide little comfort to those seeking protection from its abuses." *Id.*; *see also Chiguil Chiguil v. Noem*, No. 26-cv-1844 DAD CSK, 2026 WL 913195, at *5 (E.D. Cal. Apr. 3, 2026) (collecting cases); *Norberto C.M.*, 2026 WL 1992747, at *4.

55. A person who lives in the community acquires the "attachments of normal life" that the Due Process Clause protects. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). With the passage of time, "a protectable liberty interest can 'crystallize[ ].'" *Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021, 1030 (N.D. Cal. 2025) (quoting *Hurd v. District of Columbia*, 864 F.3d 671, 683–84 (D.C. Cir. 2017)). Courts therefore "routinely look to factors like the length of a person's residency, their work history, and their community ties—not just whether they were previously released by immigration authorities." *Chaparro Ayala*, 2026 WL 2722780, at *4 (citing *Rico-Tapia v. Smith*, 806 F. Supp. 3d 1166, 1183 (D. Haw. 2025)).

56. Petitioner's circumstances fall comfortably within this authority. He has lived in San Mateo for approximately five years, since 2021. Ramirez Cardona Decl. ¶ 2. He is an active member of the Evangelical Church in San Mateo, which he attends approximately four times a

week, and he volunteers there, helping with cleaning and selling food. *Id.* He works for Navarro Plumbing. *Id.* ¶ 4. He has never been arrested by police and has no criminal record. *Id.* ¶¶ 3, 6. These are the same kinds of attachments—residence in a single community, work, and strong community ties—that led the *Chaparro Ayala* court to find a "significant liberty interest." 2026 WL 2722780, at *4.

57. Petitioner has received no process at all. No neutral decisionmaker—indeed, no one—has assessed whether he poses a flight risk or a danger. Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), which courts in this District apply to civil immigration detention, *see Claros v. Albarran*, 811 F. Supp. 3d 1062, 1066 (N.D. Cal. 2025) (collecting cases), his private interest is at its apex; the risk of erroneous deprivation is total when no individualized determination is made, because neither party has had an opportunity to test whether any valid basis for detention exists, *Chaparro Ayala*, 2026 WL 2722780, at *4–5; *Duong v. Kaiser*, 800 F. Supp. 3d 1030, 1040 (N.D. Cal. 2025); and the government has no legitimate interest in detaining him without one, because custody hearings are conducted as a matter of course in immigration proceedings. *See Jorge M.F. v. Wilkinson*, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020). Courts in this District have repeatedly ordered release where noncitizens were detained without a hearing before a neutral decisionmaker. *See, e.g., Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1033 n.2 (N.D. Cal. 2025) (collecting cases); *Garcia*, 2026 WL 1454512, at *2.

58. Respondents' detention of Petitioner also violates due process because he has been detained without lawful authority, infringing on his fundamental right to liberty. *Zadvydas*, 533 U.S. at 690.

59. Petitioner's detention without any individualized determination violates the procedural component of the Due Process Clause of the Fifth Amendment.

FIFTH CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process — Detention)

60. Petitioner repeats and re-alleges the allegations in the preceding paragraphs as if

fully set forth here.

61. 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. *Zadvydas*, 533 U.S. at 690–92; *see Bernal*, 2025 WL 3281422, at *6 ("the government may never detain an individual that enjoys the protection of the Due Process Clause without a legal basis to do so").

62. Petitioner is neither a flight risk nor a danger to the community. He has lived in San Mateo for approximately five years, works for a local plumbing business, attends and volunteers at his church several times a week, and has never been arrested by police or had a criminal record. His detention serves neither permissible purpose, and the government has made no finding that it does.

63. Petitioner's detention therefore bears no "reasonable relation" to any legitimate purpose. *Jackson*, 406 U.S. at 738. Its apparent purpose is "not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons." *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring). It violates the substantive component of the Due Process Clause.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(1) Assume jurisdiction over this matter;

(2) Issue an order to show cause directing Respondents to show why the writ should not be granted, returnable within three days, pursuant to 28 U.S.C. § 2243;

(3) Issue a writ of habeas corpus ordering Respondents to release Petitioner from custody immediately, and in any event by the close of business on the day of the Court's order;

(4) Declare that Petitioner's arrest and detention violate the Fourth and Fifth Amendments, 8 U.S.C. §§ 1226(a) and 1357(a)(2), and their implementing regulations;

(5) Enjoin Respondents from transferring Petitioner outside the Northern District of

California or removing him from the United States while this proceeding is pending, and order that, if he has been transferred, he be returned to this District;

(6) Enjoin Respondents from re-detaining Petitioner unless his detention is ordered at a custody hearing before a neutral decisionmaker at which the government bears the burden of proving, by clear and convincing evidence, that he is a flight risk or a danger to the community, *see Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *Martinez v. Clark*, 124 F.4th 775, 785–86 (9th Cir. 2024);

(7) Award Petitioner his costs and reasonable attorney's fees under the Equal Access to Justice Act, 28 U.S.C. § 2412; and

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

Dated: October 20, 2026

Respectfully submitted,

/s/ Jeremiah Johnson
JEREMIAH JOHNSON (CA SBN #227275)
Director
Habeas Institute, U.C. Law San Francisco
Pro Bono Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I, Jeremiah Johnson, submit this verification on behalf of Petitioner because I am Petitioner's attorney and he is detained. I verify that the factual statements in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on October 20, 2026, at San Francisco, California.

/s/ Jeremiah Johnson
JEREMIAH JOHNSON (CA SBN #227275)