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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 SEGUNDO MARIANO ALVARADO
CARRERO,

12 Plaintiff-Petitioner,

13 vs.

14 TONYA ANDREWS, WARDEN OF
15 GOLDEN STATE ANNEX; SERGIO
ALBARRAN, ACTING FIELD OFFICE
16 DIRECTOR OF ENFORCEMENT AND
REMOVAL OPERATIONS, SAN
17 FRANCISCO FIELD OFFICE,
IMMIGRATION AND CUSTOMS
18 ENFORCEMENT; MARKWAYNE MULLIN,
SECRETARY, U.S. DEPARTMENT OF
19 HOMELAND SECURITY; TODD BLANCHE,
U.S. ATTORNEY GENERAL; TODD
20 LYONS, ACTING DIRECTOR,
IMMIGRATION AND CUSTOMS
21 ENFORCEMENT AND REMOVAL
OPERATIONS,

22 Defendants-Respondents.
23

Case No. 1:26-cv-02078

Agency No. 240-851-061

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

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

Judge Dale Alan Drozd

Magistrate Judge Sean C. Riordan

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MEMORANDUM OF POINTS AND AUTHORITIES

INTRODUCTION

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3 1. Plaintiff/Petitioner Segundo Mariano Alvarado Carrero is a forty-one-year-old
4 Venezuelan national who, after fleeing a repressive regime in Venezuela, arrived in the United
5 States in June 2022. Within one day of his arrival, he was apprehended by an Immigration and
6 Customs Enforcement (ICE) officer who released Plaintiff/Petitioner on his own recognizance,
7 subject to certain conditions of release, including mandatory virtual and in-person check-ins, timely
8 notice when Plaintiff/Petitioner changes his address, and no arrests or convictions.

9 2. In the nearly four years since his release, Plaintiff/Petitioner has satisfied the
10 conditions imposed on him by Defendant/Respondent ICE. He attended every in-person and
11 virtual ICE check-in. And he had no criminal charges, much less convictions, levied against him.

12 3. In addition to fulfilling his conditions of release, Plaintiff/Petitioner has spent the
13 last four years building a life in the United States. To integrate into United States society,
14 Plaintiff/Respondent enrolled in local Miami Senior Adult Education classes to learn English.
15 There, he was taught by Dionnet Nunez, a United States Citizen, and the two soon fell in love. In
16 May 2024, Ms. Nunez accepted Plaintiff's/Petitioner's proposal and the two started planning a
17 wedding while also jointly supporting Ms. Nunez' two boys in Miami, Florida. Plaintiff/Petitioner
18 has also held numerous construction, painting, and moving jobs, allowing him to be a provider for
19 his family.

20 4. Plaintiff/Petitioner has also diligently pursued his claim for asylum. He filed an
21 asylum application on December 13, 2022, and has been prepared to attend all of his immigration
22 court hearings (all of which were continued). The last notice that he received stated that his
23 immigration court hearing was continued to 2028.

24 5. Everything changed for Plaintiff/Petitioner on January 25, 2026, when he was
25 detained by Florida Highway Patrol while driving himself and two colleagues to a job site in their
26 company's moving truck. After running Plaintiff's/Petitioner's valid driver's license through some
27 unknown system, the officer arrested Plaintiff/Petitioner and took him directly to a local
28 immigration processing center. No one ever explained why he was arrested and now detained in

1 immigration detention. Then a series of abrupt, and seemingly arbitrary, transfers started. First,
2 Defendants/Respondents transferred Plaintiff/Petitioner to the South Florida Detention Facility,
3 known as “Alligator Alcatraz,” where he was subjected to inhumane conditions.
4 Plaintiff/Petitioner was then transferred in chains across the country to Texas, then to Arizona, and
5 then finally to his present location at Golden State Annex (“GSA”) in McFarland, California.

6 6. Defendants’/Respondents’ re-detention of Plaintiff/Petitioner violates his rights to
7 procedural due process under the Fifth Amendment to the United States Constitution, and the Court
8 is empowered to grant Petitioners/Plaintiffs petition/complaint on this violation alone.¹ *See*
9 *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). Plaintiff/Petitioner has a profound and protected
10 liberty interest in his freedom from erroneous government confinement, which is currently denying
11 him his the ability to wake up in his home, live with his family, earn a living, and learn how to
12 speak English. Defendants/Respondents were required, but utterly failed, to provide
13 Plaintiff/Petitioner with due process before depriving him of liberty, which here, would have
14 required a hearing before a neutral adjudicator to determine whether re-detention was
15 constitutionally warranted.

16 7. Defendants/Respondents are also violating Plaintiff’s/Petitioner’s right to
17 substantive due process under the Fifth Amendment. Civil immigration detention is only
18 permissible when it serves to prevent the risk of danger to the community or flight, and if it does
19 not serve either of those goals, it is unconstitutionally punitive. *See Jones v. Blanas*, 393 F.3d 918,
20 931-32 (9th Cir. 2004); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Defendants/Respondents
21 already determined that Plaintiff/Petitioner did not pose such a risk, and because
22 Plaintiff’s/Petitioner’s conduct in the U.S. has only further evidenced these initial determinations,
23 Respondents cannot be said to have had any legitimate basis for re-detention.

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28 ¹ *See e.g., Constantinovici v. Bondi*, 806 F. Supp. 3d 1155, 1166 (S.D. Cal. 2025) (granting habeas petition and ordering immediate release based on due process claim and “declin[ing] to address the remaining grounds in the Petition for seeking release”).

1 8. Finally, Defendants’/Respondents’ decision to re-detain Plaintiff/Petitioner was
2 arbitrary, capricious, an abuse of discretion, and contrary to constitutional right, and as such, also
3 violated the Administrative Procedure Act (“APA”).

4 9. Plaintiff/Petitioner therefore files an amended Petition for Writ of Habeas corpus,²
5 by and through undersigned counsel, seeking an order for his immediate release, and enjoining
6 Defendants/Respondents from violating his rights in the future.

7 **JURISDICTION**

8 10. This action arises under the Constitution of the United States, the Immigration and
9 Nationality Act (“INA”), 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (“APA”),
10 5 U.S.C. § 500 et seq.

11 11. Jurisdiction is proper under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2241,
12 Article I, Section 9, Clause 2 of the United States Constitution (habeas corpus), 28 U.S.C. §§ 2201–
13 02 (Declaratory Judgement Act), and the Suspension Clause of Article 1 of the U.S. Constitution.
14 The United States has waived its sovereign immunity pursuant to 5 U.S.C. § 702.

15 12. This Court may grant declaratory and injunctive relief pursuant to 28 U.S.C. §§
16 2241, 1651, 2201–02, and 5 U.S.C. § 702. This Court also has broad equitable powers to grant
17 relief to remedy a constitutional violation. *See Roman v. Wolf*, 977 F.3d 935, 941 (9th Cir. 2020).

18 **VENUE**

19 13. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3), 28
20 U.S.C. § 1391(b)(2) and (e)(1), and Local Rule 120(d) because Petitioner is detained at Golden
21 State Annex in Kern County within the Eastern District of California.

22 **REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

23 14. The Court must grant the petition for writ of habeas corpus or issue an order to show
24 cause (OSC) to the Defendants/Respondents “forthwith,” unless the Plaintiff/Petitioner is not
25 entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require
26 _____

27 ² On March 16, 2026, Plaintiff/Petitioner filed a pro se habeas petition asserting release on the
28 grounds of prolonged detention. *See* ECF No. 1. On March 30, 2026, undersigned counsel and
Plaintiff/Petitioner spoke for the first time and entered into an attorney-client relationship. *See*
Alvarado Carrero Decl. at ¶ 24.

1 Defendants/Respondents to file a return “within three days unless for good cause additional time,
2 not exceeding twenty days, is allowed.” *Id.*

3 15. Courts have long recognized the significance of the habeas statute in protecting
4 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
5 important writ known to the constitutional law of England, affording as it does a swift and
6 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400
7 (1963).

8 16. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is currently
9 detained by Defendants/Respondents.

10 PARTIES

11 17. Plaintiff/Petitioner **Segundo Mariano Alvarado Carrero** entered the United States
12 on June 21, 2022. He currently resides in McFarland, California, as a detainee at the Golden State
13 Annex immigration detention center, but normally resides in Miami, Florida, with his fiancée and
14 her two sons.

15 18. Respondent **Tonya Andrews** is the Facility Administrator or Warden of Golden
16 State Annex. She is an employee of The GEO Group, Inc., a private company that contracts with
17 DHS to run Golden State Annex. In her capacity as Warden, she oversees the administration and
18 management of Golden State Annex. Accordingly, Respondent Andrews is the immediate
19 custodian of Plaintiff/Petitioner, who brings this action against Respondent Andrews in her official
20 capacity.

21 19. Respondent **Sergio Albarran** the Acting Field Office Director of the DHS
22 Enforcement and Removal Operations (ERO) San Francisco Field Office. In that capacity,
23 Respondent Albarran is charged with overseeing all DHS detention centers in Northern California,
24 Hawaii, Guam, and Saipan and has the authority to make custody determinations regarding
25 individuals detained there. Respondent Albarran is a legal custodian of Plaintiff/Petitioner, who
26 brings this action against Respondent Albarran in his official capacity.

27 20. Respondent **Todd Lyons** is the Acting Director of ICE. In that capacity,
28 Respondent Lyons oversees DHS’s administration and enforcement of immigration laws and has

1 supervisory responsibility for and authority over the detention and removal of non-citizens
2 throughout the United States. Respondent Lyons is a legal custodian of Plaintiff/Petitioner, who
3 brings this action against Respondent Lyons in his official capacity.

4 21. Respondent **Markwayne Mullin** is the Secretary of the U.S. Department of
5 Homeland Security. DHS oversees ICE, which is responsible for the administration and
6 enforcement of immigration laws and has supervisory responsibility for and authority over the
7 detention and removal of non-citizens throughout the United States. Respondent Mullin is the
8 ultimate legal custodian of Plaintiff/Petitioner, who brings this action against Respondent Mullin in
9 his official capacity.

10 22. Respondent **Todd Blanche** is the acting Attorney General of the United States. As
11 the Attorney General, he oversees the Executive Office for Immigration Review (“EOIR”), the
12 agency within the Department of Justice (“DOJ”) which includes all Immigration Judges (“IJs”)
13 and the Board of Immigration Appeals (“BIA”). Plaintiff/Petitioner bring this action against
14 Respondent Blanche in his official capacity.

15 STATEMENT OF FACTS

16 **I. In 2022, ICE Apprehended Plaintiff/Petitioner and Released Him on His Own** 17 **Recognizance, Subject to Conditions of Release that Plaintiff/Petitioner Satisfied.**

18 23. In 2022, Plaintiff/Petitioner was forced to flee Venezuela’s repressive regime and
19 entered the United States on or around June 21, 2022. *See* Alvarado Carrero Decl. at ¶ 1. Shortly
20 after arriving, Plaintiff/Petitioner was apprehended by Defendant ICE and detained for
21 approximately one day. *See id.* at ¶ 2; Alvarado Carrero Decl., Exh. 1 (Order of Release on
22 Recognizance (June 23, 2022)).

23 24. During that brief detention, an ICE Officer questioned Plaintiff/Petitioner about his
24 family, his asylum claim, and his entry into the U.S., and determined to release Plaintiff/Petitioner
25 on his own recognizance, subject to specific conditions of release. *See* Alvarado Carrero Decl. at ¶
26 2; Alvarado Carrero Decl., Exh. 2 (BI SmartLINK S-Site Participant Agreement (June 23, 2022)).
27 In a document titled “Order of Release on Recognizance,” dated June 23, 2023, Plaintiff/Petitioner
28 was ordered to complete various release procedures, including to: (1) report for all hearings or

1 interviews with ICE and immigration court; (2) surrender for deportation if ordered to; (3) report
2 in-person to the Miami ICE office on July 7, 2022; (4) not violate any local, state, or federal laws;
3 (5) assist ICE with obtaining any necessary travel documents; (6) comply with virtual check-ins via
4 the BI SmartLINK system; (7) not associate with known gang members or criminal associates; (8)
5 continue to follow any prescribed doctor's orders; and (9) express understanding that any violation
6 of these orders may result in revocation of employment authorization, further ICE detention, or
7 criminal prosecution. *See* Exh. 1 (Order of Release on Recognizance (June 23, 2022)); Exh. 2 (BI
8 SmartLINK S-Site Participant Agreement (June 23, 2022)).

9 25. Plaintiff/Petitioner complied with all in-person and digital check-in procedures
10 mandated by Defendants/Respondents. *See* Alvarado Carrero Decl. at ¶¶ 3–6. Plaintiff/Petitioner
11 attended all three in-person ICE check-ins that Defendant/Respondent ICE demanded of him in
12 July 2022, August 2022, and August 2023. *Id.* at ¶¶ 3–4; Exh. 1 (Order of Release on
13 Recognizance (June 23, 2022)); Exh. 2 (BI SmartLINK S-Site Participant Agreement (June 23,
14 2022)). Plaintiff/Petitioner also attended all weekly virtual check-ins from June 2022 to July 2022.
15 Alvarado Carrero Decl. at ¶¶ 3–6. In August 2023 at his last in-person check-in, Plaintiff/Petitioner
16 was told by Respondent ICE that he no longer needed to attend check-ins with ICE as long as he
17 attended his immigration court dates, which Plaintiff/Petitioner planned to do. *See id.* at ¶¶ 4–5.
18 Before his arrest and re-detention by Defendants/Respondents, Plaintiff/Petitioner was planning to
19 attend his court hearing scheduled in 2028. *Id.* at ¶ 6.

20 **II. In the Four Years Since his Release on His Own Recognizance, Plaintiff/Petitioner**
21 **Has Developed Strong Family, Community, and Work Ties to the United States.**

22 26. Plaintiff/Petitioner has spent the last four years cultivating strong family,
23 community, and work ties to the United States. In an effort to integrate into American culture and
24 life and recognizing that English is a prerequisite to becoming a United States citizen,
25 Plaintiff/Petitioner enrolled in English classes at Miami Senior Adult Education Center in March
26 2024. *Id.* at ¶ 11; Alvarado Carrero Decl., Exh. 9 (Miami Senior Adult Education ID (Jan. 2024)).
27 There, he built strong friendships with his classmates and teachers, many of whom wrote letters of
28

1 support for the instant petition. *See* Alvarado Carrero Decl at ¶ 11; Alvarado Carrero Decl., Exh.
2 10 (Notarized Letters of Support).

3 27. In May 2024, Plaintiff/Petitioner entered into a relationship with Dionnet Nunez, a
4 U.S. citizen and Plaintiff/Petitioner’s prior English teacher. *See* Alvarado Carrero Decl. at ¶ 12.
5 The two became close in May 2024 in the wake of Plaintiff/Petitioner’s father’s passing when Ms.
6 Nunez supported Plaintiff/Petitioner through his grief. *See id.* Plaintiff/Petitioner proposed to Ms.
7 Nunez in May 2025, at the Miami Beach clock-tower, where Plaintiff/Petitioner had first seen the
8 ocean. *See id.* at ¶ 13. The two live together and jointly support Ms. Nunez’ two U.S. citizen boys,
9 ages 19 and 21, both of whom live with Plaintiff/Petitioner and Ms. Nunez. *See id.* at ¶ 15.

10 28. Plaintiff/Petitioner has also made himself a valuable member of his family and
11 community by earning and keeping gainful employment. He applied for and obtained employment
12 authorization, which allowed him to maintain lawful, gainful employment over the years to support
13 himself and his family, first with a small construction company that he helped grow into a thriving
14 business. *See* Alvarado Carrero Decl. ¶¶ 5–9; Alvarado Carrero Decl., Exh. 5 (Employment
15 Authorization Card (Nov. 25, 2023)). For example, he worked as a painter for Florida Public
16 Schools, *see* Alvarado Carrero Decl. ¶ 9; Alvarado Carrero Decl., Exh. 7 (Florida Public Schools
17 Contractor Card), and was employed by a moving company up until his re-detention by
18 Defendants/Respondents in January 2026, *see* Alvarado Carrero Decl. at ¶ 9. *See* Exh. 5
19 (Employment Authorization Card (Nov. 25, 2023)).

20 29. Plaintiff/Petitioner also advanced his claim for asylum before the immigration court
21 in the months following his release by Defendant/Respondent ICE in June 2022. On December 13,
22 2022, Plaintiff/Petitioner submitted an asylum application to the immigration court in Miami,
23 asserting a fear of past and future persecution in Venezuela due his political opinion. *See* Alvarado
24 Carrero Decl. at ¶ 5; Alvarado Carrero Decl., Exh. 3 (Filed I-589 (Dec. 13, 2022)); Alvarado
25 Carrero Decl., Exh. 6 (EOIR Asylum Application Payment Receipt (Sept. 28, 2025)).
26 Plaintiff/Petitioner intended to attend his asylum hearing in 2028, but that hearing has presumably
27 been taken off calendar now with his re-detention. *See* Alvarado Carrero Decl. at ¶¶ 5–6.
28

1 **III. Plaintiff/Petitioner was Re-Detained by Defendants/Respondents in January 2026**
2 **Without Any Notice, Pre-Detention Hearing, or an Opportunity to Dispute the Re-**
3 **Detention.**

4 30. Around 9am on January 25, 2026, Plaintiff/Petitioner was pulled over by Florida
5 Highway Patrol while driving himself and two colleagues to work in their employer’s moving
6 truck. *See id.* at ¶ 16. Without stating a reason for pulling them over, the detaining officer asked to
7 see identification for everyone in the car to run their information. *Id.* at ¶ 17. Shortly thereafter,
8 two additional police vehicles arrived on the scene. *See id.* Eventually, all three officers
9 approached Plaintiff’s/Petitioner’s vehicle and placed him and his two colleagues under arrest for
10 “not having status,” despite the fact that Plaintiff/Petitioner had valid work authorization and a
11 pending court date. *Id.* at ¶ 18; *see* Exh. 5 (Employment Authorization Card (Nov. 25, 2023)). The
12 three men were forced into three separate vehicles and were driven directly to the ICE detention
13 center in West Palm Beach. *See id.* Plaintiff/Petitioner was never charged with—much less
14 convicted of—a crime following the traffic stop. *See id.* at ¶ 17.

15 31. Plaintiff/Petitioner was detained at the West Palm Beach detention center for three
16 days before being transferred to the South Florida Detention Facility, colloquially known as
17 “Alligator Alcatraz.” *See id.* at ¶¶ 18–20. At Alligator Alcatraz, Plaintiff/Petitioner was subjected
18 to a full week in solitary confinement because he had a fever and a kidney infection. *See id.* at ¶
19 20. There, Defendants/Respondents chained Plaintiff’s/Petitioner’s hands and feet to his bunk for
20 17-hours per day. *See id.*

21 32. Plaintiff/Petitioner was subsequently transferred to three more detention centers in
22 Florida, Texas, and Arizona. *See id.* During all of the transfers, Defendants/Respondents shackled
23 Plaintiff/Petitioner by his hands and feet during the hours-long rides on buses and planes. *See id.*
24 The trip from Arizona to California alone took 18 hours. *See id.* On February 16, 2025,
25 Plaintiff/Petitioner arrived at Golden State Annex (GSA), where he remains in
26 Defendants’/Respondents’ custody today. *See id.* at ¶ 21.

27
28

1 33. At no point since his arrest on January 25, 2026, was Plaintiff/Petitioner told why he
2 was re-detained or given an opportunity to dispute the basis of his re-detention, let alone before a
3 neutral adjudicator. *See id.* at ¶ 19.

4 **IV. Plaintiff's/Petitioner's Re-Detention Has Caused and Is Causing Hardship on Him**
5 **and His Family.**

6 34. At GSA, Plaintiff/Petitioner is thousands of miles away from his family in Florida.
7 *See id.* at ¶ 21. Petitioner's fiancée, Ms. Nunez, has lost a steady source of income that helped Ms.
8 Nunez support herself and her two sons. *See id.* at ¶ 22; Alvarado Carrero Decl., Exh. 12 at 1
9 (Nunez Support Letter (Feb. 22, 2026)). Ms. Nunez has also suffered incredible emotional
10 hardship due to Plaintiff/Petitioner's detention. *See* Exh. 12 at 1 (Nunez Support Letter (Feb. 22,
11 2026)).

12 35. Plaintiff's/Petitioner's detention has also created hardship for his elderly mother,
13 who suffers from myopathy, which requires ongoing care and medical treatments. *See* Alvarado
14 Carrero Decl. at ¶ 23; Exh. 10 at 1 (Notarized Letters of Support (Feb. 2026)).
15 Plaintiff's/Petitioner's family has historically relied on Plaintiff/Petitioner cover the financial
16 aspects of those treatments. *See* Alvarado Carrero Decl. at ¶ 23; Exh. 10 at 1 (Notarized Letters of
17 Support (Feb. 2026)). His family has struggled to navigate the financial (and familial) void created
18 by Plaintiff's/Petitioner's sudden detention. *See* Exh. 10 at 1 (Notarized Letters of Support (Feb.
19 2026)); *see also* Exh. 12 at 1 (Nunez Support Letter (Feb. 22, 2026)).

20 **V. Petitioner's Unconstitutional Re-Detention Is Part of Respondents' Punitive**
21 **Policies.**

22 36. On January 20, 2025, President Donald Trump issued several executive actions
23 relating to immigration, including "Protecting the American People Against Invasion," an
24 executive order (EO) setting out a series of interior immigration enforcement actions. The Trump
25 administration, through this and other actions, has outlined sweeping, executive branch-led changes
26 to immigration enforcement policy, establishing a formal framework for mass deportation. The
27 "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all
28 appropriate action to enable" ICE, Customs and border Protection (CBP), and United States

1 Customs and Immigration Services (USCIS) to prioritize civil immigration enforcement procedures
2 including through the use of mass detention.

3 37. Enacting President Trump’s promise of mass deportations, Respondents DHS and
4 DOJ have enacted arrest quotas³; expanded detention by precedential decision-making,⁴ building
5 and repurposing structures to acquire more detention space,⁵ and engaging the military for
6 enforcement and adjudication efforts⁶; promulgated policies to permit arrests in previously
7 forbidden spaces⁷ without regard to family separation⁸; and purportedly awarded bonuses to their
8 officers based on increased arrest numbers.⁹

9 38. Across the nation, federal courts have repeatedly found the administration’s actions
10 unlawful and unconstitutional.¹⁰ *See Uzcategui v. Brooksby*, No. 4:26-CV-00020-DN-PK, 2026
11 WL 622751, at *5 (D. Utah Mar. 5, 2026) (collecting cases throughout the county). This district
12 alone has been flooded with such challenges to re-detention and has found in almost every case that
13 the administration’s indiscriminate arrests and detention tactics violate the Constitution and law.

14
15 ³ Ted Hesson & Kristina Cooke, *ICE’s Tactics Draw Criticism as it Triples Daily Arrest Targets*, Reuters (June
16 10, 2025), <https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/>; Alayna Alvarez & Brittany Gibson, *DHS Ramps Up Immigration Arrests in Courthouses Across the U.S.*, Axios (June 12, 2025), [https://www.axios.com/2025/06/12/ice-co](https://www.axios.com/2025/06/12/ice-court-house-arrests-trump)
17 [urthouse-arrests-trump](https://www.axios.com/2025/06/12/ice-court-house-arrests-trump).

18 ⁴ *Matter of Q.Li*, 29 I&N Dec. 66 (BIA 2025); *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

19 ⁵ Douglas MacMillan, et al., *ICE Documents reveal plan to double immigrant detention space this year*, The Washington Post (Aug. 15, 2025), <https://www.washingtonpost.com/immigration/2025/08/15/ice-documents-reveal-plan-double-immigrant-detention-space-this-year/>.

20 ⁶ Priscilla Alvarez & Natasha Bertrand, *Trump’s move to use military for immigration enforcement was months in the making*, CNN (June 12, 2025), [https://www.cnn.com/2025/06/12/politics/immigration](https://www.cnn.com/2025/06/12/politics/immigration-protests-military-national-guard)
21 [-protests-military-national-guard](https://www.cnn.com/2025/06/12/politics/immigration-protests-military-national-guard); Margy O’Herron, *Using Military Lawyers as Immigration Judges is Ill-Advised and Potentially Illegal*, Brennan Center (Sept. 29, 2025), [https://www.brennancenter.org/our-](https://www.brennancenter.org/our-work/analysis-opinion/using-military-lawyers-immigration-judges-ill-advised-and-potentially)
22 [work/analysis-opinion/using-military-lawyers-immigration-judges-ill-advised-and-potentially](https://www.brennancenter.org/our-work/analysis-opinion/using-military-lawyers-immigration-judges-ill-advised-and-potentially).

23 ⁷ Memorandum from Sirce E. Owen, Acting Director of EOIR, OPPM 25-06, Cancellation of Operating Policies and Procedures, to All of EOIR (Jan. 28, 2025); Todd M. Lyons, Acting DHS Director, Policy Number 11072.4, Civil Immigration Enforcement Actions In or Near Courthouses (May 27, 2025).

24 ⁸ U.S. Customs and Immigration Enforcement, ICE Directive 11064.4: Detention and Removal of Alien Parents and Legal Guardians of Minor Children (July 2, 2025), <https://www.ice.gov/doclib/foia/policy/11064.4.pdf>.

25 ⁹ Jenny Kleeman, “‘Don’t go to the US – not with Trump in charge’: the UK tourist with a valid visa detained by ICE for six weeks,” The Guardian (Feb. 21, 2026), [https://www.theguardian.com/us-](https://www.theguardian.com/us-news/2026/feb/21/karen-newton-valid-visa-detained-ice)
26 [news/2026/feb/21/karen-newton-valid-visa-detained-ice](https://www.theguardian.com/us-news/2026/feb/21/karen-newton-valid-visa-detained-ice)

27 ¹⁰ Kyle Cheney, *More than 220 judges have now rejected the Trump admin’s mass detention policy*, POLITICO (Nov. 28, 2025), [https://www.politico.com/news/2025/11/28/trump-detention-deportation-po](https://www.politico.com/news/2025/11/28/trump-detention-deportation-policy-00669861)
28 [licy-00669861](https://www.politico.com/news/2025/11/28/trump-detention-deportation-policy-00669861).

1 *See, e.g., Singh v. Andrews*, 803 F. Supp. 3d 1035 (E.D. Cal. 2025); *J.A.E.M. v. Wofford*, 812 F.
2 Supp. 3d 1058 (E.D. Cal. 2025); *Alvarenga Matute v. Wofford*, 807 F. Supp. 3d 112 (E.D. Cal.
3 2025); *Vilela v. Robbins*, --- F. Supp. 3d ---, No. 1:25-cv-01393-KES-HBK, 2025 WL 3101334
4 (E.D. Cal. Nov. 6, 2025); *Guaura v. Warden*, 26-cv-01124-DAD-AC (HC), 2026 WL 895694 (E.D.
5 Cal. Apr. 1, 2026) (Drozd, J.) (applying *Cajina v. Wofford*, No. 1:25-CV-01566-DAD-AC (HC),
6 2025 WL 3251083 (E.D. Cal. Nov. 21, 2025), to grant petition and order immediate release on
7 habeas petitioner’s procedural due process claim); *Lopez v. Warden of Golden State Annex Det.*
8 *Facility*, No. 1:26-cv-02338-DAD-CKD, 2026 WL 890562 (E.D. Cal. Apr. 1, 2026) (Drozd, J.)
9 (same); *Suarez v. Warden of Mesa Verda Det. Ctr.*, No. 1:26-cv-02263-DAD-AC, 2026 WL
10 878630 (E.D. Cal. Mar. 31, 2026) (Drozd, J.) (same); *Ramos v. Warden of Cal. City Corr. Ctr.*, No.
11 2:26-cv-01026-DAD-JDP, 2026 WL 836368 (E.D. Cal. Mar. 26, 2026) (Drozd, J.) (same);
12 *Cardenas v. Chestnut*, No. 1:26-cv-02073-DAD-SCR (HC), 2026 WL 785871 (E.D. Cal. Mar. 20,
13 2026) (Drozd, J.) (same); *Mayank v. Robbins*, No. 1:26-cv-02059-DAD-AC (HC), 2026 WL
14 788128 (E.D. Cal. Mar. 20, 2026) (Drozd, J.) (same); *Nazarov v. Noem*, No. 1:26-cv-02038-DAD-
15 CSK (HC), 2026 WL 765023 (E.D. Cal. Mar. 18, 2026) (Drozd, J.) (same); *Majano Mendoza v.*
16 *Andrews*, No. 1:26-cv-01976-DAD-CSK, 2026 WL 747344 (E.D. Cal. Mar. 17, 2026) (Drozd, J.)
17 (same); *Caal-Sequil v. Warden of Golden State Annex Det. Facility*, No. 1:26-cv-01998-DAD-JDP,
18 2026 WL 747345 (E.D. Cal. Mar. 17, 2026) (Drozd, J.) (same); *Zheng v. Warden of Cal. City Corr.*
19 *Ctr.*, 26-cv-00780-DAD-SCR, 2026 WL 714631 (E.D. Cal. Mar. 13, 2026) (Drozd, J.) (same);
20 *Garcia v. Lyons*, No. 2:26-cv-00811-DAD-CKD (HC), 2026 WL 710357 (E.D. Cal. Mar. 13, 2026)
21 (Drozd, J.) (same); *Che v. Warden*, No. 2:26-cv-00770-DAD-JDP, 2026 WL 688846 (E.D. Cal.
22 Mar. 13, 2026) (Drozd, J.) (same); *Galdamez v. Warden of Cal. City Det. Ctr.*, No. 1:26-cv-01828-
23 DAD-CKD, 2026 WL 688921 (E.D. Cal. Mar. 11, 2026) (Drozd, J.) (same); *Ortega v. Chestnut*,
24 No. 1:26-cv-01798-DAD-SCR, 2026 WL 660728 (E.D. Cal. Mar. 9, 2026) (Drozd, J.) (same);
25 *Hernandez v. Albarran*, No. 1:26-cv-01162-DAD-SCR, 2026 WL 395635 (E.D. Cal. Feb. 12,
26 2026) (Drozd, J.) (same); *Wang v. Chestnut*, No. 1:26-cv-00462-DAD-CKD, 2026 WL 281455
27 (E.D. Cal. Feb. 3, 2026) (Drozd, J.) (same); *Morales v. Noem*, No. 1:26-cv-00583-DAD-CKD,
28 2026 WL 221780 (E.D. Cal. Jan. 28, 2026) (Drozd, J.) (same); *Singh v. Lyons*, No. 1:26-cv-00508-

1 DAD-EFB, 2026 WL 195076 (E.D. Cal. Jan. 26, 2026) (Drozd, J.) (same); *Cajina*, 2025 WL
2 3251083 (Drozd, .).

3 39. On information and belief, Respondents are re-detaining Plaintiff/Petitioner
4 regardless of the individual facts and circumstances of his case.

5 40. On information and belief, Respondents are using the immigration detention system,
6 including extra-territorial transfer and detention, as a means to punish individuals for asserting
7 rights under the Refugee Act.

8 41. On information and belief, Petitioner has no criminal history and has complied with
9 all reporting requirements mandated by Respondents.

10 LEGAL FRAMEWORK

11 42. The Due Process Clause of the Fifth Amendment protects all “person[s]” from
12 deprivation of liberty “without due process of law.” U.S. Const. amend. V. The right to due
13 process extends to noncitizens. *See Reno v. Flores*, 507 U.S. 292, 306 (1993).

14 43. While the immigration laws afford DHS discretion over its decisions to arrest,
15 detain, and revoke prior release decisions, those decisions are nonetheless constrained by the laws
16 Congress has enacted and the requirements of the Constitution, including the Due Process Clause.
17 *See generally Zadvydas*, 533 U.S. at 690; *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir.
18 2017). Due Process protections include procedural due process, which requires that deprivations of
19 life, liberty, or property be conducted in a fair manner, and substantive due process, which
20 “prevents the government from engaging in conduct that shocks the conscience, or interferes with
21 rights implicit in the concept of ordered liberty.” *United States v. Salerno*, 481 U.S. 739, 746
22 (1987) (citations omitted).

23 **I. Respondents are Violating Plaintiff’s/Petitioner’s Fifth Amendment Right to** 24 **Procedural Due Process.**

25 44. The Due Process Clause of the Fifth Amendment forecloses the government from
26 depriving a person of constitutionally protected liberty or property interests through a process that
27 lacks adequate safeguards. *See Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (“Procedural due
28 process imposes constraints on governmental decisions which deprive individuals of ‘liberty’ or

1 ‘property’ interests within the meaning of the Due Process Clause of the Fifth or Fourteenth
2 Amendment.”). Courts apply a two-step test to determine whether the procedural due process
3 clause applies and, if so, whether it has been violated.

4 45. First, courts ask whether the government action at issue impacts a constitutionally
5 protected liberty or property interest. *See Mathews*, 424 U.S. at 333. If it does, courts will proceed
6 to the second step and apply the balancing test established by the Supreme Court in *Mathews v.*
7 *Eldridge*, which instructs courts to consider three factors: (1) the weight of the private interest at
8 stake; (2) the risk of erroneous deprivation under the current process and the value of additional
9 safeguards; and (3) the government’s interest considering the government function involved and
10 the burden imposed by additional safeguards. 424 U.S. at 334–35.

11 46. Defendants’/Respondents’ re-detention of Plaintiff/Petitioner fails at every step of
12 the *Mathews* analysis.

13 **A. Plaintiff/Petitioner Has a Protected Liberty Interest in Maintaining Their**
14 **Lives Out of Custody.**

15 47. “Freedom from imprisonment—from government custody, detention, or other forms
16 of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”
17 *Zadvydas*, 533 U.S. at 690. The principle applies with equal force to individuals who are free from
18 physical confinement but subject to conditions of supervision, as “‘a noncitizen released from
19 custody pending removal proceedings has a protected liberty interest in remaining out of custody []
20] where an immigration official ‘elected to release’ a petitioner on their own recognizance.”
21 *Cajina*, 2025 WL 3251083, at *3 (Droz, J.) (quoting *Salcedo Aceros v. Kaiser*, No. 25-cv-06924-
22 EMC, 2025 WL 2637503, at *6–7 (N.D. Cal. Sept. 12, 2025)). This Court, as well as numerous
23 courts both within and outside of this district, have accordingly held that noncitizens who were
24 conditionally released by immigration officials after apprehension—i.e., individuals who were
25 subject to conditions of release—possess a liberty interest in remaining free from detention. *See id.*
26 at *3 (Droz, J.) (“In this case, as in many others to have recently come before this court, petitioner
27 acquired a liberty interest in his continued freedom when DHS elected to release him in March
28 2022.”); *Bains v. Noem*, 25-cv-01998-DAD-EFB (HC), 2026 WL 809864, at *3 (E.D. Cal. Mar. 24,

2026) (applying *Cajina* and finding “a substantial protected liberty interest in ... freedom from detention.”); *Vilela*, --- F. Supp. 3d ----, 2025 WL 3101334, at *3–5 (“Petitioner’s release on her own recognizance pending her removal proceedings is similar” to the liberty interest established in *Morrissey*); *J.A.E.M.*, 812 F. Supp. 3d at 1068 (“Given the time he spent at liberty following the government’s determination that he was not a flight risk or danger, as well as the government’s implicit promise that any custody redetermination would be based on those same criteria, petitioner has a protected ‘interest in remaining at liberty unless [he] no longer meets those criteria.’”) (quoting *Espinoza v. Kaiser*, No. 1:25-CV-01101-JLT-SKO, 2025 WL 2581185, at *13 (E.D. Cal. Sept. 5, 2025)); *Singh v. Warden of Golden State Annex Det. Facility*, No. 1:25-CV-01689-EPG-HC, 2026 WL 171952, at *4–5 (E.D. Cal. Jan. 22, 2026) (“Relying on *Morrissey*, courts in this district have consistently held that noncitizens who have been released from immigration custody pending civil removal proceedings have a protected liberty interest in remaining out of immigration custody,” and collecting cases); *Garcia Mariagua v. Chestnut*, 25-cv-01744-DJC-CSK, 2025 WL 3551700, at *3 (E.D. Cal. Dec. 11, 2025) (finding a substantial private interest where petitioner spent her year-and-a-half out of custody building a life with her partner, working, attending a local church, and enrolling in online courses for English and marketing); *Bilal A. v. Wofford*, No. 1:25-CV-01715-KES-HBK (HC), 2025 WL 3648366, at *3 (E.D. Cal. Dec. 16, 2025) (same)

48. Thus, consistent with this Court’s holding in *Cajina* and its progeny, Plaintiff/Petitioner “acquired a liberty interest in his continued freedom when DHS elected to release him in [June] 2022.” *Cajina*, 2025 WL 3251083, at *3 (Drozd, J.).

B. Defendants’/Respondents’ Re-Detention of Plaintiff/Petitioner Violated His Right to Procedural Due Process Under *Mathews v. Eldridge*.¹¹

49. The procedural requirements due under the Fifth Amendment are dictated by the three step framework articulated in *Mathews*, which examines: (1) the weight of the private interest at stake; (2) the risk of erroneous deprivation of that interest under the government’s current

¹¹ “The Court need not determine whether § 1225 or § 1226 applies in this case because petitioner has a liberty interest in [their] continued release regardless of the applicable detention scheme.” *Cajina*, 2025 WL 3251083, *3 (Drozd, J.).

1 procedures and the value of additional safeguards; and (3) the government’s interest in maintaining
2 the current procedures. *See* 424 U.S. at 335. All three *Mathews* factors tip sharply in
3 Plaintiff’s/Petitioner’s favor.

4 **1. Plaintiff/Petitioner Has a Strong Liberty Interest in Freedom from**
5 **Detention.**

6 50. This Court, along with federal district courts throughout California, has repeatedly
7 found a “a strong private interest in ... continued release” where, as here, a plaintiff/petitioner was
8 released on his own recognizance by Defendant/Respondent ICE in 2022, fulfilled his check-in
9 requirements, and had no material changed circumstances between his last check in and his re-
10 detention. *Cajina*, 2025 WL 3251083, *4 (Drozd, J.) (finding “strong private interest in continued
11 release” where petitioner was released in 2022, satisfied his conditions of release, and there were
12 no changed material circumstances); *see Perez v. Albarran*, 25-cv-01540-DAD-CSK (HC), 2025
13 WL 3187578, at *3 (E.D. Cal. Nov. 14, 2025) (Drozd, J.) (finding “strong private interest” where
14 petitioner was released in 2018 and not provided a pre-deprivation hearing before re-detention in
15 2025); *Bains*, 2026 WL 809864, at *3 (applying *Cajina* and finding “a substantial protected liberty
16 interest in ... freedom from detention.”).

17 51. This liberty interest is particularly profound for Plaintiff/Petitioner, who fulfilled
18 every condition of release that was set by ICE in 2022, was released by ICE following every check-
19 in, which effectively amounts to subsequent determinations that Plaintiff/Petitioner is neither a
20 flight risk nor a danger. *See Cajina*, 2025 WL 3251083, at *4 (Drozd, J.) (finding strong private
21 interest in release where petitioner complied with all conditions of release, “immigration officers
22 made multiple periodic determinations that petitioner posed neither a flight risk nor a danger” by
23 way of not detaining petitioner, and the absence of material changed circumstances); *Doe v.*
24 *Becerra*, 787 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025) (“Moreover, the actions of the Government
25 in allowing Petitioner to remain in the community for over five years strengthen Petitioner’s liberty
26 interest.”).

27 52. And in the nearly four years since his release by ICE, Plaintiff/Petitioner has
28 developed a family, community ties, and steady employment in Florida. He found his future wife,

1 created a life with her and her two sons, held gainful employment that allowed him to support his
2 U.S.-based family as well and the medical needs of his mother. *See* Alvarado Carrero Decl. ¶¶ 9–
3 15; Exh. 5 (Employment Authorization Card (Nov. 25, 2023)); Exh. 7 (Florida Public Schools
4 Contractor Card); Exh. 8 (Florida Driver’s License (Dec. 8, 2023)); Exh. 9 (Miami Senior Adult
5 Education ID (Jan. 2024)); Exh. 10 (Notarized Letters of Support (Feb. 2026)); Exh. 11 at 1 (Nunez
6 Support Letter (Feb. 22, 2026)). He has also diligently pursued his asylum claim, which, because
7 Plaintiff’s/Petitioner’s re-detention, was pending on a non-detained docket with the next hearing
8 scheduled for 2028. *See* Exh. 3 (Filed I-589 (Dec. 13, 2022)); Exh. 6 (EOIR Asylum Application
9 Payment Receipt (Sept. 28, 2025)). Several years of release from custody coupled with
10 community, family, and work ties to the community are precisely the types of equities that have led
11 this Court and other federal district courts to find a substantial liberty interest. *See Cajina*, 2025
12 WL 3251083, at *4 (Drozd, J.) (“The total length of time of his release strengthens petitioner’s
13 interest in his continued release.”); *Perez*, 2025 WL 3187578, at *3 (Drozd, J.) (same); *Singh*, 803
14 F. Supp. 3d at 1047 (finding a substantial liberty interest where petitioner “lawfully worked full-
15 time, ha[d] become an active member of his community, and regularly volunteer[ed] at his temple”
16 in the year-and-a-half after his release); *J.A.E.M.*, 812 F. Supp. 3d at 1070 (finding a “significant
17 private interest” where “Petitioner had been out of custody for three-and-a-half years, and during
18 that time, lived with his family, worked, and practiced his religion.”); *Vilela*, --- F. Supp. 3d ----,
19 2025 WL 3101334, at *3–6 (considering family ties, community ties, and employment in finding
20 “significant private interest in remaining free from detention.”); *Pinchi v. Noem*, 792 F. Supp. 3d
21 1025, 1033 (N.D. Cal. 2025) (finding the same, reasoning that “[s]he has an interest in remaining in
22 her home, continuing her employment, providing for her family, obtaining necessary medical care,
23 maintaining her relationships in the community, and continuing to attend her church.”); *Garcia*
24 *Mariagua*, 2025 WL 3551700, at *3 (discussing development of a family, community ties, and
25 employment as supporting her “substantial private interest in maintaining her out-of-custody
26 status.”).

27 53. In sum, Plaintiff’s/Petitioner’s liberty interest has only grown since his release by
28 Defendants/Respondents in 2022. In the past four year, he has satisfied his conditions of release,

1 developed family, community, and employment in the United until he was re-detained by
 2 Defendants/Respondents in January 2026. *See* Alvarado Carrero Decl. at ¶¶ 2–15; Exh. 1 (Order of
 3 Release on Recognizance (June 23, 2022)); Exh. 2 (BI SmartLINK S-Site Participant Agreement
 4 (June 23, 2022)); Exh. 7 (Florida Public Schools Contractor Card); Exh. 9 (Miami Senior Adult
 5 Education ID (Jan. 2024)); Exh. 10 (Notarized Letters of Support (Feb. 2026)); Exh. 11 (Nunez
 6 Support Letter (Feb. 22, 2026). Thus, under *Cajina* and its progeny “petitioner has a strong private
 7 interest in his continued release.” 2025 WL 3251083, at *4 (Drozd, J.); *see Che*, 2026 WL 688846,
 8 at *1 (Drozd, J.); *Perez*, 2025 WL 3187578, at *3 (Drozd, J.); *Bains*, 2026 WL 809864, at *3;
 9 *Rodriguez Diaz v. Kaiser*, No. 25-CV-05071-TLT, 2025 WL 3011852, at *10 (N.D. Cal. Sept. 16,
 10 2025) (“Hence, the Court finds that Petitioner-Plaintiff’s protected liberty interest has only grown
 11 as he has exercised his right to live and work for five years under the terms of his bond.”).

12 **2. There is an Unacceptable Risk of Erroneous Deprivation, as**
 13 **Demonstrated by Plaintiff’s/Petitioner’s Current Detention.**

14 54. Plaintiff’s/Petitioner’s detention without any pre-deprivation process to determine
 15 whether a material change in circumstances warranted re-detention leaves no question that there is
 16 a substantial risk of erroneous deprivation of his liberty interest in freedom from confinement. *See*
 17 *Clene C. D. v. Robbins*, No. 1:25-CV-01463-KES-SKO (HC), 2025 WL 3492118, at *6 (E.D. Cal.
 18 Dec. 4, 2025) (“Second, ‘the risk of an erroneous deprivation [of liberty] is high’ where, as here,
 19 ‘[the petitioner] has not received any bond or custody redetermination hearing.’” (quoting *A.E. v.*
 20 *Andrews*, No. 1:25-cv-00107-KES-SKO, 2025 WL 1424382, at *5 (E.D. Cal. May 16, 2025));
 21 *Cajina*, 2025 WL 3251083, at *4 (Drozd, J.).

22 55. “Civil immigration detention, which is ‘nonpunitive in purpose and effect[,]’ is
 23 justified when a noncitizen presents a risk of flight or danger to the community.” *J.A.E.M.*, 812 F.
 24 Supp. 3d at 1070 (quoting *Zadvydas*, 533 U.S. at 690). By virtue of their decision to release
 25 Plaintiff/Petitioner on his own recognizance nearly four years ago, *see* Exh. 1 (Order of Release on
 26 Recognizance (June 23, 2022)), Exh. 2 (BI SmartLINK S-Site Participant Agreement (June 23,
 27 2022)), Defendants/Respondents “necessarily determined that Petitioner was not a danger to the
 28 community or a flight risk.” *Lopez v. Wofford*, No. 1:25-CV-01226-KES-SKO (HC), 2026 WL

1 391989, at *1 (E.D. Cal. Feb. 12, 2026) (citing *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176
2 (N.D. Cal. 2017)); see *Hernandez v. Janecka*, Case No. 5:26-cv-00710-MBK, 2026 WL 734524, at
3 *9 (C.D. Cal. Mar. 4, 2026) (“Petitioners’ initial release from custody ‘reflects a determination by
4 the government that the noncitizen is not a danger to the community or a flight risk.’” (quoting *Sun*
5 *v. Santacruz*, No. 5:25-CV-02198-JLS-JC, 2025 WL 2730235, at *6 (C.D. Cal. Aug. 26, 2025))).
6 The absence of a pre-deprivation hearing to determine whether material changed circumstances
7 have undermined that determination creates a high risk of erroneous deprivation. See *Cajina*, 2025
8 WL 3251083, at *4 (Drozd, J.); *Bains*, 2026 WL 809864, at *3 (“Without an individualized bond
9 determination by a neutral factfinder in order to determine whether his continued detention is
10 legally justified, the risk of erroneous deprivation of petitioner’s protected liberty interests is
11 great.”); *J.A.E.M.*, 812 F. Supp. 3d at 1070 (same); *Garcia v. Andrews*, No. 2:25-CV-01884-TLN-
12 SCR, 2025 WL 1927596, at *5 (E.D. Cal. July 14, 2025) (same).

13 56. Given the complete lack of any process and the related lack of any material changes
14 in circumstances, there is a high risk that the absence of pre-deprivation process—i.e., a hearing
15 before a neutral adjudicator to determine whether material changed circumstances render
16 Plaintiff/Petitioner a danger to the community or a flight risk—has resulted in
17 Plaintiff’s/Petitioner’s erroneous and unlawful detention. See *Cajina*, 2025 WL 3251083, at *4
18 (Drozd, J.) (agreeing with this rationale and finding for petitioner); *Perez*, 2025 WL 31875778, at
19 *3 (Drozd, J.) (same); *Bains*, 2026 WL 809864, at *3 (same); *J.A.E.M.*, 812 F. Supp. 3d at 1070
20 (same); *Garcia*, 2025 WL 1927596, at *5 (same).

21 57. There is substantial value of procedural safeguards, namely (1) adequate pre-
22 deprivation notice; (2) a pre-deprivation hearing before a neutral adjudicator; and (3) where the
23 government bears the burden of proving material changed circumstances through clear and
24 convincing evidence. See *Singh*, 803 F. Supp. 3d at 1048 (“[W]hen there is a substantial liberty
25 interest at stake, the government should have the burden of proof by clear and convincing evidence
26 that an individual is a flight risk or danger before depriving the individual of that liberty.”).

(1) **A Pre-Deprivation Hearing Is Necessary.**

1
2 58. “[T]he root requirement of the Due Process Clause is that an individual be given an
3 opportunity for a hearing *before* he is deprived of any significant protected interest.” *Cleveland*
4 *Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985) (emphasis added). A post-deprivation
5 process can be an adequate remedy in a “special case,” where: (1) it is “the *only* remed[y] the State
6 could be expected to provide” because a pre-deprivation process would be “impossible”; and (2)
7 “one of the variables in the *Mathews* equation—the value of predeprivation safeguards—is
8 negligible in preventing the kind of deprivation at issue.” *Zinermon v. Burch*, 494 U.S. 113, 128–
9 29 (1990). Neither scenario, let alone both, are present here. Indeed, the government routinely
10 provides bond hearings in immigration court, and the value of adequate notice, an impartial
11 adjudicator, and applying the law correctly is not negligible; it is at the heart of a fair system.

12 59. Plaintiff/Petitioner has not received any process to evaluate whether his detention
13 advances one, let alone both, purposes of civil immigration detention. *See* Alvarado Carrero Decl.
14 at ¶ 19. Indeed, the absence of procedural safeguards has already erroneously deprived
15 Plaintiff/Petitioner of his protected liberty interest, as there are no material changes in
16 circumstances that justify departure from Defendants’/Respondents’ prior findings that
17 Plaintiff/Petitioner is not a flight risk or a danger. *See Cajina*, 2025 WL 3251083, at *4 (Drozd, J.)
18 (applying *Salcedo Aceros*, 2025 WL 2637503, at *12 and others to find a high risk of erroneous
19 deprivation where petitioner was re-detained without a pre-deprivation hearing before a neutral
20 adjudicator); *Perez*, 2025 WL 3187578, at *3 (Drozd, J.) (same); *Bains*, 2026 WL 809864, at *3
21 (“Without an individualized bond determination by a neutral factfinder in order to determine
22 whether his continued detention is legally justified, the risk of erroneous deprivation of petitioner's
23 protected liberty interests is great.”); *Ramazan M. v. Andrews*, 25-cv-01356-KES-SKO (HC), 2025
24 WL 3145562, at *8 (E.D. Cal. Nov. 10, 2025) (ordering a pre-deprivation hearing where there was
25 no indication that petitioner was a flight risk, or that ICE considered petitioner a flight risk before
26 re-detention).

1 (2) **A Neutral Adjudicator is Necessary.**

2 60. The procedural safeguard of a neutral adjudicator is likewise crucial to guaranteeing
3 due process. *See Ramazan M.*, 2025 WL 3145562, at *8–9 (explaining the probative value of a
4 neutral adjudicator). Indeed, “[a] neutral judge is one of the most basic due process protections.”
5 *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), abrogated on other grounds by
6 *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). *See also Diouf v. Napolitano* (“*Diouf II*”),
7 634 F.3d 1081, 1091–92 (9th Cir. 2011) (neutral adjudication decreases the risk of erroneous
8 deprivation). Respondent DOJ, however, is currently unable to provide neutral adjudication. As a
9 former senior EOIR official and military judge recently observed:

10 I don’t think the immigration-court system is a court system . . . What this
11 Administration wants is a rubber stamp.

12 61. Federal courts have recognized that the systematic transformation of EOIR (the
13 subagency within the DOJ that houses the Immigration Courts and BIA) into an instrument of the
14 current administration’s enforcement agenda has made it structurally incapable of providing
15 Plaintiff/Petitioner with the impartial tribunal and individualized assessment that due process
16 requires. *See Memorandum Opinion and Order, Avilez Aguinaga v. Warden*, No. 4:26-0137, 2026
17 WL 266510, at *2 (S.D. Tex. Feb. 2, 2026) (ordering immediate release rather than a bond hearing
18 after acknowledging the argument that “immigration courts have been systematically transformed
19 and are no longer capable of providing an impartial tribunal and individualized assessment”);
20 *Briceno Solano v. Mason*, --- F.Supp.3d ----, No. 2:26-CV-00045, 2026 WL 311624, at *20
21 (S.D.W. Va. Feb. 4, 2026) (ordering immediate release of re-detained petitioner initially released
22 by DHS on own recognizance, and finding “there is no chance any [bond] hearing that occurred
23 would comport with due process.”); *Umarov v. Mason*, No. 2:26-CV-00081, 2026 WL 381614, at
24 *8 (S.D.W. Va. Feb. 11, 2026) (same, quoting *Briceno Solano*).

25 62. EOIR’s inability to provide a fair bond hearing is further amplified by the pressures
26 inherent to the job. IJs and BIA members are career attorneys within the DOJ who ultimately
27 report to the Attorney General, an appointee of the executive branch. Moreover, the Merit Systems
28 Protection Board’s recent ruling in *Jackler* held that such employees are inferior officers with

1 significant policymaking authority, and therefore the President has unfettered authority to terminate
 2 their positions. *Jackler v. Department of Justice*, 2026 WL 789485 (M.S.P.B. 2026). This makes
 3 IJs and BIA members “very susceptible to pressure from above to decide cases in a certain way.”
 4 Karen Musalo et. al., *With Fear, Favor, and Flawed Analysis: Decision-Making in U.S.*
 5 *Immigration Courts*, 65 B.C. L. Rev. 2743, 2755 (2024); Mary Holper, *Discretionary Immigration*
 6 *Detention*, 74 Duke L.J. 961, 1010 (2025) (also describing an IJ as “a prosecutor masquerading as a
 7 judge.”). *See also* Holper, *Discretionary Immigration Detention, supra*, at 972 (describing bond
 8 hearings as “law-free zones”).

9 63. Former and even current IJs have remarked on the omnipresent risk of firing by the
 10 executive branch, which began with the systematic targeting of judges “who granted asylum at high
 11 rates,” “who as lawyers had represented immigrants,” and those who appeared on the Heritage
 12 Foundation’s “DHS watchlist.”¹² Former IJ Emmett Soper, who served in his position for twenty
 13 years, observed, “I think the current administration . . . does not see the immigration courts as
 14 neutral decision-makers. I think that they see immigration courts as a tool for this administration to
 15 advance its policy objectives.”¹³ Former IJ Jeremiah Johnson similarly understood “the hint that
 16 they should be hearing cases a certain way, deciding cases a certain way. Move faster. Less due
 17 process, essentially.”¹⁴ Former San Francisco IJ George Pappas revealed, “We were told to
 18 facilitate deportation.”¹⁵

19 64. As it fires IJs at scale, EOIR is filling vacant seats with adjudicators loyal to the
 20 administration’s deportation agenda. One example is its recruiting and hiring of hundreds of
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 22
 23

24 ¹² Tammy E. Kim, *Inside Donald Trump's Attack on Immigration Courts*, The New Yorker (Oct. 23, 2025),
<https://www.newyorker.com/inside-donald-trumps-attack-on-immigration-court>.

25 ¹³ Geoff Bennett and Ali Schmitz, *Ousted immigration judge describes deepening court backlog*, PBS News
 26 Hour (Nov. 12, 2025), [https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-d](https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog)
[eeptening-court-backlog](https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog).

27 ¹⁴ Hilda Gutierrez, Michael Bott & Son Vo, ‘An all-out attack on immigration court:’ SF immigration
 28 judges speak out after firings, NBC Bay Area (Nov. 25, 2025),
<https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/>.

¹⁵ Marco Poggio, *Judges See an Immigration Court Gutted from Inside*, Law 360, (Oct. 31, 2025),
<https://www.law360.com/articles/2381003/judges-see-an-immigration-court-gutted-from-inside>.

1 military lawyers to sit as IJs after minimal training,¹⁶ and for short, six-month terms.¹⁷ The move
 2 alarms legal experts for myriad reasons, including because of the president’s outsized influence
 3 over the military.¹⁸ A former Army judge advocate and IJ synthesized, “at the end of the day,
 4 they’re soldiers.”¹⁹ Meanwhile, Respondent DOJ has launched a campaign to hire new IJs that
 5 advertises the position as “deportation judges,” describing it as an opportunity to “[b]ring the
 6 hammer down on criminal illegal aliens . . . Defend your communities, your very way of life.”²⁰
 7 Corey Lewandowski, an adviser to former DHS Secretary Noem, publicly commented on the
 8 announcement by stating, “I see more deportations of illegal immigrants in the near future”²¹—an
 9 explicit acknowledgment of the mass deportation policy objective underlying these appointments
 10 and the erosion of institutional boundaries between DOJ and DHS. Respondent DOJ has also
 11 removed requirements that an IJ have experience either as an administrative law judge or at least 10
 12 years immigration law experience.²² Now, “any attorney” may be a temporary IJ after training in
 13 the position for only two weeks.²³ EOIR’s current expectations of long-standing IJs apply with
 14 equal, if not harsher, force to those hired under its new efforts. In December, the agency fired a
 15 military lawyer after his first month on the job, during which he favored the noncitizen in six of the
 16 eleven cases he decided.²⁴

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 21 ¹⁶ Alexandra Villarreal, *Hiring of military lawyers as immigration judges alarms law experts*, The Guardian
 (Sept. 22, 2025), <https://www.theguardian.com/us-news/2025/sep/22/trump-administration-military-lawyers-immigration-judges>.

22 ¹⁷ Kim, *supra* note 12..

23 ¹⁸ Villarreal, *supra* note 16.

24 ¹⁹ Kim, *supra* note 12.

25 ²⁰ See Gutierrez, *supra* note 14. .

26 ²¹ Corey R. Lewandowski (@CLewandowski), X (Sept. 2, 2025, 1:47 PM),
 27 <https://x.com/clewandowski/status/1962950546652070269>.

28 ²² Margy O'Herron, *Using Military Lawyers as Immigration Judges is Ill-Advised and Potentially Illegal*,
 Brennan Ctr. for Justice (Sept. 29, 2025), <https://www.brennancenter.org/our-work/analysis-opinion/using-military-lawyers-immigration-judges-ill-advised-and-potentially>.

²³ *Id.*.

²⁴ Associated Press, *US army lawyer fired as immigration judge after defying Trump deportation agenda*,
 The Guardian (Dec. 19, 2025), <https://www.theguardian.com/us-news/2025/dec/19/army-lawyer-fired-immigration-trump-deportation>.

1 65. The BIA has suffered similar transformation. After taking office, the current
2 administration purged BIA members from twenty-six to nine,²⁵ including all members who were
3 appointed under the prior administration.²⁶ This allowed for a smaller majority to publish decisions
4 and thus highlighted the agency’s lack of independence.²⁷ After the purge, it hired six members:
5 five of whom were former prosecutors, and one of whom as a former immigration judge denied
6 92% of all asylum claims.²⁸

7 66. The reconstituted BIA has issued 81 published opinions between January 20, 2025
8 and March 6, 2026, *all but two* of which found against the noncitizen,²⁹ resulting in a 97% pro-
9 government rate. The reconstituted BIA has issued 81 published decisions.³⁰ All decisions
10 involving bond proceedings ruled against the noncitizen; some reversed prior grants and called for
11 re-detention.³¹ By contrast, the prior administration over its four-year span issued 76 published
12 decisions, 60% of which favored the government.³² The transformation from 60% to 97% pro-
13 government outcomes speaks for itself: the BIA provides far from meaningful review of an IJ’s
14 decision.

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17 ²⁵ See Catholic Legal Immigration Network, Inc., *Precedent or Policy? A Quiet Transformation of the Board*
18 *of Immigration Appeals* (Aug. 22, 2025), <https://www.cliniclegal.org/resources/precedent-or-policy-quiet-transformation-board-immigration-appeals>.

19 ²⁶ Rebecca Cassler, *BIA Decision Strips Immigration Judges of Bond Authority, All but Guarantees*
20 *Mandatory Detention for Undocumented Immigrants*, American Immigration Council (Sept. 12, 2025),
[https://www.americanimmigrationcouncil.org/blog/bia-ruling-immigration-judges-bond-mandatory-](https://www.americanimmigrationcouncil.org/blog/bia-ruling-immigration-judges-bond-mandatory-detention-undocumented-immigrants/)
21 [detention-undocumented-immigrants/](https://www.americanimmigrationcouncil.org/blog/bia-ruling-immigration-judges-bond-mandatory-detention-undocumented-immigrants/).

22 ²⁷ *Id.*

23 ²⁸ “Meet the Board of Immigration Appeals, <https://www.justice.gov/eoir/board-of-immigration-appeals#board> (last accessed Feb. 13, 2026); “Judge Marcos Gemoets FY 2019 - 2024, Houston
24 Immigration Court,” <https://tracreports.org/immigration/reports/judge2024/00501HOU/index.html> (last
25 accessed Feb. 13, 2026).

26 ²⁹ One decision purportedly in favor of the noncitizen described the methods in which an IJ can pretermite an
27 application for relief prior to any evidentiary hearing, and remanded the case back to the IJ to follow that
28 method. See *Matter of C-A-R-R-*, 29 I&N Dec. 13 (BIA 2025). The other decision did not involve a
29 noncitizen, but rather, disciplinary proceedings against an attorney. See *Matter of Landers*, 29 I&N Dec.
30 240 (BIA 2025).

31 ³⁰ See U.S. DOJ, Executive Office for Immigration Review, *BIA Precedent Decisions, Vol. 29*, online at
<https://www.justice.gov/eoir/volume-29> (last accessed Feb. 13, 2026).

32 ³¹ See Catholic Legal Immigration Network, Inc., *supra*, note 25.

³² See U.S. DOJ, Executive Office for Immigration Review, *BIA Precedent Decisions, Vol. 28*, online at
<https://www.justice.gov/eoir/volume-28>.

1 67. The administration’s copious precedential decisions are largely published *post hoc*
 2 to defend the administration’s policies, rather than proceeding from neutral adjudication of
 3 controversies. In the bond context, the BIA has issued a series of decisions that now subjects vast
 4 swaths of noncitizens to mandatory detention. *See, e.g., Matter of Q. Li*, 29 I.&N. Dec. 66 (BIA
 5 2025); *Matter of Yajure Hurtado*, 29 I.&N. Dec. 216 (BIA 2025). These decisions upend a
 6 decades-long understanding of federal law, as federal judges have repeatedly found.³³ Notably,
 7 they come as the DHS has received exorbitantly more money to detain immigrants in for-profit
 8 immigration detention centers.³⁴

9 68. These trends are not happenstance. The administration has also made clear its intent
 10 to utilize EOIR as an enforcement arm through various policy memoranda and guidance. For
 11 example, shortly after becoming EOIR’s acting director, Sirce E. Owen issued “a string of sharply
 12 worded policy memos” that many IJs found “menacing”; one former IJ recalled them as “extremely
 13 combative and derogatory.”³⁵ In one of them, she warned IJs not to demonstrate “bias directed
 14 against DHS” or to be “adjudicatory outliers,” at risk of “close examination and potential action.”³⁶
 15 Tellingly, a leaked memo from DHS admitted its active coordination with DOJ to expand
 16 mandatory detention.³⁷ In January 2026, the Chief Immigration Judge Teresa L. Riley directed all
 17 IJs by email to ignore a district court order holding that one of the BIA’s efforts to expand
 18 mandatory detention was unlawful.³⁸ The District Court Judge who issued the order subsequently
 19 issued a decision finding that the government was not merely disagreeing with her legal
 20 conclusions—it was engaged in “deliberate” defiance, “manufacturing arguments,” and instructing
 21

22 ³³ Josh Gerstein & Kyle Cheney, *Immigration appeals court expands mandatory detention for millions*,
 23 POLITICO (Sept. 5, 2025), [https://www.politico.com/news/2025/09/05/immigration-mandatory-d](https://www.politico.com/news/2025/09/05/immigration-mandatory-detention-00548660)
[etention-00548660](https://www.politico.com/news/2025/09/05/immigration-mandatory-detention-00548660).

24 ³⁴ Caitlin Dickerson, *ICE’s Mind-Bogglingly Massive Blank Check*, The Atlantic (July 31, 2025),
<https://www.theatlantic.com/politics/archive/2025/07/ice-budget-immigration-enforcement/683678/>.

25 ³⁵ Kim, *supra*, note 12.

26 ³⁶ *Id.*

27 ³⁷ Interim Guidance from U.S. Department of Homeland Security to All ICE Employees Re: “Detention
 Authority for Applications for Admission” (July 8, 2025), [https://www.aila.org/ice-memo-interim-guidance-](https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)
[regarding-detention-authority-for-applications-for-admission](https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission).

28 ³⁸ Am. Immigr. Laws. Ass’n, Practice Alert: EOIR Issues Nationwide Guidance on *Maldonado Bautista*,
 AILA Doc. No. 26011404 (Jan. 16, 2026), [https://www.aila.org/library/practice-alert-coir-issues-](https://www.aila.org/library/practice-alert-coir-issues-nationwide-guidance-on-maldonado-bautista)
[nationwide-guidance-on-maldonado-bautista](https://www.aila.org/library/practice-alert-coir-issues-nationwide-guidance-on-maldonado-bautista).

1 IJs to rely on “interpretations that were expressly found unlawful.”³⁹ No clearer evidence of
2 institutional capture could exist: when presented with a federal court order protecting noncitizens’
3 rights, EOIR’s response was to order judges to violate it. *See* Order Adopting Report and
4 Recommendation, *Marco M. v. Bondi, et al.*, No. 0:25-cv-04816-MJD-JFD, 2026 WL 194406, at
5 *1 (D. Minn. Jan. 25, 2026) (“There has been an undeniable move by the Government in the past
6 month to defy court orders or at least to stretch the legal process to the breaking point in an attempt
7 to deny noncitizens their due process rights.”).

8 69. EOIR’s transformation into an enforcement arm of ICE (a subagency within DHS)
9 is evident through: (1) the ongoing mass-scale purge of IJs perceived as obstacles to the
10 administration’s enforcement agenda, and their replacement by administration loyalists; (2) the
11 parallel purge and reconstitution of the BIA, yielding a 97% pro-government decision rate that will
12 approach 100% after the implementation of a new rule; and (3) EOIR policy directives establishing
13 expectations that adjudications favor the government over noncitizens, including when doing so
14 defies federal court orders. Together, this evidence conclusively demonstrates the systematic
15 destruction of EOIR’s ability to neutrally adjudicate cases, particularly those related to detention.

16 70. This Court unequivocally has the authority to conduct Petitioner’s/Plaintiff’s bond
17 hearings in the first instance. *See, e.g., Zheng v. Albarran*, No. 1:25-cv-01685-DJC-CKD, 2025
18 WL 3640676, at *4 (E.D. Cal. Dec. 16, 2025) (enjoining Respondents from re-detaining Petitioner
19 “absent a showing to the Court that there is a change in circumstances to warrant Petitioner’s re-
20 detention”); *L.G.M. v. LaRocco*, No. 25-CV-2631-PKC, 2025 WL 2173577, at *2–3 (E.D.N.Y.
21 July 31, 2025) (district court conducting bond hearing); *Leslie v. Holder*, 865 F. Supp. 2d 627, 633
22 (M.D. Pa. 2012) (collecting cases where district court conducted bond hearing). *See also Roman v.*
23 *Wolf*, 977 F.3d 935, 941 (9th Cir. 2020) (“Once a [constitutional] right and a violation have been
24 shown, the scope of a district court’s equitable powers to remedy past wrongs is broad, for breadth
25 and flexibility are inherent in equitable remedies.”). This Court also has just as much—if not
26 more—expertise in applying the facts to relevant standards of dangerousness and flight risk. *See,*
27

28 ³⁹ *See Palomera Baltazar v. Janecka*, No. 5:26-cv-00019-SSS-BFM, 2026 WL 413734, at *2 – 3 (C.D. Cal.
Jan. 16, 2026).

1 *e.g.*, *Obregon v. Sessions*, No. 17-cv-01463-WHO, 2017 WL 1407889, at *6 (N.D. Cal. Apr. 20,
2 2017) (analogizing clear and convincing standard in immigration bond context to its use in bail
3 hearings under Bail Reform Act); *Salazar-Leyva v. Sessions*, No. 17-cv-04213-EMC, 2017 WL
4 3232519, at *2 (N.D. Cal. July 28, 2017) (same); *Jennings v. Rodriguez*, 583 U.S. 281, 334 (2018)
5 (Breyer, J., dissenting) (same). Because the agency is in no position to provide neutral
6 adjudication, any such hearing must instead occur before this Court to ensure it is conducted by a
7 neutral adjudicator as due process requires.

8 **(3) The Government Must Bear the Burden of Proof.**

9 71. Finally, Defendants/Respondents must bear the burden of proof by clear and
10 convincing evidence to show any purported necessity of Plaintiff's/Petitioner's re-detention. *See*
11 *Singh*, 803 F. Supp. 3d at 1048 ("Considering the substantial private interest at stake, the risk of
12 erroneous deprivation through the procedures used, and the government's relatively lesser interest
13 in this case, the Court finds that the Due Process Clause requires a pre-deprivation bond hearing
14 where the government bears the burden of proving by clear and convincing evidence that petitioner
15 is a flight risk or danger to the community."); *Perera v. Jennings*, 598 F. Supp. 3d 736, 746–47
16 (N.D. Cal. 2022) ("It would be improper to ask [petitioner] to share equally with society the risk of
17 error when the possible injury to the individual—deprivation of liberty—is so significant.")
18 (internal citations and quotation marks omitted); *Pham v. Becerra*, 717 F. Supp. 3d 877, 887 (N.D.
19 Cal 2024) (same). In cases where, as here, DHS re-detained noncitizens whom it had originally
20 released after the noncitizens' initial entry into the country, district courts have found that the Due
21 Process Clause requires the government to bear the burden of proof. *See, e.g., Cajina*, 2025 WL
22 3251083, at *6 (Drozd, J.) (ordering the government to bear the burden of proof in a pre-
23 deprivation bond hearing); *Bains*, 2026 WL 809864, at *4 (same); *Garcia Mariagua*, 2025 WL
24 3551700, at *5 (same); *Ramazan M.*, 2025 WL 3145562, at *8–9 (same); *Pablo Sequen v.*
25 *Albarran*, 806 F. Supp. 3d 1069, 1092–93 (N.D. Cal. 2025) (same).

26 72. In sum, the procedure Plaintiff/Petitioner seeks—release, notice, and a hearing in
27 front of a neutral adjudicator at which Respondents must prove by clear and convincing evidence
28 that material circumstances have changed to justify his detention before any re-arrest is effected—

1 is much more likely to produce accurate determinations regarding factual disputes, such as whether
2 a certain occurrence constitutes a materially changed circumstance. And as explained immediately
3 below, this process—which courts in this circuit have already ordered and which
4 Plaintiff/Petitioner also requires—also furthers the government’s interest.

5 **3. There is Little to No Government Interest in Plaintiff’s/Petitioner’s**
6 **Continued Detention Absent a Pre-Deprivation Hearing.**

7 73. Third, and finally, “the government has no legitimate interest in detaining
8 individuals who have been determined not to be a danger to the community and whose appearance
9 at future immigration proceedings can be reasonably ensured by a lesser bond or alternative
10 conditions.” *Hernandez*, 872 F.3d at 994; *see Doe*, 787 F. Supp. 3d at 1094 (“The final *Mathews*
11 factor is simple as the Government’s interest in placing Petitioner in detention without a hearing is
12 low.”). Moreover, custody hearings are “routine” in immigration court, rendering any purported
13 administrative burden minimal. *Cajina*, 2025 WL 3251083, at *5 (Drozd, J.) (quoting *Salcedo*
14 *Aceros*, 2025 WL 2637503, at *12); *see Singh*, 803 F. Supp. 3d at 1048 (“In immigration court,
15 custody hearings are routine and impose a ‘minimal’ cost.”) (quoting *Doe*, 787 F. Supp. 3d at
16 1094–95)). Any purported fiscal burden of release is likely minimal, particularly when considered
17 against the “staggering” cost of immigration detention. *Hernandez*, 872 F.3d at 996 (“The costs to
18 the public of immigration detention are ‘staggering’: \$158 each day per detainee, amounting to a
19 total daily cost of \$6.5 million.”).

20 74. Defendants/Respondents already determined that Plaintiff/Petitioner was not a flight
21 risk or a danger. *See* Exh. 1 (Order of Release on Recognizance (June 23, 2022)). Nothing has
22 changed since that initial determination. Instead, Plaintiff’s/Petitioner’s conduct in the nearly four
23 years since his release from ICE custody only bolsters the initial conclusion that he does not post a
24 flight risk or a danger. He has earned gainful and reliable employment and pursued an education in
25 the English language with the goal of learning English to one day become a United States Citizen.
26 *See* Alvarado Carrero Decl. at ¶¶ 9–12; Exh. 7 (Florida Public Schools Contractor Card); Exh. 9
27 (Miami Senior Adult Education ID (Jan. 2024)); Exh. 11 at 7, 9 (Notarized Letters of Support (Feb.
28 2026)). And through a stroke of luck, those classes led him to his now fiancée, with whom he

1 shares a home and helps support her two sons. *See* Alvarado Carrero Decl. at ¶¶ 12–15; Exh. 12
2 (Nunez Support Letter (Feb. 22, 2026)). All the while, Plaintiff/Petitioner has had no negative law
3 enforcement interactions and has received no criminal charges, much less convictions. *See*
4 Alvarado Carrero Decl. at ¶ 16. That DHS has a new policy to make a minimum number of arrests
5 each day under the new administration does not constitute a material change in circumstances or
6 increase the government’s interest in detaining him. *See Singh*, 803 F. Supp. 3d at 1047 (“The law
7 requires a change in relevant facts, not just a change in [the government’s] attitude”) (internal
8 quotations omitted).

9 75. Defendants’/Respondents’ interest in detaining Plaintiff/Petitioner without a pre-
10 deprivation hearing before a neutral adjudicator is therefore low and weighs in favor of affording
11 him such hearings *before* any attempt to take him into custody.

12 76. Thus, on balance and against *Cajina* and this Court’s subsequent opinions, the
13 *Mathews* factors leave no question that Respondents’/Defendants’ re-detention without a pre-
14 deprivation hearing before a neutral adjudicator to determine whether material changed
15 circumstances now render him a flight risk or danger violated his right to procedural due process.
16 In fact, Plaintiff’s/Petitioner’s circumstances are almost identical to *Che*, 2026 WL 688846, at *1
17 (Drozd, J.), where, by incorporating its reasoning from *Cajina*, this Court found a strong liberty
18 interest in the petitioner’s release from immigration detention where was released on his own
19 recognize by ICE in 2022 and resided in the United States until 2026, when law enforcement
20 stopped him during a traffic-related incident and transferred him to ICE custody. This Court
21 should reach the same conclusion here.

22 **II. Respondents are Violating Plaintiff’s/Petitioner’s Fifth Amendment Right to**
23 **Substantive Due Process.**

24 77. For separate but related reasons, Plaintiff’s/Petitioner’s continued detention is
25 unconstitutional as a denial of substantive due process under the Fifth Amendment.

26 78. As a matter of substantive due process, “an individual detained under civil process
27 ... cannot be subjected to conditions that ‘amount to punishment.’” *Jones*, 393 F.3d at 932
28 (quoting *Bell v. Wolfish*, 441 U.S. 520, 536 (1979)). In the context of immigration detention, the

1 Ninth Circuit has held that “[a] due process violation occurs when detention becomes punitive
2 rather than regulatory, meaning there is no regulatory purpose that can rationally be assigned to the
3 detention or the detention appears excessive in relation to its regulatory purpose.” *United States v.*
4 *Torres*, 995 F.3d 695, 708 (9th Cir. 2021). The same is true when immigration detention is used to
5 achieve permissible objectives that could have been accomplished through “alternative and less
6 harsh methods.” *Jones*, 393 F.3d at 933–34; *Pablo Sequen v. Albarran*, 810 F. Supp. 3d 1084
7 (N.D. Cal. 2025) (finding a likelihood of prevailing in substantive due process challenge to
8 conditions of immigration detention that were imposed without considering alternative methods for
9 achieving an otherwise valid government interest).

10 79. Thus, to comport with substantive due process, immigration detention must further
11 the government’s regulatory goals of “ensuring the appearance of [noncitizens] at future
12 immigration proceedings and preventing danger to the community.” *Zadvydas*, 533 U.S. at 690
13 (internal citations omitted). It follows that immigration detention that is not justified by flight risk
14 of danger findings violates substantive due process. *See id.*; *see also Hernandez*, 872 F.3d at 990
15 (any detention incident to removal proceedings must “bear[] [a] reasonable relation” to the
16 government’s interest in mitigating the risks of danger to the community and preventing flight).
17 The same is true for immigration detention for the purposes of meeting quotas, punishment,
18 deterring immigration, or encouraging voluntary deportation violates Due Process. *See e.g.*,
19 *Pinchi*, 792 F. Supp. 3d at 1036 (holding in the context of *Mathews* factor three that “... due
20 process requires the government to identify some interest beyond its own administrative practices
21 to justify depriving an individual of her liberty without any pre-deprivation protections. Detention
22 for its own sake, to meet an administrative quota, or because the government has not yet
23 established constitutionally required pre-detention procedures is not a legitimate government
24 interest.”).

25 80. For the reasons detailed *supra* Section I(B)(3), Plaintiff’s/Petitioner’s detention
26 bears no reasonable relation to a legitimate government interest. Shortly after his entry into the
27 United States, Plaintiff/Petitioner was released on his own recognizance by an ICE officer who
28 necessarily determined that Plaintiff/Petitioner poses no flight risk or danger to the community.

1 See 8 C.F.R. § 236.1(c)(8) (authorizing conditional parole of noncitizens detained under 8 U.S.C. §
2 1226(a)(2) where they “demonstrate to the satisfaction of the officer that such release *would not*
3 *pose a danger to property or persons*, and that the [they are] *likely to appear for any future*
4 *proceeding*” (emphasis added)); 8 C.F.R. § 212.5(b) (authorizing parole of noncitizens detained
5 under 8 U.S.C. § 1182(d)(5)(a) “on a case-by-case basis for ‘urgent humanitarian reasons’ or
6 ‘significant public benefit,’ provided the [noncitizens] *present neither a security risk nor a risk of*
7 *absconding*” (emphasis added)).

8 81. Defendants effectively conceded as much when they did not revoke
9 Plaintiff’s/Petitioner’s custody status after every check-in and court hearing and instead allowed
10 him to remain released on his own recognizance. See Alvarado Carrero Decl. at ¶ 2; Exh. 1 (Order
11 of Release on Recognizance (June 23, 2022)); Exh. 2 (BI SmartLINK S-Site Participant Agreement
12 (June 23, 2022)); *Cajina*, 2025 WL 3251083, at *4 (Drozd, J.) (recognizing for purposes of
13 procedural due process that “immigration officers made multiple periodic determinations that
14 petitioner posed neither a flight risk nor a danger” by way of not detaining petitioner); *Doe*, 787 F.
15 Supp. 3d at 1093 (“Moreover, the actions of the Government in allowing Petitioner to remain in the
16 community for over five years strengthen Petitioner’s liberty interest.”); *Pinchi*, 792 F. Supp. 3d at
17 1034 (finding that because “[t]he regulations authorizing DHS to release a noncitizen from custody
18 requires the noncitizen demonstrate . . . release would not pose a danger to property or persons and
19 that the noncitizen would appear for any future hearing Release therefore reflects a
20 determination by the government that the noncitizen is not a danger to the community or a
21 noncitizen.”).

22 82. Nor is there any reason to believe that the dangerousness and flight risk analysis
23 would have a different outcome today. Plaintiffs’/Petitioner’s post-release conduct leaves no
24 question that he is neither a flight risk nor a danger: he complied with all ICE check in
25 requirements, obtained employment authorization from USCIS, pursued a viable path towards
26 immigration relief, had no negative interactions with law enforcement, and started a life with a
27 United States citizen and is helping to support her two children. See Alvarado Carrero Decl. at
28 ¶¶ 3–6, 9–16; Exh. 3 (Filed I-589 (Dec. 13, 2022)); Exh. 5 (Employment Authorization Card (Nov.

1 25, 2023)); Exh. 11 (Nunez Support Letter (Feb. 22, 2026); *G.M. v. Chestnut*, No. 1:26-cv-00369-
2 TLN-CSK, 2026 WL 127613, at *2 (E.D. Cal. Jan. 17, 2026) (finding a likelihood of success on
3 the merits of substantive due process claim where there was no reasonable relationship between
4 detention and regulatory interest where petitioner complied with conditions of release, had no
5 subsequent criminal interactions, and was pursuing immigration relief).

6 83. In sum, no material changed circumstances justify departure from
7 Defendants'/Respondents' 2022 decision that detaining Plaintiff/Petitioner serves no legitimate
8 because he does not pose a flight risk or danger when they released him on his own recognizance in
9 2022. *See* Exh. 1 (Order of Release on Recognizance (June 23, 2022)). Indeed, nothing has
10 changed to alter that analysis in the nearly four years that have elapsed. If anything,
11 Plaintiff's/Petitioner's conduct over the last four years has only underscored that he is neither a
12 flight risk nor a danger, as he has established strong community and family ties within the United
13 States. *See* Exh. 11 (Notarized Letters of Support); Exh. 12 (Dionnet Nunez' Sponsor Letter). And
14 where, as here, a noncitizen poses neither a flight risk nor a danger, their detention serves no
15 regulatory goals and is therefore punitive and thus impermissible as a matter of substantive due
16 process. *See G.M.*, 2026 WL 127613, at *2; *Valencia Zapata v. Kaiser*, 801 F. Supp. 3d 919, 939
17 (N.D. Cal. 2025) ("In the absence of ... evidence [showing flight risk or danger], subjecting
18 Petitioners to civil immigration detention does not bear a reasonable relation to the statutory
19 purposes motivating it [and so] [s]uch detention would lack a valid basis and violate Petitioners'
20 right to be free from impermissible government custody.").

21 **III. Defendants'/Respondents' Re-Detention of Plaintiff/Petitioner Violates the**
22 **Administrative Procedures Act.**

23 84. Under the Administrative Procedures Act (APA), this Court must vacate and set
24 aside (1) "final agency action.," 5 U.S.C. § 551(13); that is (2) "arbitrary, capricious, an abuse of
25 discretion, or otherwise not in accordance with law," or "contrary to constitutional right," 5 U.S.C.
26 § 706(2). Defendant'/Respondents' decision to re-detain Plaintiff/Petitioner without any notice and
27 no showing of changed circumstances that warrants re-detention is "final agency action" that is an
28 abuse of discretion and contrary to law, in violation of APA.

1 85. The decision to re-detain Plaintiff/Petitioner constitutes “agency action,” under the
2 APA because the “re-interpretation of [a] statute to authorize the re-detention of previously
3 released noncitizens regardless of their individual circumstances is agency action.” *Garro Pinchi*
4 *v. Noem*, --- F. Supp. 3d ---, 2025 WL 3691938, at *21 (N.D. Cal. Dec. 19, 2025). That “agency
5 action” is also “final” under the APA because it marks the “consummation” of the DHS’s decision-
6 making process on the question of Plaintiff’s/Petitioner’s custody, and it is an action “by which
7 rights or obligations have been determined, or from which legal consequences will flow.” *Bennett*
8 *v. Spear*, 520 U.S. 154, 178 (1977) (internal citations omitted). Indeed, the “practical and legal
9 effects of the agency action” are that Plaintiff/Petitioner has been deprived of their liberty with no
10 end in sight. *Or. Nat. Desert Ass’n v. U.S. Forest Serv.*, 465 F.3d 977, 982 (9th Cir. 2006).

11 86. The final agency action of re-detaining and continuing to detain Plaintiff/Petitioner
12 was an abuse of discretion and contrary to law and thus must be vacated pursuant to the APA. The
13 INA purports to authorize DHS to revoke a parole “at any time,” but DHS has long construed that
14 authority as applicable only where there is a “material change in circumstances” that justify re-
15 detaining noncitizens it previously released on parole. *See Saravia*, 280 F. Supp. 3d at 1196–97.
16 Yet Defendants/Respondents re-detained Plaintiff/Petitioner where there was *no* material change in
17 circumstances. To the contrary, Plaintiff’s/Petitioner’s conduct in the four years since he was
18 released by Defendants/Respondents only underscores that he is neither a flight risk nor a danger.
19 *See, e.g., Alvarado Carrero Decl.* at ¶¶ 3–16; Exh. 7 (Florida Public Schools Contractor Card); Exh.
20 10 (Notarized Letters of Support (Feb. 2026)).

21 87. The decision to re-detain Plaintiff/Petitioner was also arbitrary and capricious. “The
22 touchstone of arbitrary and capricious review under the APA is reasoned decisionmaking.” *All. for*
23 *the Wild Rockies v. Petrick*, 68 F.4th 475, 493 (9th Cir. 2023) (citation modified). “That means an
24 agency’s action can only survive arbitrary or capricious review where it has articulated a
25 satisfactory explanation for its action including a rational connection between the facts found and
26 the choice made.” *Id.* An agency court’s “impermissible post hoc rationalization” will not cure its
27 failure to conduct the requisite reasoned decisionmaking in the first instance. *DHS v. Regents of*
28 *the Univ. of Cal.*, 591 U.S. 1, 21 (2020) (internal citations omitted).

1 88. Here, Defendants/Respondents failed to contemporaneously—or ever—articulate
2 changed circumstances that somehow make Plaintiff/Petitioner a flight risk of danger and justify
3 reversal of the prior decision to release Plaintiff/Petitioner on his own recognizance. *See Alvarado*
4 *Carrero Decl.* at ¶ 19. The failure to “articulate a satisfactory explanation for its action including a
5 rational connection between the facts found and the choice made,” thus renders the decision to re-
6 detain arbitrary and capricious. *Motor Vehicle Mfrs. Ass’n of U.S. v. State Farm Mut. Auto. Ins.*
7 *Co.*, 463 U.S. 29, 43 (1983) (internal citations omitted).

8 89. As to noncitizens who are released on their own recognizance—i.e., granted
9 parole—Defendant DHS has long construed its authority to revoke that parole as applicable only
10 where there is a “material change in circumstances” that warrants detention under the regulations.
11 *See Saravia*, 280 F. Supp. 3d at 1196–97; *Pinchi*, 2025 WL 3691938, at *21 (finding APA
12 violation in DHS policy of re-detaining without an individualized flight risk and danger analysis).

13 CLAIMS FOR RELIEF

14 COUNT ONE

15 Violation of Fifth Amendment Right to Due Process 16 Procedural Due Process

17 90. Plaintiff/Petitioner restates and realleges all paragraphs as if fully set forth herein.

18 91. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits
19 the federal government from depriving any person of “life, liberty, or property, without due process
20 of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States,
21 including [non-citizens], whether their presence here is lawful, unlawful, temporary, or
22 permanent.” *Zadvydas*, 533 U.S. at 693; *accord Flores*, 507 U.S. at 306.

23 92. Under *Mathews v. Eldridge*, courts evaluate procedural Due Process by balancing 1)
24 the private interest affected; 2) the risk of erroneous deprivation of such interest; and 3) the
25 government’s interest. 424 U.S. at 335.

26 93. “Freedom from imprisonment—from government custody, detention, or other forms
27 of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”
28 *Zadvydas*, 533 U.S. at 690. Individuals who, like Plaintiff/Petitioner, were apprehended by
immigration officials and released with conditions of supervision possess “a protected liberty

1 interest in remaining out of custody[]’ where an immigration official ‘elected to release’ a
2 petitioner on their own recognizance.” *Cajina*, 2025 WL 3251083, at *3 (Drozd, J.) (quoting
3 *Salcedo Aceros*, 2025 WL 2637503, at *6–7). Plaintiff’s/Petitioner’s current detention at Golden
4 State Annex is therefore a liberty deprivation triggering his right to procedural due process.

5 94. Defendants/Respondents created a constitutionally-intolerable risk of erroneously
6 depriving Plaintiff/Petitioner of that liberty interest—and, indeed, are depriving Plaintiff/Petitioner
7 of that liberty interest this very moment—through their unilateral, sudden, and unexplained
8 decision to re-detain Plaintiff/Petitioner. *See Cajina*, 2025 WL 3251083, at *4 (Drozd, J.) (finding
9 high risk of erroneous deprivation that justified preliminary relief); *Bains*, 2026 WL 809864, at *3
10 (“Without an individualized bond determination by a neutral factfinder in order to determine
11 whether his continued detention is legally justified, the risk of erroneous deprivation of petitioner’s
12 protected liberty interests is great.”); *J.A.E.M.*, 812 F. Supp. 3d at 1070 (same); *Pinchi*, 792 F. Supp
13 3d at 1035 (“Where a detained individual does not receive any pre-deprivation hearing, “the risk of
14 an erroneous deprivation of liberty is high because neither the government nor [the petitioner] has
15 had an opportunity to determine whether there is any valid basis for her detention.” (cleaned up)).
16 Defendants/Respondents provided no notice of their intent to re-detain Plaintiff/Petitioner and
17 never articulated the material changed circumstances on which they believe detention is warranted.
18 Nor have Defendants/Respondents given Plaintiff/Petitioner an opportunity to defend against the
19 decision to re-detain.

20 95. There is substantial value to procedural safeguards. Adequate procedural safeguards
21 include immediate release; written notice of the intent to re-detain provided at a time that gives
22 Plaintiff/Petitioner a meaningful opportunity to prepare a defense; written notice stating the
23 material changes in circumstances that warrant re-detention would help prevent against erroneous
24 deprivation; a re-detention hearing before a neutral adjudicator and where the government bears the
25 burden of proving by clear and convincing evidence that material changed circumstances justify
26 Plaintiff’s/Petitioner’s detention because Petitioner/Plaintiff’s continued release would pose a
27 danger to the community or a risk of flight that cannot be mitigated by any monetary or
28 nonmonetary condition.

1 96. Defendants/Respondents have little to no interest in Plaintiff's/Petitioner's
2 continued detention absent adequate procedural safeguards. Specifically, the Government has no
3 legitimate interest in subjecting a noncitizen to civil detention once they have already been found to
4 not present a flight risk or danger. And any purported burden of providing a re-detention hearing is
5 low, as immigration courts routinely conduct these hearings.

6 97. Defendants/Respondents have chosen to revoke Petitioner's release in an arbitrary
7 manner and not based on a rational and individualized determination of whether he is a safety or
8 flight risk, in violation of due process. Because no individualized custody revocation has been
9 made and no circumstances have changed to make Petitioner a flight risk or a danger to the
10 community, Defendants'/Respondents' revocation of Petitioner's release violates his right to
11 procedural due process

12 **COUNT TWO**
13 **Violation of Fifth Amendment Right to Due Process**
14 **Substantive Due Process**

15 98. The Due Process Clause of the Fifth Amendment forbids the government from
16 depriving any person of liberty without due process of law. U.S. Const. amend. V. *See generally*
17 *Flores*, 507 U.S. 292; *Zadvydas*, 533 U.S. 678.

18 99. "The Due Process Clause applies to all 'persons' within the United States, including
19 [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent."
20 *Zadvydas*, 533 U.S. at 693.

21 100. Immigration detention only comports with Substantive Due Process when it furthers
22 the government's goals of "ensuring the appearance of [noncitizens] at future immigration
23 proceedings and preventing danger to the community." *Id.* at 690. (cleaned up). Immigration
24 detention that does not further those goals is punitive and thus violates substantive due process.

25 101. Plaintiff's/Petitioner's detention violates the substantive due process clause because
26 Defendants'/Respondents have no legitimate regulatory purpose for the detention. Indeed,
27 Defendants/Respondents already found that Plaintiff/Petitioner was not a flight risk or a danger,
28 and those findings should apply with equal, if not more, force today, now that he has established

1 strong family, community, and work ties to the United States, fulfilled all of his conditions of
2 release, and has had no negative law enforcement inactions since his release

3 102. Because Defendants/Respondents have no legitimate regulatory reason to justify
4 Plaintiff's/Petitioner's detention civil detention, his detention is punitive and therefore amounts to a
5 violation of substantive due process

6 **COUNT THREE**

7 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2) Arbitrary and Capricious**
8 **Agency Action**

9 103. Plaintiff/Petitioner restates and realleges all paragraphs as if fully set forth here.

10 104. The APA provides that a “reviewing court shall . . . hold unlawful and set aside
11 agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of
12 discretion, or otherwise not in accordance with law” or are “contrary to constitutional right.” 5
13 U.S.C. § 706(2)(A)–(C).

14 105. ICE's decisions to re-detain Plaintiff/Petitioner constitutes final agency action where
15 they mark the “consummation” of agency decision making and are actions “by which rights or
16 obligations have been determined, or from which legal consequences will flow.” *Bennett*, 520 U.S.
17 at 178.

18 106. Because DHS has failed to articulate contemporaneous rational explanations for its
19 decisions to re-detain Petitioners without a pre-detention hearing, and because it cannot provide a
20 post-hoc rationalization for those decisions, they are arbitrary and capricious in violation of the
21 APA. *Motor Vehicle Mfrs. Ass'n of U.S.*, 463 U.S. at 42–43; *Regents*, 591 U.S. at 21.

22 107. Because DHS's decision to re-detain Petitioner/Plaintiff was also contrary to
23 constitutional right, it was also in violation of the APA.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- 26 (1) Assume jurisdiction over this matter;
- 27 (2) Issue an Order to Show Cause ordering Respondents to show cause why this
28 Petition should not be granted within three days;

- 1 (3) Declare that Plaintiff's/Petitioner's detention without an individualized pre-
2 detention hearing before a neutral adjudicator where the government bears the
3 burden of proving through clear and convincing evidence that material changed
4 circumstances render Plaintiff/Petitioner a flight risk or danger violates the Due
5 Process Clause of the Fifth Amendment;
- 6 (4) Declare that Plaintiff's/Petitioner's revocation of parole from custody was made in
7 violation of statute and regulation;
- 8 (5) Issue a Writ of Habeas Corpus ordering Defendants/Respondents to immediately
9 release Plaintiff/Petitioner from custody;
- 10 (6) Issue an Order prohibiting the Respondents from transferring Plaintiff/Petitioner
11 from the district without the court's approval prior to the adjudication of the instant
12 petition;
- 13 (7) Mandate that Respondents return Plaintiff's/Petitioner's identity documents,
14 including his employment authorization and Florida driver's license;
- 15 (8) Order Defendants/Respondents to effectuate Plaintiff's/Petitioner's return to Miami,
16 Florida;
- 17 (9) Award Plaintiff/Petitioner attorney's fees and costs under the Equal Access to
18 Justice Act, and on any other basis justified under law; and
- 19 (10) Grant any further relief this Court deems just and proper.

20
21 DATED: April 6, 2026

SOCIAL JUSTICE LEGAL FOUNDATION

22
23 By: /s/ Hannah Comstock

24 Hannah Comstock
25 Joshua Behrens
26 Pro Bono Counsel for Plaintiff
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner/Plaintiff and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition/Complaint are true and correct to the best of my knowledge.

Dated: 04/06/2026

/s/ Hannah Comstock

Hannah Comstock