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11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 Francisco CARRILLO GARCIA,

14 Petitioner-Plaintiff,

15 v.

16 Ernesto SANTACRUZ JR., Acting Director, Los
17 Angeles Field Office, Immigration and Customs
18 Enforcement, Enforcement and Removal Operations;
19 Todd M. LYONS, Acting Director, Immigration and
20 Customs Enforcement; Kristi NOEM, Secretary, U.S.
21 Department of Homeland Security; Pamela BONDI,
22 U.S. Attorney General; Fereti SEMAIA, Warden,
23 Adelanto ICE Processing Center,

24 Respondents-Defendants.

Case No. 2:25-cv-10581

**PETITION FOR WRIT OF
HABEAS CORPUS
PURSUANT TO
28 U.S.C. §2241**

PETITIONER'S DHS NO:

A 

INTRODUCTION

1. Petitioner, Francisco Carrillo-Garcia, (DHS No. A [REDACTED]) is in the custody of Immigration and Customs Enforcement (“ICE”) and is detained at its Detention Facility located in Adelanto, California.
2. Petitioner is unlawfully detained. Petitioner was released from ICE custody over eleven years ago after posting an \$8,000 bond on or about August 2014, pending removal proceedings pursuant to 8 U.S. Code § 1229a.
3. On March 11, 2016, an application for protection from persecution in Petitioner’s home country of El Salvador on Form I-589 was received by the Executive Office for Immigration Review (EOIR).
4. On November 28, 2017, Petitioner was married to his US citizen spouse, Xiomara Avila Perez. A family-based immediate relative visa petition was filed on Petitioner’s behalf on Form I-130 by his spouse on November 7, 2018, and was approved by United States Citizenship and Immigration Services (USCIS) on October 1, 2019.
5. On November 1, 2018, Petitioner’s Asylum Application was withdrawn apparently upon agreement of the IJ, DHS, and the Petitioner to pursue relief via an approved I-130 petition instead.
6. On December 31, 2019, an Application for a Provisional Unlawful Presence Waiver filed on Form I-601A on Petitioner’s behalf was received by USCIS. On March 25, 2022, removal proceedings were administratively closed to allow Petitioner to pursue adjudication of the I-601A waiver by USCIS.
7. On August 22, 2023, USCIS denied the I-601A waiver pursuant to 8 C.F.R. 212.7 (e)(4), solely because it had been filed while his removal proceedings remained pending.
8. On or about October 1, 2024, a Misdemeanor Complaint charging that on December 15, 2023, the Petitioner committed one count of Hit and Run Driving Resulting in Injury to Another person (Vehicle Code Section 20001(b)(1) was filed in the Superior Court of California, County of San Bernardino, Rancho Cucamonga District. The

Petitioner entered a plea of not guilty and was released on his own recognizance. His next pre-trial hearing is scheduled for January 20, 2026, at 8:30 a.m. in Department R8 Rancho Cucamonga.

9. On or about May 15, 2025, Petitioner, responding to a written notice from ICE, attended his first ICE check-in in San Bernardino, California and was re-arrested and detained by ICE without any formal or informal consideration of due process or impartial review. The ICE officer informed the Petitioner that "his time in the United States had come to an end because of the new Trump administration." Under ICE's "process" for custody determination pursuant to 8 C.F.R. §236.1(c) (9), the Petitioner's arrest automatically revoked his bond. Thus, the regulations permit ICE to unilaterally nullify a bond order without oversight of any kind. After re-arrest, ICE makes its own, one-sided custody determination and can decide whether the agency wants to hold the Petitioner without bond or grant him a new bond. 8 C.F.R. 236.1(c)(9)
10. Following Petitioner's re-arrest on or about June 15, 2025, Petitioner's counsel reached out to ICE to inquire as to whether the agency would be amenable to release on the current bond, release on parole, or release following re-determination of a new bond amount. To date, the agency has failed to respond.
11. In or about June 2025, the Department of Homeland Security (DHS) filed two motions: First to recalendar the administratively closed proceedings, alleging that based upon recent checks, it determined that the Petitioner has not been accorded any new lawful status based on collateral relief filed with USCIS, and Second, a motion for change of venue to Adelanto Immigration Court reflecting Petitioner's new address as [REDACTED]. Both of these motions were granted on June 11, 2025.
12. On September 10, 2025, A Request for Custody Redetermination on behalf of the Petitioner was scheduled for hearing with IJ Bryan Depowell at EOIR Adelanto, California. A pre-hearing conference was conducted, during which the IJ indicated

1 that he did not have jurisdiction to determine the request pursuant to Matter of Yajure
2 Hurtado, 29 I&N Dec. 216 (BIA 2025) which held, “based on the plain language of
3 section 235 (b) (2)(A) of the INA, 8 U.S.C. §1225(b)(2)(A)(2018) Immigration Judges
4 lack authority to hear bond requests or to grant bond to aliens who are present in the
5 United States without admission.” Accordingly, the request was withdrawn without
6 prejudice, and Petitioner’s individual hearing was subsequently reset for December
7 24, 2025, at 1:00 p.m. The Petitioner was advised that the next step to seek release on
8 bond was by way of Habeas Corpus in Federal District Court.

9 13. There has been no change in Petitioner’s circumstances that would subject Petitioner
10 to re-detention. He has no final order of removal, is currently eligible for Adjustment
11 of Status at the consular level once the I-601A waiver is refiled and approved. The
12 Petitioner is also currently eligible for EOIR 42B cancelation of removal for non-
13 permanent residents.

14 14. The Petitioner remains released on his own recognizance pending resolution of a
15 misdemeanor criminal charge reflecting the State’s determination that he is not a flight
16 risk or a danger to the community. The State charges do not render Petitioner subject
17 to mandatory detention, as they allege actual injury and not serious bodily injury as
18 required by INA §236 (C)(1)(E) as amended by the Lake Riley Act. Petitioner
19 remained out of detention for over eleven years and appeared at all of his court
20 hearings and was in full compliance with all conditions of release and has developed
21 significant liberty interests during that time period.

22 15. ICE’s arrest and detention of Petitioner violate Petitioner’s rights under the Fourth and
23 Fifth Amendment protection against unreasonable search and seizure, the Fifth
24 Amendment’s Due Process Clause, and are in violation of 5 U.S.C. §706(2)(A), (B),
25 and (C).

26 16. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released
27 unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a).
28

JURISDICTION AND VENUE

17. Jurisdiction is proper and relief is available pursuant to 28 U.S.C. §1331 (federal question), 28 U.S.C. §1346 (original jurisdiction), 5 U.S.C. §702 (waiver of sovereign immunity), 28 U.S.C. §2241 (habeas corpus jurisdiction), and Article 1, Section 9, clause 2 of the United States Constitution (the Suspension Clause).
18. Venue is proper in the Central District of California under 28 U.S.C. §1391 because at least one federal Defendant resides in this District and because the Petitioner was arrested and is detained in this District.

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PARTIES

Petitioner

19. Petitioner Francisco Carrillo Garcia (DHS No. ) was born in El Salvador and fled to the United States seeking asylum in July of 2014. He entered the U.S. on foot near Sasabe, Arizona and was arrested inside the U.S. by ICE/ERO. Following Petitioner's passing of a credible fear interview, ICE set bond in the sum of \$10,000 pursuant to section 236 of the Immigration and Nationality Act, that amount was reduced to \$8,000.00 pursuant to a subsequent order by an IJ who determined Petitioner was neither a flight risk nor a danger to the community. Petitioner attended all of his removal hearings as well as his first and last ICE check-in. He was denied pre-detention review of custody as well as any consideration of pre-deprivation of liberty by a neutral arbiter and was denied a redetermination of bond by Respondents.

Respondents-Defendants

20. Respondent Ernesto SANTACRUZ JR. is the acting Director of the Los Angeles Field Office of ICE's Enforcement and Removal Operations Division. As such, he is the custodian of all persons held at the ICE facilities in the Los Angeles Field Office. He

1 is Petitioner's immediate custodian and is responsible for Petitioner's detention. He is
2 sued in his official capacity.

3 21. Respondent Todd LYONS is the Acting Director of Immigration and Customs
4 Enforcement, a federal law enforcement agency within the Department of Homeland
5 Security. ICE's responsibilities include operating the immigration detention system.
6 In his capacity as ICE Acting Director, Respondent Lyons exercises control over and
7 is a custodian of persons held at ICE facilities nationally. He is Petitioner's immediate
8 custodian and is responsible for Petitioner's detention. At all times relevant to this
9 Complaint, Respondent Lyons was acting within the scope and course of his
10 employment with ICE. He is sued in his official capacity.

11 22. Respondent Kristi NOEM is the Secretary of the Department of Homeland Security.
12 She is responsible for the implementation and enforcement of the Immigration and
13 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's
14 detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in
15 her official capacity.

16 23. Respondent Pamela BONDI is the Attorney General of the United States. She is
17 responsible for the Department of Justice, of which the Executive Office for
18 Immigration Review and the immigration court system it operates is a component
19 agency. She is sued in her official capacity.

20 24. Respondent Fereti SEMAIA is the Warden of the Adelanto ICE Processing Center,
21 Adelanto, California, where Petitioner is detained. He has immediate physical custody
22 of Petitioner. He is sued in his official capacity.

23 **STATEMENT OF FACTS**

24 25. Petitioner was released from ICE custody on bond on or about August 15, 2014.

25 Petitioner complied with conditions of bond, including attending all of his court
26 appearances over the course of his removal proceedings lasting over eleven years.

27 26. Petitioner remains eligible for two types of relief from removal, first and strongest is
28 to seek adjustment of status at the consular level based upon his marriage to a US

1 citizen, second, he is eligible for cancelation of removal for non-permanent residents
2 based on his more than eleven years of continuous presence and extreme and
3 unusual hardship to his U.S. citizen wife and four U.S. citizen children, including a
4 child with Autism.

5 27. Petitioner reported to his first and last ICE check-in following receipt of a written
6 notice by mail on or about May 15, 2025 at San Bernardino, California.

7 28. At that location, officers arrested Petitioner. Petitioner informed the ICE officers that
8 his case remained pending, but had been administratively closed to await a decision
9 on his unlawful presence waiver, that he was represented by an attorney, was
10 married to a U.S. citizen and had four U.S. citizen children. The ICE officer's only
11 response was "your time in the U.S. has come to an end."

12 29. Petitioner was thereafter transferred to ICE Adelanto detention center facility, where
13 he remains awaiting an individual hearing currently scheduled for December 24,
14 2025.

15 **FRIST CLAIM FOR RELIEF**

16 **Petitioner's Detention Violates his Fourth Amendment Right Against**
17 **Unreasonable Seizure**

18 30. Petitioner repeats and incorporates by reference all allegations above as though set
19 forth fully here.

20 31. Subjecting an individual to an unreasonable arrest without probable cause is a
21 violation of the Fourth Amendment. *See, e.g. Sanchez v Sessions*, 904 F.3d 643 (9th
22 Cir. 2018).

23 32. Petitioner was complying with the conditions of his bond in reporting to the ICE
24 office, he did not present as a flight risk or a danger, and his arrest by Respondents
25 was unreasonable and constitutes a violation of the Fourth Amendment.

26 **SECOND CLAIM FOR RELIEF**

27 **Petitioner's Detention Violates His Fifth Amendment Right to Due Process**
28

33. Petitioner repeats and incorporates by reference all allegations above as though fully set forth here.

34. The Fifth Amendment's Due Process Clause forbids the Government to 'deprive' any 'person . . . of . . . liberty . . . without due process of law.' *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)

35. "[D]ue process requires the Government to show by clear and convincing evidence that an immigrant is a flight risk or a danger to the community at the time of the bond hearing." *Ramos v Sessions*, No. 18 cdv-00413-JST, 2018 U.S. Dist. LEXIS 42239, at *17 (N.D. Cal. Mar. 13, 2018) (citing *Singh*, 638 F.3d at 1208).

36. Here, Petitioner was released on bond and remained free from ICE custody for over eleven years. There was no violation of his bond conditions or change in circumstances to authorize re-detention. Petitioner attended all immigration court hearings.

37. Respondent's act of re-detaining Petitioner without a hearing after he posted bond and has demonstrated for over eleven years that he is not a flight risk or danger to the community violates his right to due process.

THIRD CLAIM FOR RELIEF

Petitioner's Detention Violates the Administrative Procedure Act

5 U.S.C. § 706(2)

38. Petitioner repeats and incorporates by reference all allegations above as though set forth fully here.

39. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. §706(2)(A)-(C).

40. Respondents' arrest and detention of Petitioner-who has remained out of custody on bond for over eleven years during his removal proceedings- was arbitrary and

capricious. Respondents' arrest and detention of Petitioner violate the Fourth and Fifth Amendments to the Constitution. Respondents do not have statutory authority to arrest and re-detain Petitioner. Respondents do not have statutory authority to remove Petitioner from the United States, as he does not have a final administrative removal order.

41. Petitioner's arrest and detention is arbitrary, capricious, an abuse of discretion, violative of the Constitution, and without statutory authority in the violation of 5 U.S.C. § 706(2).

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PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully asks this Court to take jurisdiction over this actual controversy and:

- a. Issue a Writ of Habeas Corpus requiring Respondents to release Petitioner or provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days.
- b. In the alternative, issue injunctive relief ordering Respondents to release Petitioner on the ground that his arrest and continued detention violate the Fourth and Fifth Amendments and 5 U.S.C. § 706(2).
- c. Award Petitioner his costs and attorneys' fees in this action under the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under the law, and,
- d. Grant any other and further relief that this Court deems just and appropriate.

Dated: November 4, 2025

s/Christopher Duran

CHRISTOPHER DURAN
COALITION FOR HUMANE IMMIGRANT
RIGHTS LOS ANGELES
Attorney for Petitioner

VERIFICATION

I, Christopher Duran, declare as follows:

I am an attorney admitted to practice law in the State of California.

Because many of the allegations in this Petition require legal knowledge not possessed by Petitioner, I am making this verification on his behalf.

I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof to be true to my knowledge, information and belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on November 4, 2025.

s/ Christopher Duran

CHRISTOPHER DURAN
COALITION FOR HUMANE IMMIGRANT RIGHTS LOS ANGELES
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 4, 2025, I served a copy of this Petition for Writ of Habeas Corpus by email to the following individual:

Daniel Beck
AUSA of the Civil Division
U.S. Attorney's Office
300 N. Los Angeles St., Ste. 7516
Los Angeles, CA 90012-3341
Email: Daniel.beck@usdoj.gov

s/Christopher Duran
Christopher Duran
Attorney for Petitioner