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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CARMEN ARACELY PABLO SEQUEN,
YULISA ALVARADO AMBROCIO,
MARTIN HERNANDEZ TORRES, and LIGIA
GARCIA,

Plaintiffs-Petitioners,

v.

SERGIO ALBARRAN, MARCOS CHARLES,
THOMAS GILES, MONICA BURKE, KRISTI
NOEM, U.S. DEPARTMENT OF
HOMELAND SECURITY, TODD M. LYONS,
SIRCE E. OWEN, PAMELA BONDI, U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT, UNITED STATES
DEPARTMENT OF JUSTICE, EXECUTIVE
OFFICE FOR IMMIGRATION AND
REVIEW, UNITED STATES OF AMERICA,

Defendants-Respondents.

CASE NO. 25-cv-06487-PCP

**RESPONDENTS' MOTION TO DISMISS AND
MOTION TO SEVER**

Date: December 11, 2025
Time: 10:00 a.m.
Courtroom: Courtroom 8 – 4th Floor

Honorable P. Casey Pitts
United States District Judge

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NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on December 11, 2025, at 10:00 a.m., or as soon thereafter as the matter may be heard by the Honorable P. Casey Pitts, in Courtroom Eight of the Robert F. Peckham Federal Building and United States Courthouse located at 280 South First Street, Fourth Floor, San Jose, California 95113, Respondents¹ will respectfully move for an order dismissing Petitioners' First Amended Complaint and Petition for Writ of Habeas Corpus ("FAC") with prejudice. In the alternative, Respondents move to sever the claims of Petitioners, Yulisa Alvarado Ambrocio ("Ambrocio"), Martin Hernandez Torres ("Torres"), and Ligia Garcia ("Garcia"), from the claims of Petitioner, Carmen Aracely Pablo Sequen ("Sequen"). Respondents move under Rule 12(b)(1), Rule 12(b)(6), and Rule 21 of the Federal Rules of Civil Procedure. Respondents' Motion to Dismiss and Motion to Sever is based on this Notice of Motion, the Declaration of Douglas Johns, the Declaration of Sellenia Olson, the accompanying Memorandum of Points and Authorities, and all the matters of record filed with the Court.

STATEMENT OF RELIEF

Respondents move for an order dismissing Petitioners' FAC with prejudice. In the alternative, Respondents move to sever the claims of Torres, Ambrocio, and Garcia from Sequen's claims.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Petitioners' amended complaint is an improper attempt to transform Sequen's routine habeas petition challenging her re-arrest and detention into a completely different lawsuit. Indeed, it purports to bring a class action that adds three new Petitioners and nine new Respondents and pleads seven new claims that challenge multiple national immigration policies as well as the conditions of confinement at the San Francisco holding facility where Petitioners are no longer held. This new pleading seeks an entire re-do of the original habeas case, all to be heard before the same judge. *See* ECF No. 32-1 (redline showing that 272 out of 303 paragraphs, or 90%, are new). The Court should dismiss Petitioners' blatant

¹ Respondents include Sergio Albarran, Marcos Charles, Thomas Giles, Monica Burke, Kristi Noem, the U.S. Department of Homeland Security, Todd Lyons, Sirce Owen, Pamela Bondi, the United States Immigration and Customs Enforcement, the United States Department of Justice, the Executive Office for Immigration and Review, and the United States of America.

attempt at forum-shopping that, by hand-picking the judge after the Court preliminarily enjoined Sequen’s re-arrest and detention, effectively undermines the purpose of the random assignment process in this District. First, the Court lacks jurisdiction over Petitioners’ claims in that Petitioners lack standing; their claims are not ripe; their claims are moot; and as this Court and the Ninth Circuit have ruled, claims regarding conditions of confinement cannot proceed in a habeas action. Second, Petitioners cannot state a claim under the Administrative Procedure Act (“APA”) as to any of the challenged policies. Finally, Petitioners have not addressed how their attempt to bring this expanded action can circumvent the Federal Rules of Civil Procedure governing joinder. Even if Petitioners’ FAC is not dismissed on the merits, the Court should dismiss or sever the claims of Ambrocio, Torres, and Garcia from Sequen’s habeas action.

II. ISSUES TO BE DECIDED

1. Whether the Court should dismiss Petitioners’ claims under Rule 12(b)(1) because they lack standing.

2. Whether the Court should dismiss Petitioners’ claims under Rule 12(b)(1) because their claims are moot and not ripe for adjudication because they involve uncertain or contingent future events.

3. Whether the Court should dismiss Petitioners’ claims arising out of the conditions of their confinement under Rule 12(b)(1) (i.e., Third, Fourth, Fifth and Seventh Claims for Relief).

4. Whether the Court should dismiss Petitioners’ claims arising under the APA under Rule 12(b)(1) and Rule 12(b)(6) (i.e., First, Second and Sixth Claims for Relief).

5. Whether Ambrocio, Torres, and Garcia’s claims have been improperly joined and therefore they should be severed under Rule 21.

III. FACTUAL BACKGROUND

A. Prior Courthouse Arrest Policies.

1. Policies During Barack Obama’s Presidency.

Since at least 2014, U.S. Immigration and Customs Enforcement (“ICE”) policy has permitted its officers and agents to conduct civil immigration enforcement actions in or near courthouses. *See* Declaration of Douglas Johns ¶ 2, Ex. A. In a March 19, 2014 Memorandum entitled “Enforcement Actions at or Near Courthouses” (the “March 2014 Guidance”), ICE stated that “[e]nforcement actions at

or near courthouses will only be undertaken against Priority 1 aliens,” including aliens engaged in or suspected of terrorism or espionage or who otherwise pose a danger to national security, and those aliens who pose a serious risk to public safety as shown by certain criminal activity. *See id.*

After March 2014, ICE’s guidance with respect to courthouse arrests has been amended several times to reflect changes in U.S. Department of Homeland Security (“DHS”) enforcement priorities. In guidance dated January 26, 2015, ICE revised the March 2014 Guidance to reflect enforcement priorities set forth in then-DHS Secretary Jeh Johnson’s November 20, 2014, Memorandum, entitled “Policies for the Apprehension, Detention, and Removal of Undocumented Immigrants.” *See id.* ¶ 3, Ex. B. The guidance dated January 26, 2015, still permitted enforcement actions at or near courthouses under certain circumstances. *See id.*

2. Policies During President Donald Trump’s First Presidency.

On January 25, 2017, President Trump issued Executive Order 13,768, which expanded the categories of aliens to be prioritized for removal. 82 Fed. Reg. 8799 (Jan. 25, 2017). To implement the Executive Order, on January 10, 2018, ICE issued the Memorandum entitled “Directive 11072.1: Civil Immigration Enforcement Actions Inside Courthouses” (the “2018 Directive”), which revised ICE’s policy “regarding civil immigration enforcement actions inside federal, state, and local courthouses.” *See* Johns Decl. ¶ 3, Ex. C at 1. The 2018 Directive explained that “civil immigration enforcement actions taken inside courthouses can reduce safety risks to the public, targeted alien(s) and ICE officers and agents,” because “[i]ndividuals entering courthouses are typically screened by law enforcement personnel to search for weapons and other contraband.” *Id.*

3. Policies During Joseph Biden’s Presidency.

On January 20, 2021, President Biden issued Executive Order 13,993, “Revision of Civil Immigration Enforcement Policies and Priorities,” 86 Fed. Reg. 7051 (Jan. 20, 2021), which revoked Executive Order 13,768. On the same day, Acting DHS Secretary David Pekoske issued the Memorandum which amended the agency’s immigration enforcement priorities. *See* Johns Decl. ¶ 5, Ex. D. DHS revoked the 2018 Directive and issued interim guidance “governing [ICE] civil immigration enforcement actions in or near courthouses” (“2021 Guidance”). *See id.* The 2021 Guidance provided that a civil

1 immigration enforcement action may be taken in or near a courthouse if there was a national security
2 threat; an imminent risk of death, violence or harm to any person; or other public safety threats. *See id.* ¶
3 5, Ex. D at 2. In the absence of hot pursuit and subject to advance supervisory approval, ICE officers were
4 permitted to undertake a civil immigration enforcement action in or near a courthouse against an
5 individual posing a threat to public safety if there was no other safe alternative location or it would be too
6 difficult to undertake the action elsewhere. *Id.*

7 **B. Current Courthouse Arrest Guidance.**

8 On January 20, 2025, President Trump issued Executive Order 14,159, which, among other things,
9 revoked the prior administration’s civil immigration enforcement policies and priorities and stated that it
10 “is the policy of the United States to faithfully execute the immigration laws against all inadmissible and
11 removable aliens, particularly those aliens who threaten the safety or security of the American people.” 90
12 Fed. Reg. 8443, 8443 (Jan. 20, 2025). The next day, Acting ICE Director, Caleb Vitello, issued “Policy
13 Number 11072.3” in a Memorandum entitled “Interim Guidance: Civil Immigration Enforcement Actions
14 in or near Courthouses” (“Interim Guidance”). *See* Johns Decl. ¶ 6, Ex. E. Shortly thereafter, on May 27,
15 2025, Todd M. Lyons, Acting ICE Director, issued the revised Memorandum entitled, “Civil Immigration
16 Enforcement Actions In or Near Courthouses” (the “2025 Courthouse Arrest Guidance”) which
17 superseded the Interim Guidance. *See* Johns Decl. ¶ 7, Ex. F at 1.

18 The 2025 Courthouse Arrest Guidance explains that civil immigration enforcement actions taken
19 inside courthouses “can reduce safety risks to the public, targeted alien(s) and ICE officers and agents,”
20 because “[i]ndividuals entering courthouses are typically screened by law enforcement personnel to search
21 for weapons and other contraband.” *See id.* And civil immigration enforcement actions in or near
22 courthouses are consistent with the actions of “[f]ederal, state and local law enforcement officials” who
23 “routinely engage in enforcement activities in or near courthouses because many individuals appear in
24 courthouses for unrelated criminal or civil violations.” *Id.* The 2025 Courthouse Arrest Guidance further
25 explains that courthouse arrests “are often required when jurisdictions refuse to cooperate with ICE,” such
26 as refusing “to honor immigration detainers and transfer aliens directly to ICE custody.” *Id.*

C. Petitioners’ Allegations in Their FAC.

On September 18, 2025, and less than 48 hours after the Court issued a preliminary injunction enjoining detention of Sequen (the sole Petitioner in the case), Petitioners amended Sequen’s complaint to add three new Petitioners, nine new Respondents, and seven new claims. Whereas in the original habeas action Sequen had sought relief exclusively based on her specific circumstances, the FAC purported to assert claims on behalf of an alleged class of people.

1. Challenge to Courthouse Enforcement Policies.

Petitioners seek to challenge the Federal Government’s policies about immigration enforcement. To start, Petitioners challenge the Interim Guidance issued on January 20, 2025, by Acting ICE Director, Caleb Vitello. *See* Pls. Am. Compl. (“FAC”), ECF No. 32 at ¶ 42, 50. Petitioners allege that the Interim Guidance authorizes ICE to conduct civil immigration enforcement actions at or near courthouses. *See id.*

Next, Petitioners challenge Operating Policies and Procedures Memorandum 25-06 (“OPPM 25-06”). *See id.* at ¶ 50; *see also* Johns Decl. ¶ 8, Ex. G. On January 28, 2025, the Executive Office for Immigration Review (“EOIR”) issued OPPM 25-06, which rescinded and canceled Operating Policies and Procedures Memorandum 23-01. *See id.* at ¶ 50. OPPM 23-01 purported to prohibit some, but not all, civil immigration enforcement actions by DHS in or near “EOIR space” and operated by the Office of the Chief Immigration Judge. *See* Johns Decl. ¶ 8, Ex. G at 1.

And Petitioners challenge the 2025 Courthouse Arrest Guidance issued on May 27, 2025 by Respondent Todd M. Lyons. *See* FAC at ¶ 47. Under the 2025 Courthouse Arrest Guidance, ICE is authorized to conduct civil immigration enforcement actions including arrests at or near courthouses except where arrests would violate local law. *See id.* Since ICE issued the 2025 Courthouse Arrest Guidance, it has been conducting arrests at the San Francisco Immigration Court. *See id.* at ¶¶ 59-68; *see also* Johns Decl. ¶ 7, Ex. F.

2. Challenge to Detention Policy.

Petitioners also challenge government policies relating to ICE holding facilities. They allege that since 2014, ICE had a policy prohibiting detention in a holding facility for longer than 12 hours absent exceptional circumstances. *See id.* at ¶¶ 76-83. But on June 24, 2025, ICE issued the Memorandum called

1 “Nationwide Hold Room Waiver,” which set forth a policy waiving the 12-hour hold room utilization time
 2 (“Detention Policy”). *See id.* at ¶ 84; *see also* Johns Decl. ¶ 9, Ex. H. ICE issued the Detention Policy in
 3 response to President Trump’s Executive Orders, “Protecting the American People Against Invasion” and
 4 “Securing Our Borders” and declaration of a national emergency. *See* Johns Decl. ¶ 9, Ex. H at 1. Under
 5 the Detention Policy, ICE is authorized to hold people who have been detained for up to 72 hours. *See id.*

6 **3. Challenge to Conditions at 630 Sansome.**

7 ICE detains aliens at its Field Office located at 630 Sansome Street in San Francisco, California
 8 (“630 Sansome”). *See* FAC at ¶ 4. Petitioners allege that 630 Sansome is not designed or equipped for
 9 detention for long periods of time and its conditions are “punitive and inhuman.” *See id.* at ¶¶ 72, 93, 119-
 10 124. For example, Petitioners allege that those facilities are overcrowded and not clean, *see id.* at ¶¶ 125,
 11 127, 129, 130; that ICE does not provide aliens who are detained with a new change of clothes and
 12 confiscates certain articles of clothing like jackets, *see id.* at ¶¶ 132-138; and that aliens who are detained
 13 are not given regular access to personal hygiene items, *see id.* Petitioners further allege that the detention
 14 facilities at 630 Sansome do not have beds or cots, *see id.* at ¶ 139; that aliens are not provided pillows,
 15 blankets, sheets, or mattresses except for plastic Mylar “blankets, *see id.* at ¶¶ 140-147, and as a
 16 consequence, they are often cold while sleeping or trying to sleep. *See id.* Petitioners allege that ICE keeps
 17 the lights on in the detention facilities 24 hours a day. *See id.* Finally, Petitioners allege that ICE fails to
 18 provide medical support or services at 630 Sansome, *see id.* at ¶¶ 148-157; that ICE denies language
 19 access to aliens seeking medical care, *see id.*; that ICE restricts aliens from accessing counsel while they
 20 are detained at 630 Sansome., *see id.* at ¶¶ 158-168; that the phone system at 630 Sansome and the
 21 visitation rooms are deficient *see id.*; and that ICE refuses to allow attorneys to meet with their clients on
 22 certain days and at certain times, *see id.*

23 **4. Allegations Specific to Petitioners.**

24 Sequen is a 30-year-old asylum seeker from Guatemala. *See id.* at ¶¶ 17, 186. She entered the
 25 United States illegally in June of 2023. *See id.* at ¶ 187. On July 31, 2025, ICE arrested Sequen in San
 26 Francisco. *See id.* at ¶ 10. She was held at 630 Sansome overnight until she was released on August 1,
 27 2025. *See id.*; *see also id.* at ¶¶ 17, 194. The Court enjoined Sequen’s detention. She is not in ICE custody,
 28

1 and she is not being detained at 630 Sansome. *See generally* FAC. Petitioners do not allege any facts
2 about whether Sequen experienced the alleged challenged conditions at 630 Sansome. *See id.*

3 Ambrocio is a 24-year-old asylum seeker who fled Guatemala while she was pregnant. *See id.* at
4 ¶¶ 18, 199. Ambrocio entered the United States illegally in August of 2024. *See id.* at ¶ 200. Ambrocio is
5 the mother to a baby who she is breastfeeding. *See id.* at ¶ 10. On September 11, 2025, Ambrocio
6 encountered ICE after her hearing at the Immigration Court in San Francisco. *See id.* ICE did not arrest
7 Ambrocio because she was with her child. *See id.* Ambrocio is not in ICE custody, and she is not being
8 detained at 630 Sansome. *See* FAC. The Court has enjoined Ambrocio’s detention. Petitioners do not
9 allege that Ambrocio has ever experienced the alleged challenged conditions at 630 Sansome. *See id.*

10 Garcia is an asylum seeker from Colombia. *See id.* at ¶¶ 19, 216. Garcia entered the United States
11 illegally in March of 2024, and she was initially detained by border patrol agents. *See id.* at ¶ 216. On
12 September 18, 2025, ICE arrested Garcia after a hearing at the San Francisco Immigration Court and
13 detained her at 630 Sansome. *See id.* On September 19, 2025, ICE released Garcia from custody. *See*
14 Resp’ts’ Status Report About Pet.’s Release, ECF No. 41. The Court has enjoined Garcia’s detention.
15 Garcia is not in ICE custody, and she is not being detained at 630 Sansome. *See* FAC. Petitioners do not
16 allege that Garcia ever experienced the alleged challenged conditions at 630 Sansome. *See id.*

17 Torres is an alien from Mexico who has allegedly lived in the United States for over thirty years.
18 *See id.* at ¶¶ 20, 212. He is a convicted felon who has been arrested and convicted of multiple crimes over
19 several decades ranging from hit and run, criminal trespassing, illegally possessing a weapon, drug
20 trafficking, driving under the influence, reckless driving, presenting false identification to the police, and
21 obstructing the police. *See* Declaration of Sellenia Olson (“Olson Decl.”) at ¶¶ 15-26, Ex. L-M. Torres has
22 been sentenced to serve multiple jail sentences. *See id.* In 1992, he was removed from the United States,
23 but he entered the United States illegally again after he was removed. *See id.* at ¶¶ 6-8. On August 8,
24 2023, Torres’ prior deportation order was reinstated. *See id.* at ¶ 9

25 On September 17, 2025, ICE arrested Torres after his immigration court hearing and detained him
26 at 630 Sansome. *See* FAC at ¶ 20. ICE allegedly detained Torres for approximately 20 hours, failed to
27 give him appropriate sleeping equipment, and kept the light on in the detention facilities all night while he
28

1 was detained in 630 Sansome. *See id.* at ¶¶ 212-214. Torres has certain medical problems, including
2 cancer, high blood pressure, and prostate issues. *See id.* at ¶ 211. During his detention, Torres suffered a
3 medical emergency, and he was transported to San Francisco General Hospital. *See id.* at ¶ 20 n.1.

4 On October 3, 2025, an Immigration Judge affirmed that Torres was not entitled to relief from
5 removal and ordered that his case be returned to DHS for removal. *See* Olson Decl. ¶ 14. Torres is
6 currently detained at the Golden State Annex in Fresno, California. *See id.* at ¶ 13. He is being detained
7 for the 90-day removal period required by statute. *See id.* at ¶ 15.

8 **D. Petitioners' Claims for Relief.**

9 Petitioners' FAC alleges nine claims that can be divided into three groups. *See* FAC at 40-51. First,
10 Petitioners allege three claims under the APA challenging the following policies: (1) OPPM 25-06; (2) the
11 Interim Guidance and the 2025 Courthouse Arrest Guidance; and (3) the Detention Policy. *See id.* at 40-
12 41, 47-48. Petitioners seek a declaration that each of these policies violates the APA and seek an order
13 setting them aside. *See id.* at 51-52.

14 Second, Petitioners allege four constitutional claims: that (1) the alleged sleep deprivation violates
15 the Due Process Clause; (2) the alleged deprivation of adequate medical care violates the Due Process
16 Clause; (3) the alleged unsanitary and unhygienic conditions at 630 Sansome violate the Due Process
17 Clause; and (4) Petitioners are being denied access to counsel. *See* FAC at 42-47, 48-49. Petitioners seek
18 an injunction to stop the alleged harmful conditions at 630 Sansome. *See id.* at 51-52.

19 Third, three Petitioners (Sequen, Ambrocio, and Garcia) allege two habeas claims, *see* FAC at 49-
20 51, alleging that (1) their detention violates substantive due process under the Fifth Amendment to the
21 United States Constitution, *see id.* at 49, and (2) their detention violates procedural due process under the
22 Fifth Amendment, *see id.* at 50. They seek an order releasing them from custody and prohibiting
23 Respondents from detaining them again unless their detention is ordered by a neutral arbitrator after
24 Respondents demonstrate, by clear and convincing evidence that they are a flight risk or danger to the
25 community. *See id.* at 51-52.

1 IV. PROCEDURAL BACKGROUND

2 A. Sequen's Habeas Case.

3 On August 1, 2025, Sequen commenced this action by filing a writ of habeas corpus, ECF No. 1,
4 and moving this Court *ex parte* for a temporary restraining order, ECF No. 6. The Court granted Sequen's
5 *ex parte* motion within hours of its filing. ECF No. 7. The initial order effectively granted the relief
6 requested in the habeas petition. *See* Order Granting Mot. for TRO, ECF No. 7.

7 On September 16, 2025, the Court issued an order granting a preliminary injunction as to Sequen.
8 *See* Order Granting Prelim. Inj., ECF No. 27. The Court's order effectively provided Sequen the relief that
9 she sought in her motion and habeas case by prohibiting her detention unless the Government
10 demonstrates by "clear and convincing evidence" that she "is a flight risk or a danger to the community
11 and that no conditions other than re-detention would be sufficient to prevent such harm. *See* Pet. for Writ
12 of Habeas Corpus, ECF No. 1; ECF No. 6-1; Order Granting Prelim. Inj. at 16, ECF No. 27. From the date
13 Sequen filed her habeas action (August 1, 2025) until the Court issued a preliminary injunction
14 (September 16, 2025), Sequen never mentioned that she planned to add new parties or claims to her
15 habeas petition or to file a class action. Nor did she attempt to confer with Respondents about amending
16 her habeas petition, adding new parties, or asserting new claims.

17 B. Alleged Class Action and Additional Habeas Cases.

18 On September 18, 2025, and less than 48 hours after the Court issued a preliminary injunction
19 exclusively as to Sequen, the new Petitioners filed their 54-page FAC adding three new Petitioners
20 (Garcia, Ambrocio and Torres) and nine new Respondents, and asserting seven new claims. Petitioners'
21 FAC seeks to start an entirely new case about an entirely new set of issues that are different from Sequen's
22 original habeas case about her personal circumstances. *Compare* Pet., ECF No. 1 *with* FAC, ECF No. 32.

23 During the late evening on the same day they filed their FAC, Petitioners filed a motion for class
24 certification. Pls.' Mot. for Provisional Class Certification, ECF No. 33. The same night, Garcia and
25 Ambrocio filed their motion for a temporary restraining order. *See* ECF Nos. 34, 35. The next day on
26 September 19, 2025, the Court granted Garcia and Ambrocio's *ex parte* motion in part and denied it in
27 part. *See* Order Granting in Part Mot. for TRO at 8, ECF No. 36. On October 15, 2025, the Court granted
28

Ambrocio and Garcia’s motion for a preliminary injunction. *See* Order Granting Prelim. Inj. at 24, ECF No. 90 (enjoining the arrest and detention of Ambrocio and Garcia).

V. LEGAL STANDARD

A. Motion to Dismiss.

Under Rule 12(b)(1), a court may dismiss a claim for lack of subject matter jurisdiction. *See* Fed. R. Civ. P. 12(b)(1). A challenge to a court’s subject matter jurisdiction may be either “facial” or “factual.” *See Wolf v. Strankman*, 392 F.3d 358, 362 (9th Cir. 2004). “In a facial attack, the challenger asserts that the allegations contained in a complaint are insufficient on their face to invoke federal jurisdiction.” *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). “By contrast, in a factual attack, the challenger disputes the truth of the allegations that, by themselves, would otherwise invoke federal jurisdiction.” *Id.* The moving party may bring a factual challenge to the court’s subject matter jurisdiction by submitting affidavits or any other evidence properly before the court. *See Colwell v. Dep’t of Health & Human Servs.*, 558 F.3d 1112, 1121 (9th Cir. 2009). The plaintiffs bear the burden of establishing jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994).

Rule 12(b)(6) of the Federal Rules of Civil Procedure permits dismissal for “failure to state a claim upon which relief can be granted.” *See* Fed. R. Civ. P. 12(b)(6). Dismissal may be based on either a lack of a cognizable legal theory or insufficient facts under a cognizable legal theory. *See Balistreri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir. 1988). In ruling on a motion to dismiss pursuant to Fed. R. Civ. P. 12(b), the court “may generally consider only allegations contained in the pleadings, exhibits attached to the complaint, and matters properly subject to judicial notice.” *See Outdoor Media Group, Inc. v. City of Beaumont*, 506 F.3d 895, 899 (9th Cir. 2007).

B. Motion to Sever.

Under Rule 21 of the Federal Rules of Civil Procedure, “[o]n motion or on its own, the court may at any time, on just terms, add or drop a party.” Fed. R. Civ. P. 21. “The court may also sever any claim against a party.” *Id.* In evaluating motions to sever pursuant to Rule 21, courts look to Rule 20 for guidance. *Bias v. Wells Fargo & Co.*, No. 12-cv-664-YGR, 2012 WL 2906664, at *2 (N.D. Cal. July 13, 2012). And while “there is no established test in the Ninth Circuit for when a district court should exercise

its broad discretion to sever a claim under Rule 21, courts consider the following five factors: “(1) whether the claims arise out of the same transaction or occurrence; (2) whether the claims present some common questions of law or fact; (3) whether settlement of the claims or judicial economy would be facilitated; (4) whether prejudice would be avoided if severance were granted; and (5) whether different witnesses and documentary proof are required for the separate claims.” *See Arcure v. Cal. Dep’t of Dev. Services*, No. 1:13-cv-00541-LJO-BAM, 2014 WL 346612, at *6 (E.D. Cal. Jan. 30, 2014); *see also Hernandez v. City of San Jose*, No. 16-cv-03957-LHK, 2017 WL 2081236, at *4 (N.D. Cal. May 15, 2017) (listing five factors). When a claim is severed, it becomes an entirely new and independent cause of action. *See Herklotz v. Parkinson*, 848 F.3d 894, 898 (9th Cir. 2017).

VI. ARGUMENT

A. The Court Lacks Jurisdiction Over Petitioners’ Claims.

“Article III confines the federal judicial power to the resolution of ‘Cases’ and ‘Controversies.’” *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021). And “[n]o principle is more fundamental to the judiciary’s proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies.” *Spokeo, Inc. v. Robins*, 578 U.S. 330, 337 (2016) (quoting *Raines v. Byrd*, 521 U.S. 811, 818 (1997)). Courts must consider the threshold issue of jurisdiction before addressing the merits of a case. *Steel v. Citizens for a Better Env’t*, 523 U.S. 83, 94-95 (1998).

Here, the Court lacks jurisdiction over Petitioners’ claims for four reasons. First, Petitioners lack standing to pursue some, or all, of their claims and relief. Second, some, or all, of Petitioners’ claims are not ripe. Third, some, or all, of Petitioners’ claims are moot. Fourth, under Ninth Circuit precedent, the Court lacks jurisdiction over Petitioners’ conditions of confinement claims in their habeas actions.

1. Petitioners Lack Standing.

“Standing to sue is a doctrine rooted in the traditional understanding of a case or controversy” that “limits the category of litigants empowered to maintain a lawsuit in federal court to seek redress for a legal wrong.” *Spokeo, Inc.*, 578 U.S. at 338. Standing exists only where the plaintiff demonstrates that (1) he has suffered an “injury in fact” that is concrete, particularized, and actual or imminent, (2) the injury is “fairly traceable” to the defendant’s conduct, and (3) the injury can be “redressed by a favorable

decision.” *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992); *see also Massachusetts v. EPA*, 549 U.S. 497, 517 (2007) (same). “[A] plaintiff must demonstrate standing separately for each form of relief sought.” *See Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC)*, 528 U.S. 167, 185 (2000); *see also TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021) (“plaintiffs must demonstrate standing for each claim that they press and for each form of relief that they seek (for example, injunctive relief and damages”). “The existence of standing turns on the facts as they existed at the time the plaintiff filed the complaint.” *See Skaff v. Meridian N. Am. Beverly Hills, LLC*, 506 F.3d 832, 838 (9th Cir. 2007); *see also Grupo Dataflux v. Atlas Global Grp., L.P.*, 541 U.S. 567, 570 (2004) (“[i]t has long been the case that the jurisdiction of the court depends on the state of things at the time of the action brought”) (internal quotations omitted). “A class of plaintiffs does not have standing to sue if the named plaintiff does not have standing.” *B.C. v. Plumas Unified Sch. Dist.*, 192 F.3d 1260, 1264 (9th Cir. 1999).

As a result of the Court’s orders and the relief provided by them, Petitioners lack standing. On September 16, 2025 and October 15, 2025, the Court granted Ambrocio, Garcia, and Sequen’s motions for a preliminary injunction. *See Orders Granting Prelim. Inj.*, ECF Nos. 27, 90. Under those orders, Respondents cannot detain Ambrocio, Garcia, or Sequen unless they are provided a pre-detention bond hearing before a neutral immigration judge where the Government bears the burden of demonstrating by “clear and convincing evidence” that they are a flight risk or danger to the community and “that no conditions other than de-detention would be sufficient to prevent such harms.” *See id.* at 16, ECF No. 27; at 24, ECF No. 90. Based on the Court’s orders, Ambrocio, Garcia, and Sequen cannot be arrested at a courthouse. *See id.* Nor can they be detained at 630 Sansome for any amount of time.

Accordingly, Petitioners lack standing to challenge the 2025 Courthouse Arrest Guidance and OPPM 25-06 under the APA because they can no longer be arrested at a courthouse. Further, Petitioners lack standing to seek any relief including a declaration relating to these policies under the APA because they are no longer affected by them, and any alleged injury cannot be redressed by a favorable decision. The Court prohibited their arrests and detention. Notably, Ambrocio lacks standing to challenge any courthouse arrest policy for the additional reason that she has never been arrested at a courthouse, and cannot be based on the Court’s orders. *See Order Granting Prelim. Inj.*, ECF No. 90.

Petitioners also lack standing to challenge their conditions of confinement because none of them are detained at 630 Sansome and will not be based on the Court's orders. Petitioners lack standing to enjoin any challenged condition at 630 Sansome because they are not detained there, and they will not be detained there based on the Court's orders. Torres lacks standing to challenge any conditions of confinement at 630 Sansome because he is currently being detained in the Eastern District of California given his removal order. To the extent any relief remains for declaratory relief for the habeas claims, the Court should dismiss the other forms of relief sought including injunctive relief. Petitioners must have standing for each form of relief sought. *See Friends of the Earth*, 528 U.S. at 185 ("a plaintiff must demonstrate standing separately for each form of relief sought"). But Petitioners do not have standing to assert any form of injunctive relief based on the Court's orders.

Finally, the Court must evaluate standing at the time the complaint was filed. *See Skaff*, 506 F.3d at 838 (9th Cir. 2007) ("The existence of standing turns on the facts as they existed at the time the plaintiff filed the complaint"). And when Sequen filed her habeas action about her personal circumstances, Ambrocio, Torres, and Garcia had not been affected by any of the challenged policies or alleged conditions at 630 Sansome. In other words, Ambrocio, Torres, and Garcia all lacked standing when Sequen filed her habeas action. That, in addition to the reasons described below, and at a minimum, is why stacking habeas claims is improper, and the claims should be severed.

2. Petitioners' Claims Are Not Ripe Because They Involve Uncertain or Contingent Future Events.

The doctrine of ripeness "is a means by which federal courts may dispose of matters that are premature for review because the plaintiff's purported injury is too speculative and may never occur." *Chandler v. State Farm Mut. Auto. Ins. Co.*, 598 F.3d 1115, 1122 (9th Cir. 2010). For a claim to be ripe, the plaintiff must be subject to a "genuine threat of imminent prosecution." *See Clark v. City of Seattle*, 899 F.3d 802, 813 (9th Cir. 2018). The central concern of the ripeness inquiry is "whether the case involves uncertain or contingent future events that may not occur as anticipated, or indeed may not occur at all." *Richardson v. City and County of Honolulu*, 124 F.3d 1150, 1160 (9th Cir. 1997).

Based on the Court's order granting preliminary injunctions, Petitioners' claims are not ripe for adjudication. Petitioners' claims challenging the 2025 Courthouse Arrest Guidance and OPPM 25-06

under the APA are unripe and speculative because Respondents cannot arrest or detain them unless a “neutral immigration judge” finds by “clear and convincing evidence” that they are a danger to the community, flight risk, and “that no other conditions other than detention would be sufficient to prevent such harms.” See Order Granting Prelim. Inj. at 24 ECF No. 90. Similarly, Petitioners’ claims challenging their conditions of confinement are unripe and speculative because not only do the Court’s orders prohibit their return to 630 Sansome, but there is no evidence they will experience those conditions ever at 630 Sansome. Torres’ claims are not ripe because he is detained in the Eastern District of California based on his removal order. Once again, to the extent a ripe claim remains for declaratory relief, Petitioners’ other remedies should be dismissed because they involve uncertain or contingent future events.

3. Petitioners’ Claims Are Moot.

Mootness is “the doctrine of standing set in a time frame: the requisite personal interest that must exist at the commencement of litigation (standing) must continue throughout its existence (mootness).” *United States Parole Comm’n v. Geraghty*, 445 U.S. 388, 397 (1980). A case becomes moot “when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.” See *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013). “No matter how vehemently the parties continue to dispute the lawfulness of the conduct that precipitated the lawsuit, the case is moot if the dispute ‘is no longer embedded in any actual controversy about the plaintiffs’ particular legal rights.’” *Id.* (quoting *Alvarez v. Smith*, 558 U.S. 87, 93 (2009)). A case becomes moot if the plaintiff “actually receives all of the relief to which he or she is entitled on the claim.” See *Berry v. Air Force Central Welfare Fund*, 115 F.4th 948, 952 (9th Cir. 2024). To avoid mootness, “an actual controversy must be extant at all stages of review, not merely at the time the complaint is filed.” *Arizonans for Official English v. Arizona*, 520 U.S. 43, 67 (1997) (quoting *Preiser v. Newkirk*, 422 U.S. 395, 401 (1975)).

Petitioners’ claims are moot.² For the same reasons expressed above, Petitioners’ APA claims challenging 2025 Courthouse Arrest Guidance and OPPM 25-06 became moot when the Court prohibited Respondents from detaining Ambrocio, Garcia, and Sequen. Based on the conduct the Court prohibited,

² Respondents reviewed the Court’s analysis on mootness. See Order Granting Prelim. Inj. at 7, ECF No. 90. Respondents’ position is that mootness analysis must focus on both the claims at issue, the relief sought, and people seeking relief. Not all Petitioners’ claims or remedies are “live” at this point.

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they cannot be arrested at a courthouse. Because Petitioners cannot be detained at 630 Sansome, their claims are moot challenging the conditions there. Finally, all of Torres' claims and remedies became moot when he was transferred to the Eastern District, and he has a removal order. *See* Olson Decl. ¶¶ 6-15. If a remedy remains based on a declaration that certain conduct violated the Fifth Amendment for a habeas claim, the remainder of Petitioners' requested relief should be dismissed as moot. These other forms of relief including injunctive relief are no longer based on a "live" controversy.

4. The Court Lacks Jurisdiction Over Petitioners' Claims Arising Out of the Conditions of Their Confinement in this Habeas Proceeding.

In *Pinson v. Carajal*, 69 F.4th 1059 (9th Cir. 2023) and *Doe v. Garland*, 109 F.4th 1188 (9th Cir. 2024), the Ninth Circuit recently analyzed the differences between core habeas claims and claims challenging conditions of confinement. Core habeas claims (1) go directly to the constitutionality of the physical confinement itself; and (2) seek either immediate release from that confinement or the shortening of its duration. *See Pinson v. Carvajal*, 69 F.4th 1059, 1069 (9th Cir. 2023). A habeas claim is one challenging the fact of confinement rather than the conditions of confinement. *See Doe v. Garland*, 109 F.4th 1188, 1194 (9th Cir. 2024). "The Ninth Circuit has long held that the 'the writ of habeas corpus is limited to attacks upon the legality or duration of confinement' and 'does not cover claims based on allegations 'that the terms and conditions of ... incarceration constitute cruel and unusual punishment.'"*See Pinson*, 69 F.4th at 1065 (quoting *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979)). A district court lacks jurisdiction and properly dismisses a habeas petition that lies "outside the historic core of habeas corpus" and challenges conditions of confinement. *See Pinson*, 69 F.4th at 1075.

Petitioners suggest that the Ninth Circuit permits the joining of core habeas claims with claims challenging conditions of confinement. *See* PI Reply at 7, ECF No. 46 (citing *Zepeda Rivas v. Jennings*, 465 F. Supp. 3d 1028 (N.D. Cal. 2020)). But Petitioners have not cited a case decided after *Pinson* and *Garland* holding that the Ninth Circuit now allows core habeas claims and claims challenging conditions of confinement to be alleged in the same action. Indeed, and as courts in this district have ruled, including this Court, the "Ninth Circuit has held that if the claim 'does not lie at the 'core of habeas corpus,' it *may* not be brought in habeas corpus but *must* be brought, 'if at all,' under § 1983." *Allen v. S.V.S.P. – P.I.P.*, No. 24-cv-03197-PCP, 2025 WL 1101519, at *1 (N.D. Mar. 31, 2025) (quoting *Nettles v. Grounds*, 830

1 F.3d 922, 931 (9th Cir. 2016)) (emphases added in original, citations omitted). Put simply, as this Court
 2 has ruled, “[c]laims regarding conditions of confinement cannot proceed in a habeas action.” *See id.*

3 Here, Petitioners are explicit that they are asserting both “claims related to conditions of
 4 confinement” (FAC at 42) and “claims related to petition for writ of habeas corpus” (FAC at 50). Under
 5 established Ninth Circuit precedent and orders issued by this Court, Sequen, Ambrocio, and Garcia cannot
 6 allege claims regarding conditions of confinement in their habeas actions. The Ninth Circuit has held that
 7 conditions of confinement claims must be brought in an action separate from a habeas action. The Court
 8 lacks jurisdiction over Sequen, Ambrocio, and Garcia’s claims arising out of the prior conditions of
 9 confinement, and they must be dismissed. *See Allen*, 2025 WL 1101519, at *1 (“Claims regarding
 10 conditions of confinement cannot proceed in a habeas action”).

11 **B. Petitioners Fail to State Any Claim Under the APA.**

12 The Federal Government “has broad, undoubted power over the subject of immigration and the
 13 status of aliens.” *Arizona v. United States*, 567 U.S. 387, 394 (2012); *see* U.S. Const. art. I § 8, cl. 4
 14 (granting Congress the power to “establish an uniform Rule of Naturalization”). Pursuant to that authority,
 15 Congress has provided that “[o]n a warrant issued by the Attorney General, an alien may be arrested and
 16 detained pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. §
 17 1226(a). Congress has also provided that “without [a] warrant,” a federal officer may “arrest any alien in
 18 the United States, if he has reason to believe that the alien so arrested is in the United States in violation of
 19 any [] law or regulation [regulating the admission, exclusion, expulsion, or removal of aliens] and is likely
 20 to escape before a warrant can be obtained for his arrest.” *Id.* § 1357(a)(2). These statutes confer arrest
 21 authority that is generally plenary and unqualified. Congress has limited the authority to search for aliens
 22 in certain specific locations, but none of those locations include courthouses. *Id.* § 1357(a)(3), (e).

23 APA review is limited to “final agency action.” *Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 61–
 24 62 (2004) (quoting 5 U.S.C. § 704). Agency action is final only when it “mark[s] the consummation of the
 25 agency’s decisionmaking process” and is “one by which rights or obligations have been determined, or
 26 from which legal consequences will flow.” *U.S. Army Corps of Eng’rs v. Hawkes Co., Inc.*, 578 U.S. 590,
 27 597 (2016) (quoting *Bennett v. Spear*, 520 U.S. 154, 177–78 (1997)). Day-to-day operations of federal
 28

1 agencies are generally not considered final agency action, and thus not subject to APA review. *See Lujan*,
 2 497 U.S. at 899.

3 **1. OPPM 25-06, the Detention Policy, and the 2025 Courthouse Arrest**
 4 **Guidance Are Unreviewable Under the APA.**

5 The APA does not permit “judicial review over everything done by an administrative agency.” *See*
 6 *Wild Fish Conservancy v. Jewell*, 730 F.3d 791, 800-01 (9th Cir. 2013) (quoting *Fund for Animals, Inc. v.*
 7 *U.S. Bureau of Land Mgmt.*, 460 F.3d 13, 19 (D.C. Cir. 2006)) (quotation omitted). Rather, review is
 8 permitted only as expressly provided by statute. In particular, agency action is not subject to judicial
 9 review where the action “is committed to agency discretion by law.” 5 U.S.C. § 701(a)(2); *see Lincoln v.*
 10 *Vigil*, 508 U.S. 182, 190–91 (1993) *see also Heckler v. Chaney*, 470 U.S. 821, 830 (1985) (“[B]efore any
 11 [judicial] review at all may be had, a party must first clear the hurdle of § 701(a).”). Thus, “even where
 12 Congress has not affirmatively precluded review, review is not to be had if the statute is drawn so that a
 13 court would have no meaningful standard against which to judge the agency’s exercise of discretion.”
 14 *Heckler v. Chaney*, 470 U.S. 821, 830 (1985). In addition, the APA bars judicial review to the extent that
 15 “statutes preclude judicial review.” *See* 5 U.S.C. § 701(a)(1). Finally, the APA does not apply where there
 16 is “[an]other adequate remedy in a court.” 5 U.S.C. § 704. Federal courts lack jurisdiction over APA
 17 challenges when Congress has provided another adequate remedy. *See Brem-Air Disposal v. Cohen*, 156
 18 F.3d 1002, 1004 (9th Cir. 1998).

19 OPPM 25-06, the Detention Policy, and the 2025 Courthouse Arrest Guidance are unreviewable
 20 under the APA for three reasons. First, ICE’s decisions about the location of arrests with a warrant are
 21 unreviewable because the Immigration and Nationality Act (“INA”) provides that immigration authorities’
 22 “discretionary judgment regarding the application of [§ 1226, authorizing arrests with a warrant] shall not
 23 be subject to [judicial] review,” 8 U.S.C. § 1226(e). Second, the INA, from which ICE’s civil arrest
 24 authority derives, provides no “meaningful standard” by which a court can evaluate the appropriateness of
 25 ICE’s discretionary choice of public locations for targeted immigration enforcement actions. *See* 8 U.S.C.
 26 § 1226(a); *id.* § 1357(a)(2). The INA grants ICE discretion to determine the location of a civil
 27 enforcement action against an alien present in the United States. Third, Petitioners have another remedy
 28 available in the form of either a habeas action or potential claim for damages.

1 **2. Federal Immigration Enforcement in and Around Courthouses Is**
 2 **Historically Accepted, and There Is No Common-Law Privilege Against It.**

3 Petitioners allege that there is a common-law privilege against courthouse arrests. *See* FAC ¶ 41.
 4 However, there has never been a privilege, either when the INA was adopted or at any time before,
 5 resembling the one alleged by Petitioners. *United States v. Craft*, 535 U.S. 274, 288 (2002) (holding that,
 6 to conclude that Congress meant to incorporate a common-law rule, that rule must have been “so well
 7 established” that it can be “assume[d]” that Congress considered it). To the contrary, historical cases
 8 demonstrate only a much narrower common-law immunity from certain types of civil arrest, which itself
 9 rests on rationales that no longer exist.

10 Both the privilege against case-initiating arrest and the privilege against service of process of a
 11 person attending court were extensions of the now-outdated principle that a state court’s jurisdiction over
 12 a person rested on that person’s physical presence. *See Daimler AG v. Bauman*, 571 U.S. 117, 125–26
 13 (2014) (under *Pennoyer v. Neff*, 95 U.S. 714, 727, 733 (1878), “a tribunal’s jurisdiction over persons
 14 reaches no farther than the geographic bounds of the forum,” and noting later abrogation of that doctrine).
 15 Because physical presence was historically the key to state-court personal jurisdiction, defendants had a
 16 strong incentive not to attend court proceedings in states in which potential plaintiffs might seek to serve
 17 them with civil process—just as they had the same incentive not to attend when they might be subject to
 18 arrest to subject them to a state court’s jurisdiction. *See Stewart v. Ramsay*, 242 U.S. 128, 130–31 (1916)
 19 (“Witnesses would be chary of coming within our jurisdiction . . . if they might be punished with a lawsuit
 20 for displeasing parties by their testimony; and even parties in interest . . . might be deterred from the
 21 rightfully fearless assertion of a claim or the rightfully fearless assertion of a defense, if they were liable to
 22 be visited on the instant with writs from the defeated party.” (quotation marks omitted)).

23 But that physical-presence requirement is now obsolete. In *International Shoe Co. v. Washington*,
 24 the Supreme Court announced the modern rule that a defendant need only have “certain minimum
 25 contacts” with a forum state to be sued there. 326 U.S. 310, 316 (1945). Thus, the rationale for immunity
 26 against service of process or arrest to initiate a civil action has disappeared, given that neither physical
 27 presence nor physical custody is required any longer for a court to obtain personal jurisdiction. With that
 28 rationale no longer present, the common-law rule that resulted from it no longer carries any force. *See*

1 *United States v. Denedo*, 556 U.S. 904, 911 (2009) (noting change in common-law rule when rationale has
2 been superseded); *Kansas v. Colorado*, 533 U.S. 1, 10 (2001) (rejecting common-law rule that rested on
3 unsound distinction). Accordingly, since the dawn of long-arm jurisdiction, judicial decisions have not
4 applied the common-law privilege. That same logic vitiates any argument that the privilege should apply
5 against courthouse arrests by ICE. Aliens are subject to federal law enforcement jurisdiction or
6 enforcement actions anywhere in the United States. *See* 8 U.S.C. § 1226(a) (providing for arrests “[o]n a
7 warrant” without geographic limitation), *id.* § 1357 (providing for warrantless arrests without geographic
8 limitation); 8 C.F.R. § 287.5(c) (similar).

9 Moreover, the INA cannot be read to incorporate the common-law privilege against courthouse
10 arrests. Indeed, the INA does not explicitly confer a right on aliens to be free from courthouse arrests. And
11 Congress is presumed to legislate against the background of the common law and to retain a common-law
12 rule except when it evidently intends not to. *Baker Botts LLP v. ASARCO LLC*, 576 U.S. 121, 126 (2015);
13 *Samantar v. Yousuf*, 560 U.S. 305, 320 & n.13 (2010). By the time Congress established a comprehensive
14 immigration-arrest statutory scheme in the INA, any privilege against extra-jurisdictional civil arrest was a
15 historical artifact. The INA therefore cannot have codified the purported privilege. *See Pasquantino v.*
16 *United States*, 544 U.S. 349, 364 (2005) (rejecting importation of a common-law rule where no case
17 “clearly establishes” the rule’s applicability). More significantly, in 2006, Congress amended the INA in
18 2006 to add 8 U.S.C. § 1229(e), which expressly acknowledges the practice of conducting immigration
19 enforcement actions against aliens at courthouses. *Id.* § 1229(e)(1)–(2) (“where an [immigration]
20 enforcement action leading to a removal proceeding was taken against an alien at . . . a courthouse (or in
21 connection with that appearance of that alien at a courthouse if the alien is appearing in connection with
22 [certain specified matters or circumstances]”). Section 1229(e) reflects Congress’s recognition that
23 courthouse arrests are permitted under the INA. Had Congress thought in 2006 that there was a privilege
24 against those arrests, it would not have acknowledged the authority to make them or would have clearly
25 distinguished impermissible civil ICE arrests from permissible criminal arrests. The provision is best read
26 to mean that Congress never meant to bar courthouse arrests.

1 The First Circuit Court of Appeals examined courthouse arrests during President Trump’s first
2 administration in *Ryan v. United States Immigration and Customs Enforcement*, 974 F.3d 9, 14 (1st Cir.
3 2020). There, the plaintiff moved for a preliminary injunction and argued that ICE lacked statutory
4 authority to conduct courthouse arrests under the INA because it implicitly incorporates a common-law
5 privilege against courthouse arrests. *See id.* The plaintiff further argued that ICE’s policy of conducting
6 courthouse arrests violates the APA. *See id.* at 17.

7 The First Circuit comprehensively analyzed the history of enforcement actions at courthouses in
8 the United States. *See id.* at 15-16, 21-23. It found that there was no authority stating a common-law
9 privilege extending to civil arrests on behalf of the sovereign. *See id.* at 24. The First Circuit rejected the
10 plaintiffs’ assertion that Congress would have reflexively inferred that the privilege protected against any
11 and all forms of civil arrest, including the civil immigration arrests that it was authorizing in the INA. *See*
12 *id.* at 26. Civil immigration arrests are initiated by the sovereign in order to vindicate uniquely sovereign
13 interests rather than private or proprietary interests. *See id.* at 26. Controlling immigration and the
14 presence of noncitizens within United States are duties and powers vested exclusively in the sovereign.
15 *See id.* (citing *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020)). The First Circuit
16 found that the plaintiffs were unlikely to succeed on the merits of their claims and remanded the case back
17 to the district court. *See id.* at 14-15.

18 More recently, in *African Communities Together v. Lyons*, No. 25-cv-6366 (PKC), 2025 WL
19 2633396, at *1 (S.D. N.Y. Sept. 12, 2025), the United States District Court for the Southern District of
20 New York analyzed courthouse arrests during President Trump’s second administration and reached a
21 similar result as the First Circuit. The district court concluded that the plaintiffs failed to establish a
22 common-law privilege against courthouse arrests that was incorporated into the INA and failed to
23 demonstrate that ICE’s courthouse arrest policy is arbitrary, capricious, or otherwise contrary to law for
24 three reasons. First, there was neither a common-law privilege against courthouse arrests in the INA, nor
25 other relevant restriction on the location of an arrest in the INA or its implementing regulations, and thus
26 the policy is permissible. *See id.* Second, the agency has stated grounds that are facially “good reasons”
27 for the change, even though the sufficiency of those reasons may be “hotly contested.” *See id.* Third, the
28

1 agency on the face of the January 2025 policy acknowledged the existence and rescinding of the prior
2 policy, which is an implicit and sufficient statement of belief that the new policy is better. *See id.*

3 **3. OPPM 25-06, the Detention Policy, and the 2025 Courthouse Arrest**
4 **Guidance Are Not Arbitrary and Capricious.**

5 Petitioners allege that the 2025 Courthouse Arrest Guidance, the Detention Policy, and OPPM 25-
6 06 are arbitrary, capricious, and therefore violate the APA. *See* FAC at 40-41, 47-48. Petitioners allege
7 that these policies fail to address concerns in prior policies, are vague, lack support, and do not explain the
8 alleged “dramatic shift” in policy. *See* FAC ¶ 48-51, 86-93. Petitioners ignore the plain language of the
9 policies, and the history of immigration enforcement actions in and around courthouses set forth above.

10 To start, the 2025 Courthouse Arrest Guidance plainly addresses the concerns raised by
11 Petitioners. They allege that the 2025 Courthouse Arrest Guidance will “chill” access to courts. *See* FAC ¶
12 37, 48, 66. However, the Guidance includes provisions designed to ensure that enforcement actions within
13 courthouses are conducted in an orderly, safe, and non-disruptive manner. For example, the Guidance
14 mandates that, “when practicable,” ICE officers “conduct civil enforcement immigration actions against
15 targeted aliens discreetly to minimize their impact on court proceedings.” *See* Johns Decl. ¶ 7, Ex. F at 2.
16 In line with prior policies, the Guidance also prioritizes non-public arrests when possible. *Id.* The
17 Guidance further directs ICE officers and agents to “exercise sound judgment” and “make substantial
18 efforts to avoid unnecessarily alarming the public,” and requires them to “make every effort to limit their
19 time at courthouses while conducting civil immigration enforcement actions.” *Id.* at 3. In addition, it
20 provides that to the extent practicable, civil immigration enforcement actions inside courthouses should
21 take place in non-public areas of the courthouse, be conducted in collaboration with court security staff,
22 and utilize the court building’s non-public entrances and exits. *Id.* at 2.

23 Moreover, the Guidance justifies why it is appropriate. The Guidance states that “when ICE
24 engages in civil immigration enforcement actions in or near courthouses it can reduce safety risks”
25 because “[i]ndividuals “entering courthouses are typically screened by law enforcement personnel to
26 search for weapons and other contraband.” *Id.* at 2. The Guidance further explains that “enforcement
27 activities in or near courthouses are often required when jurisdictions refuse to cooperate with ICE.” *Id.*
28 Thus, the Guidance strikes a balance between ICE’s legitimate interests in enforcing immigration law;

1 protecting the safety of its officers, the arrestee, and members of the public; and the goal of minimizing
2 interference with judicial proceedings. Finally, as described above, Petitioners' argument that the
3 Guidance reverses "decades" of prior policy lacks merit and ignores the policies of prior administrations.
4 See FAC ¶¶ 36-38. As explained above, ICE first issued the March 2014 Directive regarding civil
5 immigration enforcement activities at or near courthouses over ten years ago, and that guidance, over
6 time, has been amended to incorporate changes in DHS enforcement priorities.

7 Next, the Detention Policy states that its purpose is to assist with the implementation of President
8 Trump's Executive Orders, "Protecting the American People Against Invasion" and "Securing Our
9 Borders." See Johns Decl. ¶ 9, Ex. H at 1. These Executive Orders, among other things, "declared a
10 national emergency and ordered the detaining [of] . . . aliens apprehended on suspicion of violating
11 Federal or State law, until such time as they are removed from the United States." *Id.* In response to
12 President Trump's Executive Orders, and changes in policy, "the daily population has significantly
13 increased to over 54,000." See *id.* at 2. The Detention Policy clearly states that Respondents are going to
14 ensure the "safety and security" of detained aliens. See *id.* It also states that Respondents will detain aliens
15 "for the least amount of time required to their processing, transfer, release, or repatriation as operationally
16 feasible." See *id.* The Detention Policy will remain in effect only for one year, and Respondents' other
17 "hold room and hold facilities requirements continue to apply." See *id.* Like the Guidance, the Detention
18 Policy is justified, measured, and explains why it was implemented.

19 Finally, OPPM 25-06 explains why it was issued and why the prior policy, OPPM 23-01, was
20 ineffective. See Johns Decl. ¶ 9, Ex. G at 1. OPPM 25-06 explains that the prior policy, OPPM 23-01, was
21 outdated based on new guidance, inconsistent with Executive Branch policy and unsubstantiated on any
22 systematic basis. See *id.* OPPM 25-06 addresses Petitioners' chilling argument, disputes it, and states that
23 there is no support for it. See *id.* OPPM 25-06 defers to DHS' authority on conducting immigration
24 enforcement in and around courthouses. See *id.* The 2025 Courthouse Arrest Guidance, the Detention
25 Policy, and OPPM 25-06 are not arbitrary, capricious, or contrary to law. Petitioners' challenges to those
26 policies under the APA should be dismissed.

C. The Court Should Dismiss Ambrocio, Torres, and Garcia’s Claims Because They Have Been Improperly Joined in Sequen’s Adjudicated Habeas Case.

As a general matter, Rule 18, Rule 20, and Rule 21 govern the joinder and severance of parties. Courts look to Rule 20 for guidance when evaluating joinder and severance issues. *See Bias*, 2012 WL 2906664, at *2. Rule 20 generally permits joinder if: (1) the claims arise “out of the same transaction, occurrence, or series of transactions or occurrences,” and (2) there is a “common” question of law or fact. Fed. R. Civ. P. 20(a)(1)-(2). The “same transaction” requirement in Rule 20 refers to “similarity in the factual background of a claim; claims that arise out of a systematic pattern of events” and have a “very definite logical relationship” arise out of the same transaction and occurrence. *See Washington v. Sandoval*, No. C 10-0250 LHK (PR), 2011 WL1522349, at *2 (N.D. Cal. Apr. 19, 2011) (quoting *Bautista v. L.A. Cnty.*, 216 F.3d 837, 842–43 (9th Cir.2000) (Reinhardt, J., concurring)). But “the mere fact that all [of a plaintiff’s] claims arise under the same general law does not necessarily establish a common question of law or fact.” *Coughlin v. Rogers*, 130 F.3d 1348, 1351 (9th Cir. 1997). Claims “involv[ing] different legal issues, standards, and procedures” do not involve common factual or legal questions. *Id.*

“There is no authority for permitting multiple petitioners to file a single habeas petition under 28 U.S.C. § 2254, and doing so generally is not permitted.” *Acord v. California*, No. 1:17-cv-01089-MJS (HC), 2017 WL 4699835, at *1 (E.D. Cal. Oct. 19, 2017). “Allowing multiple petitioners to proceed on a single petition presents a multitude of difficulties” because “[t]here may be allegations, defenses, evidence, or legal theories that are distinctly applicable to each petitioner.”³ *Id.* It would also appear to contravene the prohibition contained in 8 U.S.C. § 1252(f)(1), which states that “no court (other than the Supreme Court) shall have the jurisdiction or authority to enjoin or restrain . . . other than with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.” 8 U.S.C. § 1252(f)(1). Indeed, “courts across the country agree that two petitioners cannot join a single habeas petition.” *See Buriev v. Warden, Geo, Broward Transitional Ctr.*, No. 25-cv-60459-ALTMAN, 2025 WL 1906626, at *1 (S.D. Fla. Mar. 18, 2025) (collecting cases rejecting joinder).

³ *Espinoza v. Kaiser*, No. 1:25-cv-011010JLT-SKO, 2025 WL 2581185, at *9 (E.D. Cal. Sept. 5, 2025) is distinguishable because the Government did not dispute joinder in that case. Here, Respondents have consistently disputed joinder, raised the issue several times, and are moving to sever the claims. RESPONDENTS’ MOTION TO DISMISS AND MOTION TO SEVER
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1 The addition of Ambrocio, Torres, and Garcia as new parties asserting new claims does not satisfy
 2 the Federal Rules of Civil Procedure governing joinder. Petitioners have yet to identify a rule allowing
 3 them to stack habeas cases involving different people with different circumstances on top of one another.
 4 Ambrocio, Torres, and Garcia are *new* parties asserting *new* claims seeking to join Sequen’s habeas case
 5 about circumstances specific to her. *See* Pet., ECF No. 1.

6 Next, Ambrocio, Torres, and Garcia do not satisfy the joinder requirements because all their claims
 7 do not arise out of the “same transaction” and are all materially different. To start, while Sequen and
 8 Garcia were arrested at a courthouse, they are no longer in custody, and the Court has prohibited
 9 Respondents from detaining them. *See* Orders, ECF Nos. 7, 27, 36, 90. As a consequence, Sequen and
 10 Garcia are not going to be arrested at a courthouse or detained at 630 Sansome. Ambrocio has never been
 11 arrested at a courthouse or detained at 630 Sansome. *See* FAC at ¶¶ 18, 199-210. As a result of the Court’s
 12 orders, Respondents cannot detain her at 630 Sansome or at any detention facility. *See* Orders, ECF Nos.
 13 7, 27, 36, 90. Torres is a convicted felon with an extensive criminal history who was previously deported
 14 and illegally entered the United States again. *See* Olsen Decl. at ¶¶ 6-8, 15-26. Torres is being detained
 15 during the required 90-day removal period at Golden State Annex after an Immigration Judge concluded
 16 he was not entitled to relief from removal. *See id.* at ¶¶ 12-15. Torres is subject to a deportation order. *See*
 17 *id.* at ¶ 9. All four Petitioners’ claims all arise out of different circumstances and facts.

18 Finally, and as Petitioners have repeatedly ignored, allowing Ambrocio, Torres, and Garcia to join
 19 Sequen’s habeas case after the merits were briefed and a preliminary injunction was issued as new
 20 Petitioners asserting new claims against new Respondents promotes forum shopping by permitting
 21 petitioners to pick which courtroom they want to be in to assert any immigration-related claims. Forum
 22 shopping refers to the practice of choosing the most favorable jurisdiction or court in which a claim might
 23 be heard. *See R.R. Street & Co. Inc. v. Transport Ins. Co.*, 656 F.3d 966, 981 (9th Cir. 2011). To avoid
 24 forum shopping, courts may consider “the vexatious or reactive nature of either the federal or state
 25 litigation.” *Id.* (quoting *Moses H. Cone v. Mercury Constr. Corp.*, 460 U.S. 1, 17 n.20 (1983)). As
 26 Petitioners explicitly acknowledge and confirm, courts in this district regularly decide immigration
 27 matters. *See* PI Reply, ECF No. 46 and Supplemental PI Reply, ECF No. 58 (collecting immigration cases
 28

decided in this district including in 2025). Petitioners intentionally chose to try to transform Sequen’s habeas case into a class action challenging the Federal Government’s immigration policies, even though Sequen’s habeas case had been pending since August 1, 2025. But once the Court granted Sequen’s motion for preliminary injunction, within 48 hours Petitioners reactively filed a 54-page FAC (ECF No. 32), 26-page motion for class certification (ECF No. 33) with 11 supporting declarations (ECF Nos. 33-1-12), and an emergency motion for a temporary restraining order on behalf of two separate people (ECF No. 34). These circumstances strongly suggest judge shopping. *See KC Processing Co., LLC v. J.L.E.T. Enters. SWF, LLC*, No. 4:25-CV-00442-DGK, 2025 WL 1683476, *2 (W.D. Mo. June 16, 2025) (noting concern of judge-shopping when complaint brought after preliminary injunction granted by same judge); *In re Medtronic, Inc. Sprint Fidelis Leads Prods. Liab. Litig.*, 601 F. Supp. 2d 1120, 1132 (D. Minn. 2009) (timing of motion to recuse after a major adverse ruling “suggests, to be charitable, that it is an exercise in judge shopping”). Sequen’s case about her own circumstances should not be permitted to serve as the foundation for every other petitioner who wants to bring a habeas challenge or challenge the Federal Government’s national immigration policies.

D. The Court Should Sever Ambrocio, Torres, and Garcia’s Claims from Sequen’s Adjudicated Habeas Claims.

For the same reasons discussed *supra*, Ambrocio, Torres, and Garcia’s claims arise from different factual situations and pose different legal questions as Sequen’s claims. Although Sequen and Garcia were briefly detained at 630 Sansome, Ambrocio has never been detained there, nor has been subject to Respondents’ challenged policies. Torres is a convicted felon who was previously deported, had his prior deportation order reinstated, and is currently being detained under the required 90-day removal period in Fresno. *See generally* Olson Decl. There is no justification to maintain Petitioners’ strategic misjoinder or support their attempt to try and ram a class action through this Court as quickly as possible and especially given the Court’s prior orders granting preliminary injunctions. *See* Orders, ECF Nos. 7, 27, 36, 90. The Court should sever the claims into four separate cases.

VII. CONCLUSION

Respondents respectfully request that the Court dismiss Petitioners’ FAC or, in the alternative, sever Ambrocio, Torres, and Garcia’s claims from Sequen’s claims.

1 DATED: October 24, 2025

Respectfully submitted,

2
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