UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LIVINTON SOSA MARTINEZ, RAQUEL MARIONA EBORA, ALVARO IBAÑEZ CARDENAS, AMBROSIO TRUJILLO ZAVALETA, *on behalf of themselves and others similarly situated*,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY; MARKWAYNE MULLIN, *in his official capacity as Secretary of Homeland Security*; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; DAVID VENTURELLA, *in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement*; and KRISTEN SULLIVAN, *in her official capacity as Acting Field Office Director, Atlanta Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement*

Defendants.

Civil Action No. _____

CLASS ACTION COMPLAINT

INTRODUCTION

1. Plaintiffs and thousands of other noncitizens across North Carolina, South Carolina, and Georgia are facing an imminent risk of baseless re-detention as a result of abrupt, unlawful, and unexplained agency actions by the Department of Homeland Security ("DHS"). Where DHS used to bar the re-detention of individuals previously released from immigration custody unless there had been a material change in circumstances, DHS now authorizes its officers to re-detain noncitizens despite no individualized determination of whether a change in circumstances has occurred. These policy changes have devastated thousands of individuals—and their families, employers, and communities—leaving them no longer able to rely on the Government's decades-long practice on which they built their lives. Because DHS's policy changes are arbitrary and capricious, contrary to the Fourth Amendment, and exceed DHS's statutory authority, the agency's actions must be "held unlawful and set aside" under the Administrative Procedure Act ("APA"). *See* 5 U.S.C. § 706(2).

2. For more than four decades, the Atlanta Field Office of U.S. Immigration and Customs Enforcement ("ICE") followed a DHS policy that barred officers from re-arresting or re-detaining individuals who had previously been released from immigration custody absent an individualized determination that there was a material change in the person's circumstances.

That longstanding "Changed Circumstances Policy" comported not only with the Immigration and Nationality Act ("INA") and DHS's own regulations, but also with the Fourth Amendment's prohibition on repeated seizures based on the same probable cause. It also supported the orderly functioning of the immigration system by incentivizing noncitizens to attend all their check-ins and hearings and abide by the rules set for them by the Government.

3. Noncitizens, including named Plaintiffs and putative class members, relied on the Changed Circumstances Policy to build their lives while they pursued claims for immigration relief. They cared for their families, maintained lawful employment, paid taxes, pursued educational opportunities for themselves and their children, and contributed vitally to their communities. The Changed Circumstances Policy provided assurance that the Government would not revoke Plaintiffs' release from detention as they spent long periods of time navigating the immigration process and awaiting the Government's adjudication of their applications for relief, so long as they continued to pose no danger or flight risk, *i.e.*, avoided criminal activity and complied with their obligations under immigration laws.

4. On or around May 2025, without acknowledgment or explanation, Defendants abruptly rescinded the Changed Circumstances Policy and adopted the "Re-Detention Policy." Under the new policy, DHS officers are now permitted to re-arrest noncitizens previously released from DHS custody

without *any* individualized determination that their circumstances materially changed. These arrests are being carried out at regularly scheduled ICE check-ins, during traffic stops, and at other locations.

5. Defendants' rescission of the Changed Circumstances Policy and adoption of the Re-Detention Policy is a predictable result of the Executive Branch's directives to carry out the "largest [m]ass [d]eportation [p]rogram in history."[1] In particular, the Re-Detention Policy was implemented to further the Executive's strategy of subjecting noncitizens—including those with pending applications for immigration relief—to prolonged and harsh detention conditions to coerce "self-deportation."

6. Despite Defendant Mullin's insistence that DHS is targeting the "worst of the worst,"[2] the challenged Re-Detention Policy transparently targets law-abiding noncitizens whom DHS already found presented no danger or flight risk and who are complying with check-ins and other conditions of their release from DHS custody.

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[1] Donald J. Trump (@realdonaldtrump), TRUTH SOCIAL (June 15, 2025), https://truthsocial.com/@realDonaldTrump/posts/114690267066155731 [https://perma.cc/PFE8-99U4].

[2] Press Release, Department of Homeland Security, WORST OF THE WORST: ICE Arrests Pedophiles, Rapists, Violent Assailants, and Kidnappers (Aug. 28, 2026), https://www.dhs.gov/news/2026/08/28/worst-worst-ice-arrests-pedophiles-rapists-violent-assailants-and-kidnappers [https://perma.cc/QV5Y-BE2L].

7. The consequences of rescinding the Changed Circumstances Policy and adopting the Re-Detention Policy have been immediate and drastic. Individuals have been re-arrested and re-detained without warning while appearing for their routine ICE check-ins. Families have been torn apart as parents and community members disappear into detention and loved ones struggle to determine where they were taken within ICE's sprawling detention system. Individuals with chronic medical issues have been separated from essential medication and treatment. Employers have lost valued workers without notice, disrupting businesses and local economies.

8. By transferring detainees to facilities far from their homes, ICE has also made it substantially more difficult for them to communicate with counsel, gather evidence, and pursue eligible claims for relief. The Re-Detention Policy has further undermined the integrity of the immigration system itself by instilling fear in individuals who are attempting to comply with the law. People who faithfully report for mandatory check-ins, and who, in many cases, are awaiting DHS's decision on their applications for immigration status, now face the prospect that complying with government-imposed reporting obligations will result in their immediate re-arrest and re-detention.

9. As one federal court has already held, the Re-Detention Policy is unlawful. *See Garro Pinchi v. Noem*, 813 F. Supp. 3d 973, 1040 (N.D. Cal. 2025)

(granting stay of Re-Detention Policy within ICE's San Francisco area of responsibility). It radically upends longstanding federal policy and practice without any reasoned explanation or consideration of the relevant factors—including the reliance interests of those who have been released, the Fourth Amendment's prohibition on unreasonable seizures, and the impact on the orderly functioning of the immigration system. The Re-Detention Policy also cannot be reconciled with the limited scope of Defendants' statutory authority to re-arrest and re-detain noncitizens under the INA.

10. Plaintiffs seek to represent a class of noncitizens, and one subclass, who are harmed by the rescission of the Changed Circumstances Policy and the adoption of the Re-Detention Policy. On behalf of the putative class and subclass, Plaintiffs ask the Court to restore the Changed Circumstances Policy and vacate the Re-Detention Policy because the policy changes are arbitrary and capricious, contrary to the Fourth Amendment, and contrary to the INA.

PARTIES

11. **Plaintiff Livinton Sosa Martinez** is a forty-one-year-old Nicaraguan man who is a resident of Greensboro, North Carolina and is subject to the jurisdiction of the Atlanta Field Office. After entering the U.S. without inspection in 2022, he was detained for one day. Thereafter, DHS determined he was neither dangerous nor a flight risk and released him on humanitarian parole pursuant to 8 U.S.C. § 1182(d)(5)(A). Since that time, he has worked as

an electrician and supported his wife and three children. He has fully complied with all of the conditions of his release, including attending regular check-ins at the ICE office in Charlotte, North Carolina. He has no criminal history and is pursuing asylum based on his fear of persecution in Nicaragua.

12. **Plaintiff Raquel Mariona Ebora** is a thirty-nine-year-old Honduran woman who resides in Dunn, North Carolina and is subject to the jurisdiction of the Atlanta Field Office. After entering the U.S. without inspection by boat in 2022, Ms. Mariona was detained for one month. Thereafter, DHS determined she was neither dangerous nor a flight risk and released her on humanitarian parole pursuant to 8 U.S.C. § 1182(d)(5)(A). Since her release, Ms. Mariona has built a life in the United States. She received a work permit and Social Security number and works part-time at a car maintenance business. She has a three-year-old U.S. citizen son with autism spectrum disorder, and he relies on her for constant care. She is also a dedicated member of her church congregation, and she serves her ministry and community. She has fully complied with the conditions of her release. She has no criminal history and has filed an application for asylum based on her fear of extreme violence and persecution in Honduras.

13. **Plaintiff Alvaro Ibañez Cardenas** is a thirty-five-year-old Venezuelan man who resides in Athens, Georgia and is subject to the jurisdiction of the Atlanta Field Office. After entering the country without

inspection in February 2022, he was detained and placed in removal proceedings under 8 U.S.C. § 1229a. Thereafter, DHS determined he was neither dangerous nor a flight risk and released him on his own recognizance pursuant to 8 U.S.C. § 1226(a) and 8 C.F.R. § 236.1(c)(8) (Sept. 9, 2016). Since that time, he has built a life in the United States and worked hard to support his family. He has fully complied with the conditions of his release and has no criminal history, other than a charge for driving without a license in 2022, which was ultimately dismissed. He is pursuing asylum based on his fear of persecution in Venezuela.

14. **Plaintiff Ambrosio Trujillo Zavaleta** is a forty-six-year-old Mexican man who is a resident of Savannah, Georgia and is subject to the jurisdiction of the Atlanta Field Office. He entered the country without inspection in 2004. He did not encounter Border Patrol and was not detained. Ten years later, in 2014, Mr. Trujillo was taken into DHS custody after being arrested for driving without a license. He was then placed in removal proceedings under 8 U.S.C. § 1229a. An ICE officer interviewed him, determined he was neither dangerous nor a flight risk, and then released him on his own recognizance pursuant to 8 U.S.C. § 1226(a) and 8 C.F.R. § 236.1(c)(8) (Sept. 9, 2016). Since that time, he has fully complied with all conditions of his release, including attending all court hearings and maintaining a clean record. He has also maintained consistent employment

and supported his wife and U.S. citizen daughter. He is currently pursuing Cancellation of Removal.

15. **Defendant U.S. Department of Homeland Security** is a cabinet-level department of the Executive Branch of the federal government and is an "agency" within the meaning of 5 U.S.C. § 551(1). DHS includes various component agencies, including ICE, U.S. Border Patrol, and Customs and Border Protection. DHS, together with all its component agencies, is responsible for rescinding the Changed Circumstances Policy and implementing the Re-Detention Policy challenged in this action.

16. **Defendant Markwayne Mullin,** sued in his official capacity, is the Secretary of Homeland Security. As the highest-ranking officer for DHS, Defendant Mullin has ultimate statutory authority over the policy changes challenged in this action. *See* 6 U.S.C. § 557 (transferring functions from the Attorney General).

17. **Defendant U.S. Immigration and Customs Enforcement** is a component agency of DHS. ICE is an "agency" within the meaning of 5 U.S.C. § 551(1). ICE's mission includes the enforcement of civil laws related to immigration. Among other things, ICE is responsible for arrest and detention related to civil immigration charges in the interior of the United States and is responsible for enforcing the rescission of the Changed Circumstances Policy and administering and enforcing the Re-Detention Policy.

18. **Defendant David Venturella,** sued in his official capacity, is the Acting Director of U.S. Immigration and Customs Enforcement. As the highest-ranking officer for ICE, Defendant Venturella has authority over the policy changes challenged in this action. *See* 6 U.S.C. § 557.

19. **Defendant Kristen Sullivan,** sued in her official capacity, is the Acting Director of the Atlanta ICE Field Office. In this capacity, she is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within the Atlanta ICE Field Office's jurisdiction, which encompasses Georgia, South Carolina, and North Carolina. Defendant Sullivan maintains an office and regularly conducts business in this District.

JURISDICTION AND VENUE

20. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under the APA, 5 U.S.C. § 701 *et seq*., and the United States Constitution. Because this suit seeks relief other than money damages and challenges Defendants' unlawful actions, the United States has waived sovereign immunity from this suit under the APA. 5 U.S.C. § 702.

21. Venue is proper in the Northern District of Georgia under 28 U.S.C. § 1391(e)(1) because each Defendant is an agency of the United States or an officer of the United States sued in their official capacity, and because a substantial part of the events giving rise to the claims in this action, including

the Atlanta Field Office's abandonment of the Changed Circumstances Policy and implementation of the Re-Detention Policy, took place in this District.

LEGAL BACKGROUND

ICE's Detention and Release Authority

22. Two provisions of the INA govern ICE's authority to detain and release noncitizens who do not have administratively final orders of removal: 8 U.S.C. § 1225 and 8 U.S.C. § 1226.

23. 8 U.S.C. § 1225(b) sets forth DHS's detention authority related to the "inspection" process. The first subsection, § 1225(b)(1), governs the detention of noncitizens placed in "expedited removal" proceedings, a fast-track form of removal that historically has applied only at the border and ports of entry.

24. The second subsection, 8 U.S.C. § 1225(b)(2), governs the detention of noncitizens who are "applicant[s] for admission," are actively "seeking admission," and are "not clearly and beyond a doubt entitled to be admitted," but who are placed in removal proceedings before an immigration judge (also known as "Section 240 proceedings" or proceedings under 8 U.S.C. § 1229a), rather than expedited removal.

25. Individuals detained pursuant to 8 U.S.C. § 1225(b) have few pathways to release. They are not statutorily eligible for bond or release on

their own recognizance. However, DHS can release them on humanitarian parole under 8 U.S.C. § 1182(d)(5)(A).

26. 8 U.S.C. § 1226 governs the detention of noncitizens "already in the country pending the outcome of removal proceedings." *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). It applies to noncitizens who "entered [the U.S.] without inspection." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

27. The Eleventh Circuit recently confirmed that noncitizens who are first detained by DHS within the interior of the United States are not "seeking admission" under 8 U.S.C. § 1225(b) and are therefore subject to 8 U.S.C. § 1226(a) and eligible for bond while they pursue immigration relief. *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, 175 F.4th 1258, 1279–81 (11th Cir. 2026).

28. Under § 1226(a), DHS may release detained noncitizens on bond, on their own recognizance (formally called "conditional parole"), or on humanitarian parole. *See* 8 U.S.C. § 1226(a)(2); 8 C.F.R. § 236.1(c)(8) (Sept. 9, 2016). Noncitizens who are subject to § 1226(a) are also entitled to a bond hearing before an immigration judge. *Hernandez Alvarez*, 175 F.4th at 1283.

29. Under both § 1225 and § 1226, a DHS officer may not release a noncitizen unless the individual does not pose a risk of flight or danger to the community. *See* 8 C.F.R. §§ 236.1(c)(8) (Sept. 9, 2016), 1236.1(c)(8) (March 5, 2003) (noncitizen must "demonstrate to the satisfaction of the officer that such

release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding"); *see also* 8 C.F.R. § 212.5(b) (March 29, 2022) (humanitarian parole available only when "the [noncitizens] present neither a security risk nor a risk of absconding").

30. Similarly, in deciding whether to release a noncitizen on bond or their own recognizance, immigration judges consider whether the individual poses a danger to the community and whether they are likely to appear for future proceedings. 8 C.F.R. § 1003.19(h)(3) (Oct. 2, 2006); *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006).

31. As a result, any release of a noncitizen "reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

Statutory and Regulatory Limits on ICE's Re-Detention Authority

32. Under the text of the INA and federal regulations, certain DHS officials "at any time may revoke a bond or [conditional] parole authorized under [§ 1226(a)], rearrest the [noncitizen] under the original warrant, and detain the [noncitizen]." 8 U.S.C. § 1226(b); *see also* 8 C.F.R. § 236.1(c)(9) (Sept. 9, 2016). The text also allows certain DHS officials to terminate humanitarian parole upon written notice when they determine that the purpose for parole has been "accomplish[ed]" or when "neither humanitarian reasons nor public

benefit warrants the [noncitizen's] continued presence . . . in the United States[.]" 8 C.F.R. § 212.5(e)(2)(i) (March 29, 2022).

33. However, the federal government's re-detention authority is subject to "an important implicit limitation": pursuant to DHS's decades-long policy and the constitutional guardrails set forth in the Fourth Amendment, the Government cannot lawfully re-arrest or re-detain someone without making an individualized determination of "a material change in circumstances." *Saravia*, 280 F. Supp. 3d at 1197.

34. DHS has also placed explicit limits on re-detention under 8 U.S.C. § 1226(b) by requiring authorization from a high-level official within the ICE field office. By regulation, such revocations of release from custody may only be carried out in the "discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign)." 8 C.F.R. § 236.1(c)(9) (Sept. 9, 2016). This regulation does not extend re-detention authority to individual ICE officers who conduct routine check-ins or investigative stops.

Constitutional Limits on ICE's Re-Detention Authority

35. The Supreme Court has recognized only two constitutionally permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings (or, in the case of a

removal order, at removal); and preventing danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690–92 (2001); *see Demore v. Kim*, 538 U.S. 510, 519–20, 527–28, 531 (2003). It has also held that, in general, these purposes may not be assessed on a blanket or categorical basis. Instead, immigration custody decisions generally must be based on an "individualized determination" of flight risk and danger to the community. *See INS v. Nat'l Ctr. for Immigrants' Rts., Inc.*, 502 U.S. 183, 194 (1991); *see also Zadvydas*, 533 U.S. at 690.

36. When the Government decides to release an individual from custody, it creates "an implicit promise" that their liberty "will be revoked only if [they] fail[ ] to live up to the . . . conditions [of release]." *Morrissey v. Brewer,* 408 U.S. 471, 482 (1972). A person cannot be re-arrested "solely on the ground that he is subject to removal proceedings" without some new, intervening cause. *Saravia*, 280 F. Supp. 3d at 1196.

37. Indeed, the Fourth Amendment, which applies to seizures by immigration authorities, prohibits such re-arrests, which courts have long held could result in "harassment by continual rearrests." *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971) (Stevens, J.) (prohibiting re-arrest without change in circumstances in criminal context); *see also United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975) (applying Fourth Amendment

principles from criminal context to "limit" scope of immigration agents' seizure authority). That constitutional parameter applies here.

38. For decades, Defendants applied the Changed Circumstances Policy, which adhered to its own federal regulations and the protections of the Fourth Amendment. But in May 2025, Defendants abruptly and without acknowledgment or explanation rescinded this policy.

39. Examining identical arrest practices by the San Francisco ICE Field Office, the United States District Court for the Northern District of California found that the policy of re-arresting and re-detaining people despite no material change in circumstances likely violates the APA. As a result, the district court stayed the policy pending final judgment in that case. *Garro Pinchi*, 813 F. Supp. 3d at 992.

FACTUAL ALLEGATIONS

I. For Decades, DHS Required an Individualized Determination of a Material Change in Circumstances Before Re-Detaining Previously Released Noncitizens.

40. As far back as 1981, the Board of Immigration Appeals (BIA) made clear that the Government could not re-arrest and re-detain a noncitizen released by an immigration judge on bond "absent a change of circumstance" warranting detention. *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981). As a matter of policy and longstanding practice, DHS and its predecessor agencies

applied the same rule for release decisions made by immigration judges as those made by federal immigration officers, including ICE officers.

41. Federal immigration officials reiterated this policy on numerous occasions. For example, the head of the Immigration and Naturalization Service (ICE's predecessor agency) stated in a 1995 memorandum that "[w]hen a[ ] [noncitizen] has been released from INS custody under bond, such bond can be revoked by the district director . . . but only based upon 'a change of circumstances.' . . . As such, INS must be able to justify any revocation decision, future detention or release condition." *Demore v. Kim*, 2002 WL 34705774 (J.A. 57) (U.S. Aug. 29, 2002).

42. Federal courts have also repeatedly acknowledged the existence of DHS's prior Changed Circumstances Policy, and DHS itself has admitted its existence. *See, e.g.*, *dos Santos v. Noem*, No. 1:25-CV-12052-JEK, 2025 WL 2370988, at *9 (D. Mass. Aug. 14, 2025); *Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2337099, at *12 (D. Ariz. Aug. 11, 2025); *United States v. Cisneros*, No. 19-CR-00280-RS-5, 2021 WL 5908407, at *3–4 (N.D. Cal. Dec. 14, 2021).

43. For example, in the Northern District of California, the Government has confirmed the existence of the Changed Circumstances Policy in at least two different cases: in *Saravia*, DHS acknowledged the policy's existence in 2017 while it was being implemented; and in *Garro Pinchi*, the

Government conceded just this year that a policy against arbitrary re-detention previously existed nationwide. *See Garro Pinchi*, 813 F. Supp. 3d at 1021; *see also* Federal Defendants' Supplemental Brief at 1, *Saravia v. Sessions*, No. 17-cv-03615-VC, Dkt. No. 90 at 2 (N.D. Cal. 2017) (stating that it historically re-arrested previously released noncitizens only after "a material change in circumstances").

44. Like in other regions across the country, ICE officers in the Atlanta ICE Field Office jurisdiction previously applied the Changed Circumstances Policy. This policy applied regardless of whether a noncitizen had previously been released on bond, conditional parole, or humanitarian parole.

45. This policy also applied even when there was notice of a potential change in circumstances. For example, if a noncitizen became involved with the criminal justice system, violated a condition of ICE supervision, or violated a condition of the Intensive Supervision Appearance Program (ISAP), which is run by a private contractor, ICE generally would set an appointment and interview the noncitizen about the changed circumstance before making an individualized decision as to whether re-detention was warranted. If the noncitizen affirmatively sought to remedy the violation or returned to compliance, ICE often would make the determination that re-detaining the noncitizen was not warranted.

46. Countless noncitizens released pending removal proceedings relied on the Government's policy against indiscriminate re-arrest and re-detention as they awaited adjudication of claims to immigration relief. So long as they complied with their legal obligations to attend immigration proceedings and avoid criminal activity, noncitizens could confidently assume they would be able to litigate their right to remain in the United States while living in the community with their families, rather than languishing in detention.

47. Living in the community, they could participate in family life (including caring for U.S. citizen children), access and consult with legal representatives, enter into leases for residential housing, seek work authorization and lawful employment, invest in education, develop community ties, and participate in religious life.

II. Around May 2025, Defendants Abruptly Changed Course.

48. In or around May 2025, Defendants rescinded this longstanding policy and adopted the Re-Detention Policy. The Re-Detention Policy authorizes re-arrest and re-detention of previously released noncitizens without any individualized assessment of a material change in circumstances, in furtherance of the Executive Branch's goal of increasing immigration arrests and coercing noncitizens to "self-deport" rather than pursue immigration relief.

49. Defendants instituted these policy changes amid a nationwide push to dramatically increase immigration arrests, regardless of the individual circumstances of the people arrested and detained.

50. As then-White House Deputy Chief of Staff and current Chief of Staff Stephen Miller confirmed in a May 28, 2025 interview with Fox News, "Under President Trump's leadership, we are looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President Trump is going to keep pushing to get that number up higher each and every single day[.]"[3]

51. To reach these targets, Mr. Miller suggested high-level officials change their approach to stops and arrests in the field. Agents and officers, according to him, should no longer conduct targeted operations based on investigations.[4] In May 2025, Mr. Miller told senior ICE officials that arrests were "all about the numbers, not the level of criminality."[5]

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[3] Anna Giaritelli, *Stephen Miller 'eviscerated' ICE officials in private meeting for low deportation numbers*, WASH. EXAMINER (May 30, 2025), https://www.washingtonexaminer.com/news/3425297/stephen-miller-eviscerated-ice-officials-deportation-numbers/ [https://perma.cc/3JK6-32F8].

[4] Ted Hesson & Kristina Cooke, *ICE's Tactics Draw Criticism as it Triples Daily Arrest Targets*, REUTERS (June 10, 2025), https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/ [https://perma.cc/92XY-454K].

[5] *Id.*

52. While it has increased immigration arrests, the Government has simultaneously attempted to radically increase immigration detention capacity nationwide.

53. In explaining the need for 2025's "Big Beautiful Bill," "border czar" Tom Homan told reporters that the bill needed to pass so the federal government could buy more detention beds because "[t]he more beds that we have, the more bad guys we arrest."[6]

54. Government officials have also suggested that detaining large numbers of people will help pressure individuals to give up their right to contest removal and agree to deportation. This contravenes the constitutionally and statutorily permissible purposes of civil immigration detention: preventing flight risk or danger to the community.

55. In August 2025, then-DHS Secretary Kristi Noem shared the Administration's goal of ensuring that people know "if they are detained, they'll be removed" and offered that detention is an effective strategy to encourage people, including those with meritorious claims for immigration

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[6] Juliana Kim, *How Trump's tax cut and policy bill aims to 'supercharge' immigration enforcement*, NPR (July 3, 2025), https://www.npr.org/2025/07/03/g-s1-75609/big-beautiful-billice-funding-immigration [https://perma.cc/23JH-9WXA].

relief, to deport themselves "voluntarily."[7]

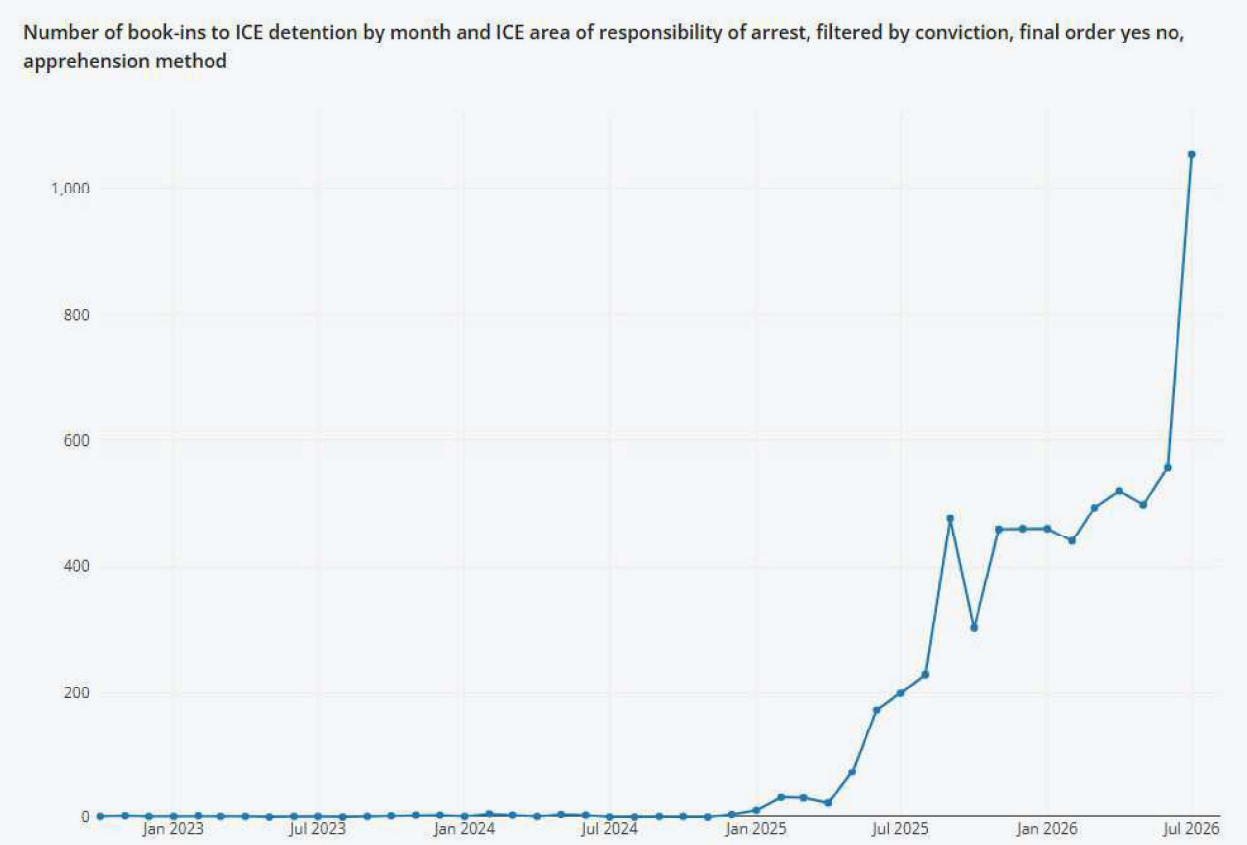
56. In line with this mass detention and deportation effort, DHS abruptly rescinded the Changed Circumstances Policy and adopted the Re-Detention Policy. Since May 2025, hundreds, if not thousands, of people, including Plaintiffs Sosa, Ibañez, and Trujillo have been re-detained in the Atlanta ICE Field Office jurisdiction, mostly at ICE check-ins, without any individualized determination of materially changed circumstances. Under the prior policy, a material change in circumstance that warranted re-detention was usually a criminal charge or conviction, or the issuance of a final order of removal.

57. Data from the Deportation Project shows that between January 2023 and January 2025, ICE almost never carried out arrests and detentions of noncitizens without criminal convictions or final orders of removal who were living in their communities.

58. However, beginning in May 2025, these types of arrests rapidly increased within the jurisdiction of the Atlanta ICE Field Office:

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[7] Nicole Sganga, *Kristi Noem says "Alligator Alcatraz" to be model for ICE state-run detention centers*, CBS NEWS (Aug. 4, 2025), https://www.cbsnews.com/news/alligator-alcatraz-model-kristi-noem-homeland-security/ [https://perma.cc/27EW-BVAV].



SOURCE: *Berkeley Deportation Data Project*, https://tinyurl.com/mrxheuny (arrests and detentions in the Atlanta Area of Responsibility, filtered by non-custodial arrests of individuals with no final removal order and no criminal conviction).

59. In July 2026 alone, 1,055 individuals without final removal orders and without criminal convictions were arrested and detained within the jurisdiction of the Atlanta ICE Field Office. This number likely includes some noncitizens who were detained for the first time, rather than re-detained; however, upon information and belief, at least half of these arrests were of noncitizens who had previously been released from DHS custody and had no change in circumstance at the time of re-arrest.

60. Since May 2025, immigration attorneys within the jurisdiction of the Atlanta ICE Field Office—and across the country—witnessed mass re-

detentions of clients previously released from DHS custody despite no change in individual circumstances.

61. In staying the Re-Detention Policy for class members in the jurisdiction of the San Francisco ICE Field Office, the district court in *Garro Pinchi v. Mullin* found that "in or around May 2025 DHS specifically approved a new policy of detaining noncitizens whom DHS had previously released without conducting individualized determinations as to material changes in circumstance[.]" 813 F. Supp. 3d at 1021.

62. These re-arrests and re-detentions target individuals who have complied with the requirements that the Government imposed on them and would not have been permissible under DHS's prior Changed Circumstances Policy.

63. Recent reports of noncitizens being re-detained shortly after being released pursuant to a successful habeas petition underscore that the risk of cyclical re-detention is ongoing and severe.[8]

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[8] Cait Kelley, *Judge threatens ICE with contempt, sanctions in Minnesota re-arrest case*, MPR NEWS (Oct. 28, 2026), https://www.mprnews.org/story/2026/10/27/minnesota-immigration-rearrest-case-judge-threatens-ice-with-contempt-sanctions [https://perma.cc/W884-SQ2T]; Cris Seda Chabrier, *ICE rapidly re-arresting immigrants released after winning court petitions*, THE GUARDIAN (Nov. 2, 2026), https://www.theguardian.com/us-news/2026/nov/02/immigrants-released-after-court-petitions-ice-arrest [https://perma.cc/BY9R-9XTX].

III. Plaintiffs and Members of the Putative Class Who Pose No Flight Risk or Danger to the Community Face Re-Detention Under Defendants' Policy.

64. Defendants' policy changes have resulted in the sudden, no-notice re-detention of hundreds, if not thousands, of noncitizens, the overwhelming majority of whom lack any criminal history and have a proven record of compliance with immigration check-ins and court appearances. The Government assessed them as neither dangerous nor a flight risk and has not changed that assessment. Nevertheless, they now face arbitrary re-arrest and indefinite re-detention. Plaintiffs' cases illustrate these very concerns.

65. ***Plaintiff Sosa.*** Plaintiff Sosa is an asylum seeker who fled Nicaragua and entered the United States without inspection in or around April 2022. After entering the country, he encountered federal agents and turned himself in. The agents briefly detained Mr. Sosa and then determined that he was not a flight risk or danger to the community and released him on humanitarian parole.

66. When he was released, immigration officials told Mr. Sosa he had to follow the laws and go to his immigration check-ins and court hearings. He was also given a cellphone and had to check in virtually every week with a picture of himself. He received a form and was instructed to bring the form to his next check-in appointment. He understood that these were the conditions

of his release and, as long as he followed these rules, he would not be re-detained.

67. Mr. Sosa, along with his wife and three children, relocated to North Carolina and built their lives there. Mr. Sosa works as an electrician and is the primary income earner for his household. His whole family is very involved in their church, and both Mr. Sosa and his wife teach classes there. Mr. Sosa also feeds people experiencing homelessness through a volunteer program with his church.

68. The lives of Mr. Sosa's three children have drastically improved in the United States. All three children have excelled in high school and are dedicated to furthering their studies.

69. Mr. Sosa did everything immigration authorities required him to do after his release from custody. In January 2023, he filed an application for asylum.

70. Mr. Sosa attended every annual ICE check-in, and he obtained a Social Security number and work authorization. He has no criminal history.

71. Despite fully complying with the conditions of his release, he was re-detained at a routine, annual ICE check-in on March 19, 2026, and placed in removal proceedings under 8 U.S.C. § 1229a.

72. There had been no change in Mr. Sosa's circumstances, and the Government detained him without any individualized determination of a material change in circumstances.

73. Mr. Sosa's detention was traumatic for him and his entire family. Mr. Sosa became depressed and anxiety-ridden about being suddenly ripped away from his family without warning. His children cried constantly while he was detained, and they could not focus in school or participate in their classes.

74. The conditions at Stewart Detention Center were terrible. Mr. Sosa had to sleep on a mat on the floor and almost all of the food tasted like it had expired. He witnessed many detainees get very sick in detention.

75. Mr. Sosa is responsible for 80% of his family's household income. He lost approximately three weeks of wages while being detained and on top of that, had to pay an attorney to represent him in his habeas petition and bond hearing. His detention placed a deep financial strain on his family. His wife and kids could not have managed without him if their church had not stepped in to help financially.

76. Mr. Sosa's attorney filed a habeas petition on his behalf, which was granted. The federal judge found that Mr. Sosa was detained under § 1226(a) and therefore entitled to a bond hearing. At the bond hearing, the immigration judge found that Mr. Sosa was neither a danger nor a flight risk, and he was

released on bond. Mr. Sosa remains at risk of yet another re-detention absent final court intervention.

77. Even after his release, ICE has continued to significantly restrict Mr. Sosa's liberty by placing him on an intensive supervision program that includes an ankle monitor and more frequent check-ins. Mr. Sosa must report in-person to ISAP, a program run by ICE's private contractor, every four weeks in Charlotte, North Carolina.

78. These frequent check-ins heighten Mr. Sosa's risk of being re-detained yet again. Under the Changed Circumstances Policy, restrictions on Mr. Sosa's liberty would not have increased absent a material change in circumstances. Mr. Sosa has his next ICE check-in on December 10, 2026, and remains at risk of re-detention.

79. Mr. Sosa suffers from lingering psychological issues from being re-arrested and re-detained. His fear of being re-detained affects his sleep and makes him anxious and depressed. When he leaves the house, he is extremely anxious that he will be arrested by ICE again.

80. Despite his deep fear of re-arrest, Mr. Sosa has continued to comply with all conditions of release. After his release from custody, Mr. Sosa secured counsel for his removal proceedings and those proceedings are ongoing.

81. The Government previously released Mr. Sosa because he did not pose sufficient risk of flight or danger to the community to warrant detention.

None of that has changed. Mr. Sosa has no criminal record, and there is no basis to believe that he poses any public safety risk. Nor is Mr. Sosa, who was arrested while appearing for his annual ICE check-in, a flight risk.

82. ***Plaintiff Mariona.*** Plaintiff Mariona is an asylum seeker who fled violence and persecution in Honduras in 2022. She entered the United States without inspection by boat in or around February 2022.

83. After entering the country, Ms. Mariona and her husband encountered the Coast Guard, who then turned them over to federal immigration agents. The agents detained Ms. Mariona for one month and then determined that Ms. Mariona was not a flight risk or danger to the community and released her on humanitarian parole.

84. When she was released, immigration officials told Ms. Mariona that she had to go to all of her immigration check-ins and follow the laws. Ms. Mariona received a form and was instructed to bring the form to her next check-in appointment.

85. The form Ms. Mariona received upon release stated:

> "Parole is conditioned on you complying with the terms and conditions of your release. You must notify ICE and the immigration judge of any address correction or address change. You must report for every scheduled hearing before the immigration court and every appointment as directed by ICE (including for removal from the United States should you become subject to a final removal order). You must not violate any local, State or Federal laws or ordinances. You must comply with any other specified conditions if identified separately."

86. Ms. Mariona understood that these were the conditions of her release and, as long as she followed these rules, she would not be re-detained.

87. In 2022, Ms. Mariona was placed in removal proceedings. In 2023, Ms. Mariona filed an asylum application.

88. After being released from detention, Ms. Mariona and her husband, Kelvin Lopez, relocated to Dunn, North Carolina, and built their lives there. Ms. Mariona has a three-year-old U.S. citizen son. He has autism spectrum disorder, and Ms. Mariona is his primary caregiver.

89. Ms. Mariona's son has very specific needs and requires Ms. Mariona's support in all aspects of his life: he cannot eat or bathe on his own and his vocabulary consists of only one or two words, so he relies on her understanding of his needs.

90. Ms. Mariona's son especially struggles with sleeping. Either Ms. Mariona or Mr. Lopez must sleep with him every night. He cannot be alone at any point.

91. Although most of her time is spent taking care of her son, Ms. Mariona also received work authorization and works part-time at a car maintenance shop.

92. Ms. Mariona goes to church every Sunday. She is very close with her pastor and the congregation, and remains deeply involved in her church.

93. In addition to their U.S. citizen son, Ms. Mariona and Mr. Lopez also have several other U.S. citizen family members, including Ms. Mariona's two brothers and Mr. Lopez's mother, stepfather, and brother.

94. Ms. Mariona and Mr. Lopez have done everything immigration authorities required them to do after their release from custody. They attended every annual ICE check-in and followed all the laws. They have no criminal history in the United States or anywhere else.

95. Despite fully complying with the conditions of their release, Ms. Mariona's husband, Mr. Lopez, was re-detained at a routine, annual ICE check-in on April 28, 2026, and placed in removal proceedings under 8 U.S.C. § 1229a.

96. There had been no change in Mr. Lopez's circumstances, and the Government detained him without any individualized determination of material change in circumstances.

97. Mr. Lopez and Ms. Mariona's son cried every day while his father was detained. The three-year-old was understandably frustrated and confused about why his dad was suddenly missing from their home. It caused him extreme dysregulation.

98. Mr. Lopez was released from ICE detention on bond several weeks after his re-detention. He received a bond hearing only after the United States District Court for the Middle District of Georgia ordered one in response to Mr.

Lopez's habeas petition. Mr. Lopez and Ms. Mariona's son started doing much better as soon as Mr. Lopez returned home.

99. After Mr. Lopez's re-detention, Ms. Mariona became extremely worried that she was also at substantial risk of re-detention at her next check-in.

100. Ms. Mariona's next ICE check-in is on March 4, 2027. She feels extremely anxious about the risk of being re-detained.

101. If Ms. Mariona is re-detained at her next check-in, her son's mental and physical health will be in severe jeopardy. She is her son's primary care and support system, and the detention of her son's father was already extremely traumatic for their entire family.

102. Ms. Mariona has been working very closely with her son to help him learn more words and phrases in order to express himself. If she were re-detained, that progress would be destroyed, and the disruption to his life, education, and routine would be devastating. Ms. Mariona's son is rarely ever away from her, and he typically cannot spend much time without her, even with close family members, because it causes him severe emotional distress.

103. The thought of being separated from her son fills Ms. Mariona with terror. She remains extremely worried that she will be re-detained at her next check-in, just like her husband was, despite complying with all of the conditions of her release and following all the laws.

104. Ms. Mariona has also witnessed firsthand the ways in which ICE has continued to significantly restrict her husband's liberty, even after release from detention. ICE placed Mr. Lopez on an intensive supervision program, which includes more frequent check-ins. Mr. Lopez must report in-person to ISAP every four weeks in Charlotte, North Carolina, and check-in virtually with ISAP every week. Under the Changed Circumstances Policy, restrictions on Mr. Lopez's liberty would not have increased absent a material change in circumstances.

105. Defendants re-detained Mr. Lopez pursuant to the unlawful Re-Detention Policy despite no change in his individual circumstances. Ms. Mariona similarly has had no material change in her circumstances. However, Ms. Mariona has her next ICE check-in on March 4, 2027, and under Defendants' new Re-Detention Policy, is at substantial risk of re-detention.

106. ***Plaintiff Ibañez*** is an asylum seeker who fled violence and persecution in Venezuela in 2022. He entered the United States without inspection in or around February 2022.

107. After entering the country, Mr. Ibañez encountered federal immigration agents. The agents detained Mr. Ibañez for approximately five or six days and then determined that he was not a flight risk or danger to the community and released him on his own recognizance under 8 U.S.C. § 1226(a) and 8 C.F.R. § 236.1(c)(8) (Sept. 9, 2016).

108. When Mr. Ibañez was released, immigration officials gave him a document that explained the conditions of his release. The document indicated that Mr. Ibañez must: appear for any hearing or interview with DHS or the Executive Office for Immigration Review (EOIR), report to a deportation officer in the Miramar, Florida, ICE office, and surrender himself for deportation from the United States if so ordered. The document also stated that he must secure DHS permission before changing his address, comply with all local, state, and federal laws, and assist DHS in obtaining any necessary travel documents.

109. After attending his first appointment at the Miramar ICE office, he was instructed to attend annual ICE check-ins. He understood that these were the conditions of his release and, as long as he followed these rules and attended check-ins and court hearings, he would not be re-detained.

110. In January of 2023, Mr. Ibañez filed an asylum application.

111. After being released from DHS custody, Mr. Ibañez built his life in Athens, Georgia. After receiving his work permit, he began working at a warehouse loading trucks. He and his wife formed a tight-knit community in Athens, and they regularly attend church. Mr. Ibañez has no criminal history, other than a charge for driving without a license that he received in 2022, which was ultimately dismissed. After attending his check-in in May 2023, Mr. Ibañez's check-in location was transferred to the Atlanta ICE office, and he

continued to comply with all reporting, supervision, and immigration court requirements, both in person and remote.

112. Despite fully complying with the conditions of his release, Mr. Ibañez was re-detained at a routine, annual check-in at the Atlanta ICE Field Office on September 11, 2026, and taken to Irwin Detention Center in Georgia.

113. There had been no change in Mr. Ibañez's circumstances since his previous check-in, and the Government detained him without any individualized determination of a material change in circumstances.

114. Mr. Ibañez lost seventeen pounds while in immigration detention due to the dismal conditions, his declining mental health, and the poor quality of the food. He also became sick but was not given adequate medical care to treat his fever and cough.

115. About three days after he was re-detained, Mr. Ibañez was fired from his warehouse job for missing work. His family struggled to pay bills and legal fees while he was detained and ultimately went into debt as a result of the financial strain.

116. Mr. Ibañez's lawyer filed a habeas petition on his behalf, which a federal judge granted. The judge found that he was detained under 8 U.S.C. § 1226(a) and therefore entitled to a bond hearing.

117. After about a month in immigration detention, Mr. Ibañez was released on a $20,000 bond on October 9, 2026, after yet another

determination, this time by an immigration judge, that he does not pose a danger or flight risk.

118. After his release, ICE placed Mr. Ibañez on ISAP, and he now has to wear an ankle monitor. As part of the additional restrictions on his liberty, Mr. Ibañez now must report in-person to the ISAP office for check-ins the day after each of his immigration court hearings. He is currently waiting for his next court hearing to be scheduled. In the meantime, his ISAP officer scheduled a home visit on December 2, 2026. These frequent check-ins heighten Mr. Ibañez's risk of being re-detained yet again. Under the Changed Circumstances Policy, restrictions on Mr. Ibañez's liberty would not have increased absent a material change in circumstances.

119. The Government previously released Mr. Ibañez in 2022 after finding that he did not pose a flight risk or danger to the community. Since that time, he has complied with the conditions of his release and there is no basis to believe that he poses any public safety or flight risk.

120. Defendants re-detained Mr. Ibañez pursuant to the Re-Detention Policy despite no change in his individual circumstances. Absent court intervention, Mr. Ibañez remains at substantial risk of re-detention.

121. ***Plaintiff Trujillo*** is a 46-year-old Mexican man and a long-time resident of Savannah, Georgia. He entered the U.S. without inspection in 2004.

122. Mr. Trujillo did not encounter Border Patrol upon his entry and was not detained. However, ten years later, in 2014, Mr. Trujillo was arrested for driving without a license and subsequently taken into DHS custody. He was held for approximately three days, during which an ICE officer interviewed him, determined he was neither dangerous nor a flight risk, and released him on his own recognizance pursuant to 8 U.S.C. § 1226(a) and 8 C.F.R. § 236.1(c)(8) (Sept. 9, 2016). He was placed in removal proceedings under 8 U.S.C. § 1229a at that time.

123. When Mr. Trujillo was released, ICE gave him a document that explained the conditions of his release. The document indicated that Mr. Trujillo must: appear for any hearing or interview with DHS or EOIR, surrender himself for deportation from the United States if so ordered, and report to the Atlanta ICE Field Office as instructed. The document also stated that he must secure DHS permission before changing his address, comply with all local, state, and federal laws, and assist DHS in obtaining any necessary travel documents.

124. After being released from DHS custody, Mr. Trujillo returned to the life he had built over ten years in Savannah. Mr. Trujillo applied for a Cancellation of Removal after living in the country continuously for at least ten years. He received work authorization and a Social Security number, and he secured a driver's license.

125. Mr. Trujillo was not required to attend regular ICE check-ins. Instead, he awaited notice of an immigration court hearing. One was eventually scheduled in November 2019 but was cancelled shortly thereafter.

126. For twelve years after his initial detention, Mr. Trujillo continued to comply with all of the conditions of his release, worked to support his wife and U.S. citizen daughter, and engaged with his community in the place he has called home for decades.

127. Mr. Trujillo and his wife regularly attend church in Savannah. They raised their daughter in Georgia public schools, and she now attends the University of Georgia, earning a merit scholarship for her academic performance. For expenses not covered by this scholarship, Mr. Trujillo provides for his daughter's needs.

128. Since Mr. Trujillo was released on his own recognizance in 2014, he has maintained a clean record.

129. Despite fully complying with the conditions of his release, Mr. Trujillo was randomly stopped by an ICE officer while driving in Savannah, Georgia on September 15, 2026. During this stop, ICE detained Mr. Trujillo, his adult son, and his wife.

130. There had been no change in Mr. Trujillo's circumstances since his previous detention, and the Government detained him without any individualized determination of a material change in circumstances.

131. Mr. Trujillo's family lost almost a month of income while he was detained. His U.S. citizen daughter is currently in college and relies on his financial support. Mr. Trujillo also lost weight while in detention. The conditions in immigration detention were very bleak.

132. On October 8, 2026, Mr. Trujillo was released on a $20,000 bond after a bond hearing, during which an immigration judge determined that he does not pose a danger or flight risk—just as the ICE officer found in 2014.

133. DHS placed Mr. Trujillo in the Alternatives to Detention program, and he is now required to submit a photo of himself to ICE every Thursday through an app on his phone.

134. Mr. Trujillo must drive on the road where he was detained every day for work. He remains extremely worried that ICE will re-detain him again during a traffic stop or at his next check-in. His next in-person ICE check-in is on April 21, 2027, at the Savannah ICE office.

135. DHS previously released Mr. Trujillo in 2014 after finding that he did not pose a danger or flight risk to the community. Since that time, he has complied with the conditions of his release and there is no basis to believe that he poses any public safety or flight risk.

136. Defendants re-detained Mr. Trujillo pursuant to the Re-Detention Policy despite no change in his individual circumstances. Mr. Trujillo has his

next in-person check-in on April 21, 2027, and remains at substantial risk of re-detention absent court intervention.

137. ***Other Putative Class Members.*** Upon information and belief, hundreds, if not thousands, of noncitizens within the jurisdiction of the Atlanta ICE Field Office (Georgia, North Carolina, and South Carolina) with similar facts and circumstances have already been re-detained under the unlawful Re-Detention Policy. And hundreds more remain at risk of re-detention, either at check-ins, during traffic stops, or at other locations.

138. Siembra NC, a non-profit organization that runs a hotline for individuals to report ICE detentions and suspected ICE activity, reported 111 re-detentions at check-in appointments in North Carolina from May 1, 2025, to October 13, 2026.

139. Charles Kuck, founding partner of Kuck Baxter LLC, an immigration law firm in Atlanta, Georgia, reported that more than forty of his clients had been re-detained at check-in appointments or at other locations in their communities over the past year and a half despite no change in circumstances.

140. Similarly, Michael Urbina, founder and Chief Executive Officer at Urbina Immigration Law, a law firm based in Atlanta, Georgia, reported that twenty-four of his clients had been re-detained at ICE or ISAP check-ins over the past year despite no change in circumstances, and his firm has been

retained by approximately fifty additional new clients who were re-detained at check-ins and required representation at bond hearings.

141. Other immigration practitioners across the jurisdiction of the Atlanta ICE Field Office similarly describe mass re-detentions of clients without any material change in circumstances. These re-detentions separate families, cause severe emotional and financial distress, and disrupt jobs and education.

142. As one example, Alvaro Ropero Moreno is an asylum seeker who entered the United States without inspection in 2022. Mr. Ropero was briefly detained, during which time immigration officials interviewed and then released Mr. Ropero, his wife, and his two stepsons on humanitarian parole after finding that they posed no danger or flight risk.

143. Upon release, immigration officials told Mr. Ropero that he must follow the laws and report to all immigration check-ins and hearings. After relocating to Charlotte, North Carolina, Mr. Ropero obtained a valid work permit and has worked as an installation technician and project manager for the past four years.

144. Mr. Ropero is actively involved in his community, including attending church regularly and assisting his congregation with community outreach. He has no criminal history, and he is the primary income earner for his family.

145. Mr. Ropero and his family complied with all conditions of their release from custody. Despite no change in circumstances that would warrant taking him into custody, in July 2026, Mr. Ropero and his eighteen-year-old stepson were arrested by ICE while appearing for their regularly scheduled check-in at the Charlotte ICE Office.

146. After being re-detained, Mr. Ropero and his stepson were transferred to a detention facility in Georgia. They both struggled physically and mentally in detention. In particular, Mr. Ropero's teenage son suffered from severe anxiety and depression, which caused Mr. Ropero significant distress because he could not do anything to change their situation. Mr. Ropero's stepson was weeks away from starting his senior year of high school before he was arbitrarily re-detained. Mr. Ropero and his stepson remained in detention for approximately two and a half weeks. Mr. Ropero was granted bond on August 3, 2026, but his stepson was granted bond and released only after his lawyers filed a habeas petition in the United States District Court for the Middle District of Georgia to challenge his arbitrary re-detention. Both Mr. Ropero and his stepson remain at substantial risk of re-detention absent final court intervention.

IV. DHS Offered No Reasoned Explanation for Its Drastic Change in Policy.

147. When DHS rescinded the Changed Circumstances Policy and adopted the Re-Detention Policy, DHS did not acknowledge and provided no reasoned explanation for why it reversed course from decades of not re-arresting and re-detaining people absent an individualized assessment of changed circumstances—and certainly not one that considered the reliance interests, Fourth Amendment interests, and public interest in an orderly immigration system.

148. Without reasoned decision-making, DHS attorneys began providing a new post hoc explanation: that—contrary to thirty years of statutory interpretation—§ 1225(b)(2), and not § 1226(a), applies to noncitizens in removal proceedings who entered without inspection, even those whom DHS itself had previously released from custody under the release mechanisms exclusive to § 1226(a).

149. On July 8, 2025, DHS issued an internal memo titled *Interim Guidance Regarding Detention Authority for Applicants for Admission* (the "July 8 Memo"), which it emailed to ICE employees, that echoed that position. The July 8 Memo stated that "[t]his change in legal interpretation may . . . warrant re-detention of a previously released [noncitizen] in a given case."

150. However, the Eleventh Circuit rejected the Government's new interpretation of the statute and held that § 1225(b)(2) applies to noncitizens "who have not yet entered the United States, but are 'seeking admission' at the border," not noncitizens who are "simply present" in the interior. *Hernandez Alvarez*, 175 F.4th at 1262, 1281.

151. Despite this binding precedent, the Government continues to re-detain individuals who entered without inspection, which forces noncitizens to continue to pursue habeas relief, even after the Eleventh Circuit ruling, in order to establish their right to a bond hearing under § 1226(a). *See, e.g.*, *L.S.V.M. v. Warden, Irwin Cnty. Det. Ctr.*, No. 26-cv-00219-WLS-CHW (July 31, 2026).

152. On information and belief, Defendants' new Re-Detention Policy has resulted in the arbitrary re-detention of hundreds, if not thousands, of noncitizens subject to the jurisdiction of the Atlanta ICE Field Office. Plaintiffs Sosa, Ibañez, and Trujillo have already been re-detained pursuant to the unlawful Re-Detention Policy and remain at substantial risk of being detained yet again. Plaintiff Mariona, whose husband was arbitrarily re-detained at his check-in, is at substantial risk of re-detention at her upcoming check-in in March 2027. None of these individuals have had any change in circumstance, and they have complied with their conditions of release. They have attended immigration court hearings and supervision check-ins and complied with

various administrative immigration requirements. Yet they were re-arrested and re-detained, or risk imminent re-arrest or re-detention.

V. The Re-Detention Policy Imposes Extraordinary and Irreparable Harm on Plaintiffs and the Putative Class.

153. Plaintiffs and putative class members face the immediate threat of being re-arrested and re-detained the next time they appear at an ICE or ISAP office for a scheduled appointment, or during a chance encounter with ICE in the street. They face the terror of losing their liberty and potentially being locked up for weeks, months, or even years, in detention facilities thousands of miles away from their loved ones, homes, immigration attorneys, and the witnesses and documents that are key to their immigration cases.

154. Plaintiffs and putative class members further face the trauma of being indefinitely separated from their families, including minor children. The lasting effects of the trauma of family separation on detained noncitizens, as well as their loved ones, are well-documented.

155. Plaintiffs and putative class members, fearing detention and family separation, are experiencing deep emotional and psychological harm because of Defendants' rescission of the old policy and implementation of the new policy. They are experiencing extreme anxiety, insomnia, fear, and depression as they face the prospect of being ripped away from their families and losing their liberty as a consequence of attending a scheduled ICE or ISAP

appointment, driving to work or school, or otherwise moving about their communities in compliance with the conditions of their release.

156. During one particularly disturbing re-arrest and re-detention in South Carolina, Eblin Maria Contreras, a putative class member, suffered a miscarriage as a result of the trauma, stress, and physical violence she endured during her re-arrest and re-detention.

157. Plaintiffs and putative class members also risk losing gainful employment and having their schooling interrupted. They may lose their homes as a result of the loss of income while detained, making it impossible for them or their loved ones to pay the rent or mortgage. Indeed, putative class members who have already been re-detained under the Re-Detention Policy have lost wages, employment, housing, and healthcare.

158. For example, Mr. Sosa's detention caused severe financial strain on his family, as he is the primary financial support for his wife and three children. He lost three weeks of wages while detained, and his wife would not have been able to make ends meet if their church had not stepped in to help support them.

159. Mr. Sosa's sudden separation from his family also caused massive psychological harm to him and his children. Mr. Sosa's children cried constantly while he was detained. They couldn't focus in school after their

father was ripped away from them without warning, and their participation and involvement in their classes drastically declined.

160. The risk that Defendants will again re-detain Mr. Sosa under the Re-Detention Policy causes him extreme mental distress. He remains afraid every time he leaves the house because he fears being arrested by ICE again. He experiences intrusive memories of being detained and feels flooded with terror, making it hard to sleep or concentrate. He feels especially panicked when he has to check in with ICE and ISAP. If Mr. Sosa is re-detained again, it would destroy him and his family psychologically and financially. He lives every day in fear of being taken away from his kids again.

161. Likewise, the risk that Defendants will re-detain Ms. Mariona at her upcoming ICE check-in causes her extreme anxiety. Ms. Mariona fears that if she is re-detained, she will be ripped away from her three-year-old U.S. citizen son, for whom she is the primary caregiver and provider. Ms. Mariona's son has autism spectrum disorder and relies on her for his basic needs. Any amount of separation from her son would cause him and Ms. Mariona significant trauma.

162. When Ms. Mariona's husband, Mr. Lopez, was detained at his check-in in April 2026, her son cried every day and began lashing out by scratching and hitting family members because he was frustrated and

confused about why his dad never came home. He was extremely dysregulated and suffered tremendously during that time.

163. If Ms. Mariona was re-detained, her son's physical and mental health would be in severe jeopardy, and she worries he would never recover emotionally from it. He is deeply attached to Ms. Mariona, and they barely ever spend time apart. The thought of being separated from her son fills Ms. Mariona with terror.

164. Re-detention also caused Mr. Ibañez significant harm. Mr. Ibañez lost seventeen pounds while in custody due to the poor quality of the food and his deteriorating mental health. He was also fired from his job three days after being re-detained because he was forced to miss work without giving his employer any warning.

165. Mr. Ibañez lost a full month of wages while detained, which caused his family to suffer financially. After paying legal fees and posting bond to get him out of custody, Mr. Ibañez and his wife went into debt. It has been extremely difficult for Mr. Ibañez to repay this debt because he lost his job while detained.

166. After his release from detention, DHS fitted Mr. Ibañez with an ankle monitor, which he is required to wear at all times. The ankle monitor is uncomfortable, and Mr. Ibañez has anxiety over the stigma attached to wearing it.

167. Mr. Ibañez remains extremely paranoid and fearful when he goes out in public due to the risk of being re-detained. Mr. Ibañez fears that if he is re-detained again, he will not be able to afford a lawyer because he and his wife already went into debt paying legal fees to seek his release. His ISAP officer scheduled a home visit to take place on December 2, 2026, which also causes Mr. Ibañez significant panic.

168. Similarly, Mr. Trujillo and his family also suffered significant harm as a result of his re-detention. He lost weight while detained and worried constantly about his U.S. citizen daughter. Mr. Trujillo's daughter learned that her father and mother had been detained through social media posts. Upon learning of their detention, she abandoned her school-related responsibilities and immediately drove from Athens to Savannah to try to help her parents.

169. Mr. Trujillo is the sole financial provider for his wife and daughter, so his family was without income for almost a month, which also caused significant hardship.

170. Now that Mr. Trujillo has been released, he has to drive on the same road where he was detained every day for work. He lives in fear that he could be re-detained at any time. Both he and his wife are scared to be in public for longer than necessary, and they have stopped going to church most Sundays out of fear of re-detention.

171. Mr. Trujillo's next check-in appointment is on April 21, 2027. If he is re-detained, he will not be able to support his family and the legal fees required to seek his release would be devastating to the whole family.

CLASS ACTION ALLEGATIONS

172. Plaintiffs Sosa, Mariona, Ibañez, and Trujillo bring this action on behalf of themselves and all others who are similarly situated pursuant to Federal Rule of Civil Procedure 23(a) and 23(b)(2).

173. Mr. Sosa, Ms. Mariona, Mr. Ibañez, and Mr. Trujillo seek to represent the following class and subclasses:

> **Class**: All noncitizens who (1) are or will be in the jurisdiction of the Atlanta ICE Field Office; (2) have been or will be released from DHS custody; (3) are or will be in removal proceedings under 8 U.S.C. § 1229a, including any § 1229a proceedings that have been dismissed where the dismissal is not administratively final; and (4) are not subject to detention under 8 U.S.C. § 1226(c).
>
> **The Bond Eligible Subclass**: All members of the putative class who entered without inspection and whose release from DHS custody was or will be on bond, parole, or on their own recognizance.

174. Plaintiffs reserve the right to amend or modify the class and subclass definitions as appropriate.

175. The putative class and subclass satisfy the prerequisites of Rule 23(a) and 23(b)(2).

176. The putative class and subclass satisfy Rule 23(a)(1) because they are so numerous that joinder of all members is impracticable. On information

and belief, Defendants have subjected hundreds, if not thousands, of noncitizens within the jurisdiction of the Atlanta ICE Field Office to unlawful re-arrests and re-detentions under the Re-Detention Policy and will continue to do so on a widescale basis until and unless a court order prevents them from doing so.

177. The putative class and subclass satisfy Rule 23(a)(2) because there are multiple questions of law and fact common to all members of the putative classes. Those common questions include, but are not limited to:

178. Whether the rescission of the Changed Circumstances Policy and adoption of the Re-Detention Policy are arbitrary and capricious under the APA because Defendants:

> i) failed to acknowledge, let alone provide a reasoned explanation for, the reversal of longstanding agency policy against re-arresting and re-detaining noncitizens absent an individualized determination of a material change of circumstances;
>
> ii) failed to adequately consider important factors relevant to this decision, such as the reliance interests of individuals released from detention, the Fourth Amendment violations caused by the new policy, and the impact of the decision on the orderly functioning of the immigration system; and
>
> iii) relied on a factor that Congress did not intend it to consider, namely the improper use of re-detention to coerce people to give up their immigration claims and self-deport; and

179. Whether the rescission of the Changed Circumstances Policy and adoption of the Re-Detention Policy is unlawful under the APA as "contrary to

a constitutional right" because it violates the Fourth Amendment's guarantee against unreasonable seizures.

180. In addition to these questions common to the entire class, the Bond Subclass presents an additional question capable of resolution for all members of that Subclass: Whether Defendants' Re-Detention Policy violates the INA and exceeds their statutory authority under 8 U.S.C. § 1226(b).

181. The putative class and subclass satisfy Rule 23(a)(3) because the Plaintiffs' claims are typical of the claims of the class. Each class member's claims arise from Defendants' rescission of the old policy and adoption of the new policy, and each class member has experienced or will experience the same primary injuries.

182. The putative class and subclass satisfy Rule 23(a)(4) because the putative class representatives are committed to fairly and adequately defending the rights of all putative class members. Plaintiffs seek the same relief as all members of the class, and their interests are not in conflict with the interests of the class. They have obtained counsel from the ACLU of North Carolina Legal Foundation, ACLU of Georgia Legal Foundation, ACLU of South Carolina Legal Foundation, and Foley Hoag LLP, who have substantial experience litigating class action lawsuits and other complex federal litigation, including on behalf of noncitizens.

183. The putative class and subclass also satisfy Rule 23(b)(2) because Defendants have acted on grounds that apply generally to the class so that the relief sought is appropriate as to the class as a whole.

CLAIMS FOR RELIEF

Count I

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A) *Rescission of the Changed Circumstances Policy Is Arbitrary and Capricious*

Plaintiffs, Class, and Bond Subclass

184. On behalf of the Class and the Subclass, Plaintiffs incorporate by reference the allegations of preceding paragraphs.

185. The Administrative Procedure Act provides that courts "shall . . . hold unlawful and set aside agency action" that is "arbitrary, capricious, . . . or otherwise not in accordance with law[.]" 5 U.S.C. § 706(2)(A).

186. Rescission of the Changed Circumstances Policy is a reviewable final agency action because it is neither tentative nor interlocutory. Additionally, legal consequences flow from the rescission for Plaintiffs and the putative class and subclass, who have been re-detained as a result of the rescission of the Changed Circumstances Policy or are at substantial risk of being re-detained in the future as a result of the rescission.

187. The rescission of the Changed Circumstances Policy departs from longstanding agency precedent, policy, and practice. This dramatic shift in

policy results in the costly and arbitrary re-detention of individuals who had serious reliance interests on the Changed Circumstances Policy.

188. In rescinding the Changed Circumstances Policy, Defendants acted in an arbitrary and capricious manner for at least four reasons.

189. First, Defendants failed to acknowledge the departure from the Changed Circumstances Policy.

190. Second, Defendants failed to provide a reasoned explanation for the rescission.

191. Third, Defendants failed to consider serious reliance interests and the constitutional limitations on the Government's authority to re-detain putative class members before rescinding the policy. Defendants also failed to consider the role that the Changed Circumstances Policy played in ensuring the orderly functioning of the immigration system by incentivizing noncitizens to attend all of their check-ins and hearings and abide by the rules set for them by the Government.

192. Fourth, Defendants relied on factors Congress did not intend for them to consider, including the improper use of re-detention to coerce people to abandon their claims for relief and self-deport.

193. The rescission of the Changed Circumstances Policy is therefore arbitrary and capricious in violation of the Administrative Procedure Act.

Count II

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(B) *Rescission of the Changed Circumstances Policy Is Contrary to Constitutional Right*

Plaintiffs, Class, and Bond Subclass

194. On behalf of the Class and the Subclass, Plaintiffs incorporate by reference the allegations of paragraphs 1 through 184.

195. The APA provides that courts "shall . . . hold unlawful and set aside agency action" that is "contrary to constitutional right." 5 U.S.C. § 706(2)(B).

196. The Fourth Amendment protects the right of all persons present in the United States to be free from unreasonable seizures by government officials. Plaintiffs and members of the putative class therefore have the right to be free from unreasonable seizures.

197. As a corollary to that right, the Fourth Amendment prohibits re-arrest on the same charges or the same probable cause without a material change in circumstances. The Changed Circumstances Policy comported with Fourth Amendment protections.

198. The rescission of the Changed Circumstances Policy violates the Fourth Amendment because it removed constitutional guardrails that prevented immigration agents from undertaking unreasonable seizures.

199. The rescission of the Changed Circumstances Policy allows DHS officers to re-detain Plaintiffs and putative class members for the same civil

immigration charges as their initial arrest without an individualized determination of a material change in circumstances.

Count III

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A)
The Re-Detention Policy Is Arbitrary and Capricious

Plaintiffs, Class, and Bond Subclass

200. On behalf of the Class and the Subclass, Plaintiffs incorporate by reference the allegations of paragraphs 1 through 184.

201. The Administrative Procedure Act provides that courts "shall . . . hold unlawful and set aside agency action" that is "arbitrary, capricious . . . or otherwise not in accordance with law[.]" 5 U.S.C. § 706(2)(A).

202. The Re-Detention Policy is a reviewable final agency action because it is neither tentative nor interlocutory, and legal consequences flow from the policy for Plaintiffs and the putative class and subclass, who have been re-detained under the Re-Detention Policy or are at substantial risk of re-detention under the policy in the future.

203. The Re-Detention Policy departs from longstanding agency precedent, policy, and practice. This dramatic shift in policy results in the costly and arbitrary re-detention of individuals who had serious reliance interests on the Changed Circumstances Policy.

204. In adopting the Re-Detention Policy, Defendants provided no reasoned explanation and therefore acted in an arbitrary and capricious manner for at least four reasons.

205. First, Defendants failed to even acknowledge their departure from the Changed Circumstances Policy.

206. Second, Defendants failed to provide a reasoned explanation for adopting the new Re-Detention Policy; in fact, they provided no explanation at all.

207. Third, Defendants failed to consider serious reliance interests on the past policy and the constitutional limitations on the Government's authority to re-detain putative class members. Defendants also failed to consider the impact of the Re-Detention Policy on the orderly functioning of the immigration system.

208. Fourth, Defendants relied on factors Congress did not intend for them to consider, including the improper use of re-detention to coerce people to abandon their claims for relief and self-deport.

209. The Re-Detention Policy is therefore arbitrary and capricious in violation of the Administrative Procedure Act.

Count IV

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(B)
The Re-Detention Policy Is Contrary to Constitutional Right

Plaintiffs, Class, and Bond Subclass

210. On behalf of the Class and the Subclass, Plaintiffs incorporate by reference the allegations of paragraphs 1 through 184.

211. The APA provides that courts "shall . . . hold unlawful and set aside agency action" that is "contrary to constitutional right." 5 U.S.C. § 706(2)(B).

212. The Fourth Amendment protects the right of all persons present in the United States to be free from unreasonable seizures by government officials. Plaintiffs and members of the putative class therefore have the right to be free from unreasonable seizures.

213. As a corollary to that right, the Fourth Amendment prohibits re-arrest on the same charges or the same probable cause without a material change in circumstances.

214. The Re-Detention Policy violates the Fourth Amendment because it authorizes immigration agents to undertake unreasonable seizures by re-detaining Plaintiffs and the putative class members for the same civil immigration charges as their initial arrest without a material change in circumstances.

Count V

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)
The Re-Detention Policy Violates the INA

Plaintiffs and Bond Subclass

215. On behalf of the Subclass, Plaintiffs incorporate by reference the allegations of paragraphs 1 through 184.

216. The Re-Detention Policy violates 8 U.S.C. § 1226(b) because the statute does not authorize re-detention without a material change in circumstances with respect to a noncitizen's flight risk or danger to the community based on an individualized determination.

217. Further, Defendants' re-interpretation of 8 U.S.C. § 1225(b)(2) and § 1226(a) is contrary to law and is not a valid legal basis for the Re-Detention Policy.

218. The Re-Detention Policy violates the Administrative Procedure Act because it is "not in accordance with law" and "in excess of statutory jurisdiction, authority, or limitations." 5 U.S.C. § 706(2)(A), (C).

PRAYER FOR RELIEF

Plaintiffs respectfully request that the Court:

1. Certify the Class and Bond Eligible Subclass as described above, and appoint Plaintiffs Sosa, Mariona, Ibañez, and Trujillo as class representatives;

2. Appoint the undersigned counsel as class counsel pursuant to Federal Rule of Civil Procedure 23(g);

3. Exercise the Court's authority under 5 U.S.C. § 705 to provide relief pending review of the rescission of the Changed Circumstances Policy and adoption of the Re-Detention Policy;

4. Declare that Defendants' rescission of the Changed Circumstances Policy is arbitrary and capricious and contrary to constitutional right;

5. Vacate and set aside the rescission of the Changed Circumstances Policy;

6. Declare that Defendants' adoption of the Re-Detention Policy is arbitrary and capricious, contrary to constitutional right, in excess of statutory authority, and contrary to law;

7. Vacate and set aside the Re-Detention Policy;

8. Award Plaintiffs reasonable costs and attorneys' fees; and

9. Grant any other and further relief as the Court deems just and equitable.

Dated: November 12, 2026

Respectfully submitted,

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