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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
Seattle Division**

Marin Ariel Garcia Gabriel

Petitioner,

v.

LAURA HERMOSILLO, Acting Seattle Field
Office Director, Immigration and Customs
Enforcement and Removal Operations
("ICE/ERO"), TODD LYONS, Acting
Director of Immigration Customs
Enforcement ("ICE"), KRISTI NOEM,
Secretary of the Department of Homeland
Security ("DHS"), PAMELA BONDI,
Attorney General of the United States, and
BRUCE SCOTT, Warden, Northwest ICE
Processing Center

Respondents.

Case No. 2:25-cv-2594

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner Marin Ariel Garcia Gabriel arrived in the United States as an
3 unaccompanied alien child (“UAC”) on May 25, 2016, fleeing from abuse and violence he
4 suffered during childhood in his native country of Guatemala and seeking safety and protection
5 in this land of freedom. At the time of his entry, he was 17 years old. He has been residing in
6 the United States for more than 9 years and has established a family with a 3-year-old daughter
7 who was born in Oregon. He is known in his community in Oregon as a family man who
8 works hard to support himself, his partner, and their daughter.
9

10 2. With employment authorization granted by the United States Citizenship and
11 Immigration Services (“USCIS”) valid until April 24, 2030, Petitioner works in the
12 Eugene/Springfield area as a landscape worker, providing landscape services to clients in the
13 local community. He has maintained an excellent reputation for quality work, dependability,
14 and strong work ethics.

15 3. While going to work on November 5, 2025, Petitioner was arrested and detained
16 by Respondents’ agents without revoking his ICE Order of Release on Recognizance and
17 without first providing him with written notice and a meaningful opportunity to be heard
18 during a widespread enforcement sweep that targeted hardworking immigrants across Lane
19 County and the surrounding areas in Oregon.¹
20
21
22

23 ¹ Petitioner’s arrest by ICE agents on November 5, 2025 was captured on TV and reported by the local
24 KEZI 9 TV news. As reported, the windows of the landscaping truck in which he was riding to work
25 were broken, and broken glass was scattered on the street at the scene. A homeowner in the
26 neighborhood who witnessed the arrest told the news reporter: “I don’t think these guys were criminals,
I see them in the neighborhood for quite some time, so they are just working guys like everybody else.”
See full news report of the arrest at: https://youtu.be/PDGa5SoInWc?si=7v7Lekd7hZFd_AiC.

1 4. At the time of his arrest, Petitioner was in a truck as a passenger driven by a co-
2 worker to work on landscape projects for his clients in Eugene, Oregon when their truck was
3 pulled over by ICE agents without any cause or reason.

4 5. On information and belief, after the truck was stopped, Petitioner was arrested
5 and detained by Respondents without notice or cause, even though he was released under the
6 Order of Release, he had complied with all ICE orders and instructions, and the Order had
7 never been revoked. Respondents did so based not on Petitioner's personal circumstances or
8 individualized facts, but because of Respondents' interpretation of President Trump's order
9 that they "do all in their power to achieve the very important goal of delivering the single
10 largest Mass Deportation Program in History."² But Respondents' power to detain remains
11 checked by law, as this country remains "a government of laws and not of men." *Cooper v.*
12 *Aaron*, 358 U.S. 1, 23 (1958) (Frankfurter, J. Concurring) (cleaned up).

14 6. "At its historical core, the writ of habeas corpus has served as a means of
15 reviewing the legality of Executive detention, and it is in that context that its protections have
16 been strongest." *INS v. St. Cyr*, 533 U.S. 289, 301 (2001), superseded on other grounds by
17 statute as stated in *Patel v. U.S. Att'y Gen.*, 971 F.3d 1258, 1270 (11th Cir. 2020). The writ is
18 meant to provide exactly the relief that Petitioner seeks here: to prevent the Respondents—a
19 whole set of immigration agencies with vast resources, who have at their disposal a punitive
20 system and agents roving the streets to arrest immigrants — from setting themselves above the
21 law in order to detain immigrants.

23
24
25 ² Pres. Donald Trump, @realDonaldTrump, Truth Social (June 15, 2025, 5:43pm) ("ICE Officers are
26 herewith ordered, by notice of this TRUTH, to do all in their power to achieve the very important goal
of delivering the single largest Mass Deportation Program in History.").

7. In their lawless pursuit of detention bed quotas,³ Respondents cast aside Petitioner's due process rights — a bedrock of American freedom — to stop Petitioner without reasonable suspicion and arrest Petitioner without probable cause, ignoring the laws governing warrantless arrests and their own agency policy prohibiting them from doing so.

8. Moreover, warrantless arrest without probable cause violates both 8 U.S.C. § 1357, which requires reason to believe the person “is likely to escape” before a warrant could be obtained, and ICE's own nationwide policy, to which it is bound pursuant to a settlement agreement in *Castañon Nava et al. v. Dep't of Homeland Sec.*, No. 18-cv-3757(N.D. Ill.), which requires consideration of specific factors to determine if someone is likely to escape and documentation of these “specific particularized facts” in the I-213.⁴ Pursuant to the October 7, 2025, order of the U.S. District Court for the Northern District of Illinois, Respondent ICE reissued its Broadcast of this policy (hereafter, “*Nava Broadcast Policy*”) to all ICE officers nationwide on October 22, 2025, with the instruction that the *Nava Broadcast Policy* shall remain in effect through February 2, 2026. *See id.* at Dkt. 224, 224-1 at ¶ 5.

9. On information and belief, prior to re-detaining Petitioner, Respondents did not provide any written notice explaining the basis for the revocation of his release. Likewise,

³Jennie Taer, *Trump admin's 3,000 ICE arrests per day quota is taking focus off criminals and 'killing morale': insiders warn*, NY Post, June 17, 2025, <https://nypost.com/2025/06/17/us-news/trump-admins-3000-ice-arrests-per-day-quota-is-taking-focus-off-criminals-and-killing-morale-insiders/>, <https://perma.cc/DB9R-MJUC> (last visited Sept. 18, 2025) (“The Trump administration's mandate to arrest 3,000 illegal migrants per day is forcing ICE agents to deprioritize going after dangerous criminals and targets with deportation orders, insiders warn. Instead, federal immigration officers are spending more time rounding up people off the streets, sources said. ‘All that matters is numbers, pure numbers. Quantity over quality,’ one Immigrations and Customs Enforcement insider told The Post.”).

⁴ Form I-213, known as a “Record of Deportable/Inadmissible [Noncitizen]” . . . is an ‘official record’ prepared by immigration officials when initially processing a person suspected of being in the United States without legal permission.” *Punin v. Garland*, 108 F.4th 114, 119 (2d Cir. 2024) (cleaned up).

1 Respondents did not assess whether Petitioner presented a flight risk or danger to the
2 community prior to his arrest. Nor did Respondents provide a hearing before a neutral
3 decisionmaker, where ICE was required to justify the basis for re-detention or to explain why
4 Petitioner is a flight risk or danger to the community. Respondents' arrest of Petitioner follows
5 a pattern in recent months: detain first, justify later. But that is not the law.

6 10. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant
7 petition for a writ of habeas corpus, stay Petitioner's removal, and order Petitioner's immediate
8 release.
9

10 JURISDICTION

11 11. This action arises under the Constitution of the United States and the
12 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

13 12. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
14 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States
15 Constitution (Suspension Clause).

16 13. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241
17 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., and the All Writs Act, 28
18 U.S.C. § 1651.
19

20 VENUE

21 14. Venue is proper because Petitioner is in Respondents' custody in the Western
22 District of Washington. Venue is further proper because a substantial part of the events or
23 omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in
24 Respondents' custody. 28 U.S.C. § 1391(e).
25

26 REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

15. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

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

17. Petitioner is “in custody” for the purpose of § 2241 because Petitioner has been detained by Respondents.

PARTIES

18. Petitioner Marin Ariel Garcia Gabriel is an Oregon resident and landscape worker who is detained in Tacoma, Washington and thus is present within the state of Washington as of the time of the filing of this petition.

19. Respondent Laura Hermosillo is the Acting Field Office Director for the Seattle Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”). The Seattle Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non- citizens. The Seattle Field Office’s area of responsibility includes Alaska, Oregon, and Washington. Respondent Hermosillo is a legal custodian of Petitioner.

20. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and has authority over the actions of respondent Laura Hermisillo and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

1 21. Respondent Kristi Noem is the Secretary of the Department of Homeland
2 Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as
3 well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is
4 charged with faithfully administering the immigration laws of the United States.

5 22. Respondent Pamela Bondi is the Attorney General of the United States, and as
6 such has authority over the Department of Justice and is charged with faithfully administering
7 the immigration laws of the United States.

8 23. Respondent Bruce Scott is the Warden of Northwest ICE Processing Center,
9 located in Tacoma, Washington, where Petitioner is currently detained by ICE. Respondent
10 Scott is a legal custodian of Petitioner.

11 24. The action is commenced against all Respondents in their official capacities.

12 LEGAL FRAMEWORK

13 Legal Framework Related to Stop and Arrest

14 25. The Fourth Amendment protects “[t]he right of the people to be secure in their
15 persons . . . against unreasonable searches and seizures.” U.S. Const. amend. IV.

16 26. Immigration detention is a form of civil confinement that “constitutes a
17 significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441
18 U.S. 418, 4253 (1979).

19 27. “Except at the border and its functional equivalents,” immigration agents may
20 stop individuals in public only after identifying “specific articulable facts, together with
21 rational inferences from those facts, that reasonably warrant suspicion” of a violation of
22 immigration law. *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975); *Benitez- Mendez*
23 *v. I.N.S.*, 752 F.2d 1309, 1311 (9th Cir. 1983), *amended*, 760 F.2d 907 (9th Cir. 1983); *see also* 8
24 C.F.R. §287.8(b)(2)(allowing officer to “briefly detain” a noncitizen for questioning if the
25 officer “has a reasonable suspicion, based on specific articulable facts” that the noncitizen is
26 engaged in an offense or is unlawfully in the United States).

1 28. Reasonable suspicion for an immigration stop cannot be based “on broad
2 profiles which cast suspicion on entire categories of people without any individualized
3 suspicion of the particular person to be stopped.” *United States v. Rodriguez Sanchez*, 23 F.3d
4 1488, 1492 (9th Cir.1994). Rather, reasonable suspicion must be “particularized and objective,”
5 *United States v. Arvizu*, 534 U.S. 266, 273 (2002), meaning the officer has reasonable suspicion
6 as to “the particular person being stopped.” *United States v. Montero- Camargo*, 208 F.3d
7 1122, 1129 (9th Cir. 2000) (en banc). Information obtained from an officer’s lawful
8 questioning “may provide the basis for a subsequent arrest.” 8 C.F.R. § 287.8(b)(3).

9 29. Immigration officers may arrest an individual without a warrant in limited
10 circumstances. *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012) (noting strong
11 Congressional preference, as expressed in INA, for immigration arrests to be based on
12 warrants).

13 30. The INA permits warrantless arrest if an immigration officer has reason to
14 believe that a noncitizen (1) is in the United States in violation of the immigration laws and (2)
15 “is likely to escape before a warrant can be obtained for his arrest”. 8 U.S.C. § 1357(a)(2);
16 *accord.* 8 C.F.R. § 287.8(c)(2)(i)-(ii). An officer “has reason to believe” when they have the
17 equivalent of “the constitutional requirement of probable cause.” *Tejeda- Mata v. INS*, 626
18 F.2d 721, 725 (9th Cir. 1980).

19 31. The Fifth Amendment right to remain silent may be properly invoked during a
20 civil immigration arrest. *See* U.S. Const., amend. V. *See Kastigar v. United States*, 406 U.S.
21 441, 444–45 (1972) (The privilege against self-incrimination “can be asserted in any
22 proceeding, civil or criminal, administrative or judicial, investigatory or adjudicatory . . . This
23 Court has been zealous to safeguard the values which underlie the privilege.”). An immigration
24 officer may not establish probable cause on the basis of a noncitizen’s silence pursuant to his
25 Fifth Amendment rights. *See Hurd v. Terhune*, 619 F.3d 1080, 1088 (9th Cir. 2010) (affirming
26

1 “the fundamental principle that a suspect’s silence in the face of questioning cannot be used as
2 evidence against him at trial”).

3 32. If an immigration officer makes a warrantless arrest, at the time of an arrest and
4 “as soon as it is practical and safe to do so,” immigration officers must identify themselves as
5 immigration officers authorized to make arrests, inform the person arrested that they are under
6 arrest, and state the reason for the arrest. 8 C.F.R. § 287.8(c)(2)(iii). The noncitizen must then
7 “be taken without unnecessary delay for examination before an officer of the Service having
8 authority to examine [noncitizens] as to their right to enter or remain in the United States.” 8
9 U.S.C. §1357(a)(2).

10 33. ICE is bound not only by statute and due process, but also by its national policy
11 adopted pursuant to settlement agreement in *Castañon Nava et al. v. Dep’t of Homeland Sec.*,
12 No. 18-cv-3757 (N.D. Ill.). Under this policy, ICE must consider a delineated list of factors
13 before making an arrest, including (a) the officer’s ability to determine the individual’s
14 identity; (b) knowledge of the individual’s prior escapes or evasions of immigration
15 authorities; (c) the individual’s attempts to flee to avoid being discovered by immigration; and
16 (d) the individual’s ties to the community, such as a family, home, or employment. Settlement
17 Agreement, *Castañon Nava et al. v. Dep’t of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.).⁵
18 Respondent ICE reissued its Broadcast of this policy (hereafter, “*Nava Broadcast Policy*”) to
19 all ICE officers nationwide on October 22, 2025, with the instruction that the *Nava Broadcast*
20 Policy shall remain in effect through February 2, 2026. *See id.* at Dkt. 224, 224-1 at ¶ 5.

21 **Due Process Principles Related to Re-detention**

22 34. Due process requires that if ICE seeks to re-arrest a person like Petitioner —
23 individuals who have lived in the United States without incident after ICE first released them,
24 submitted applications for protection from removal, and otherwise complied with the terms of
25

26 ⁵ Available at https://immigrantjustice.org/sites/default/files/content-type/page/documents/2025-01/Nava_Settlement_ICE_Warrantless_Arrest-Vehicle_Stop_Policy_2021.pdf.

1 their releases—the government must afford a hearing before a neutral decisionmaker to
2 determine whether any re-detention is justified, and whether the person is a flight risk or
3 danger to the community.

4 35. “Freedom from imprisonment—from government custody, detention, or other
5 forms of physical restraint — lies at the heart of the liberty protected by the Due Process
6 Clause” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As this Court recently recognized, this
7 is the “the most elemental of liberty interests.” *E.A. T.-B v. Wamsley*, -- F. Supp. 3d. --, 2025
8 WL 2402130, at *3 (W.D. Wash. Aug. 19, 2025) (citation modified); *see also Ramirez Tesara*
9 *v. Wamsley*, -- F. Supp. 3d ---, 2025 WL 2637663, at *3 (stating that the petitioner had “an
10 exceptionally strong interest in freedom from physical confinement”); *see also Ledesma*
11 *Gonzalez v. Bostock*, No. 2:25-cv-01404-JNW-GJL, 2025 WL 281574 at *20 (W.D. Wash.
12 Oct. 7, 2025) (finding “ that Ledesma Gonzalez has a protected liberty interest in his
13 continuing release from custody, and that due process required that he receive a hearing before
14 an immigration judge before he could be re-detained”).

15 36. Consistent with this principle, individuals who have been released on parole or
16 other forms of conditional release have a liberty interest in their “continued liberty.” *Morrissey*
17 *v. Brewer*, 408 U.S. 471, 482 (1972).

18 37. Such liberty is protected by the Fifth Amendment because, “although
19 indeterminate, [it] includes many of the core values of unqualified liberty,” such as the ability
20 to be gainfully employed and live with family, “and its termination inflicts a ‘grievous loss’ on
21 the [released individual] and often on others.” *Id.*

22 38. To protect against arbitrary re-detention and to ensure the right to liberty, due
23 process requires “adequate procedural protections” that test whether the government’s asserted
24 justification for a noncitizen’s physical confinement “outweighs the individual’s
25 constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690
26 (citation modified).

1 39. Due process thus guarantees notice and an individualized hearing before a
2 neutral decisionmaker to assess danger or flight risk before the revocation of an individual's
3 release. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) ("The fundamental requisite of due
4 process of law is the opportunity to be heard . . . at a meaningful time in a meaningful
5 manner." (citation modified)); *see also, e.g., Morrissey*, 408 U.S. at 485 (requiring
6 "preliminary hearing to determine whether there is probable cause or reasonable ground to
7 believe that the arrested parolee has committed . . . a violation of parole conditions" and that
8 such determination be made "by someone not directly involved in the case" (citation
9 modified)).

10 40. Several courts, including this one, have recognized that these principles apply
11 with respect to the re-detention of the many noncitizens that ICE has arbitrarily begun taking
12 back into custody, often after such persons have been released for months and years.

13 41. For example, in *E.A. T.-B.*, this Court applied the *Mathews v. Eldridge*, 424 U.S.
14 319 (1976), framework to hold that even in a case where the government asserted that
15 mandatory detention initially applied, a person's re-detention could not occur absent a hearing.
16 The Court did the same in *Ramirez Tesara*, *Kumar*, and *Ledesma Gonzalez*. *See Ramirez*
17 *Tesara*, 2025 WL 2637663, at *2–3; *Kumar*, 2025 WL 2677089, at *2–3; *Ledesma Gonzalez*,
18 2025 WL 2841574, at *7–8.

19 42. In applying the three *Mathews* factors, the *E.A. T.-B.* court held that the
20 petitioner had "undoubtedly [been] deprive[d] . . . of an established interest in his liberty,"
21 2025 WL 2402130, at *3, which, as noted, "is the most elemental of liberty interests," *id.*
22 (citation modified). The Court further explained that even if detention was mandatory, the risk
23 of erroneous deprivation of liberty without a hearing was high because a hearing serves to
24 ensure that the purposes of detention—the prevention of danger and flight risk—are properly
25 served. *Id.* at *4–5. Finally, the Court explained that "the Government's interest in re-detaining
26 non-citizens previously released without a hearing is low: although it would have required the

1 expenditure of finite resources (money and time) to provide Petitioner notice and hearing on
2 [ISAP] violations before arresting and re-detaining him, those costs are far outweighed by the
3 risk of erroneous deprivation of the liberty interest at issue” *Id.* at *5. As a result, this Court
4 ordered the petitioner’s immediate release. *Id.* at *6.

5 43. This Court applied a similar analysis in *Ramirez Tesara*. There, the Court
6 reasoned that the petitioner had a “weighty” interest in his liberty and was entitled to the “full
7 protections of the due process clause.” 2025 WL 2637663, at *3. When examining the value of
8 additional safeguards, the Court also noted that despite the government’s allegations of ISAP
9 violations, “the fact ‘that the Government may believe it has a valid reason to detain Petitioner
10 does not eliminate its obligation to effectuate the detention in a manner that comports with due
11 process.’” *Id.* at *4 (quoting *E.A. T.-B.*, 2025 WL 2402130, at *4). Finally, the Court reasoned
12 that any government interest in re-detention without a hearing was “minimal.” *Id.* Accordingly,
13 there too, the Court ordered the petitioner’s immediate release. *Id.* at *5.

14 44. The *Kumar* and *Ledesma Gonzalez* courts reached the same decision, again
15 holding that all three factors weighed in favor of affording the petitioner a bond hearing. 2025
16 WL 2677089, at *3–4; 2025 WL 2841574, at *7–9; *see also* Report & Recommendation, *Lopez*
17 *Reyes*, No. 2:25-cv-01868-JLR-MLP (W.D. Wash. Oct. 15, 2025), Dkt. 13 (same).

18 45. This Court’s decisions in *E.A. T.-B.*, *Ramirez Tesara*, *Kumar*, and *Ledesma*
19 *Gonzalez* are consistent with many other district court decisions addressing similar situations.
20 *See, e.g., Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737 (S.D.N.Y. June 18,
21 2025) (ordering immediate release due to lack of pre-deprivation hearing); *Garro Pinchi v.*
22 *Noem*, --- F. Supp. 3d ---, No. 5:25-CV-05632-PCP, 2025 WL 2084921 (N.D. Cal. July 24,
23 2025) (similar); *Maklad v. Murray*, No. 1:25-CV-00946 JLT SAB, 2025 WL 2299376 (E.D.
24 Cal. Aug. 8, 2025) (similar); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL
25 2420068 (E.D. Cal. Aug. 21, 2025) (similar).

26 46. The same framework and principles apply here and compel Petitioner’s

1 immediate release.

2 **FACTUAL BACKGROUND**

3 **Respondents' Detention and Deportation Policies**

4 47. On January 20, 2025, President Donald Trump issued several executive actions
5 relating to immigration, including "Protecting the American People Against Invasion," an
6 executive order (EO) setting out a series of interior immigration enforcement actions. The
7 Trump administration, through this and other actions, has outlined sweeping, executive branch-
8 led changes to immigration enforcement policy, establishing a formal framework for mass
9 deportation. The "Protecting the American People Against Invasion" EO instructs the DHS
10 Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil
11 immigration enforcement procedures including through the use of mass detention.

12 48. In late May, Respondent Secretary Noem and White House Deputy Chief of
13 Staff Stephen Miller met with ICE leadership, setting a new arrest quota of 3,000 arrests per
14 day and reportedly threatening job consequences if officials failed to meet arrest quotas.⁶

15 49. On May 28, Miller confirmed that "[u]nder President Trump's leadership, we
16 are looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President
17 Trump is going to keep pushing to get that number up higher each and every single day."⁷

18 50. Following the directive from Noem and Miller, ICE agents were instructed in an
19 e-mail to "turn the creativity knob up to 11" and aggressively "push the envelope" in arrests,

20 ⁶ Elizabeth Findell, et al., *The White House Marching Orders That Sparked the L.A. Migrant*
21 *Crackdown*, The Wall Street Journal (June 9, 2025), <https://www.wsj.com/us-news/protests-los-angeles-immigrants-trump-f5089877>; Julia Ainsley, et al., *A sweeping new ICE operation shows how*
22 *Trump's focus on immigration is reshaping federal law enforcement*, NBC News (June 4,
23 2025), <https://www.nbcnews.com/politics/justicedepartment/ice-operation-trump-focus-immigration-reshape-federal-lawenforcement-rcna193494>; Brittany Gibson & Stef W. Kight, *Scoop: Stephen Miller,*
24 *Noem tell ICE to supercharge immigration arrests*, Axios (May 28, 2025), available at
<https://www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller>.

25 ⁷ Hannity, *Stephen Miller says the admin wants to create the strongest immigration system in US*
26 *History*, FOX NEWS (May 28, 2025), available at <https://www.foxnews.com/video/6373591405112> (last visited Aug. 24, 2025).

1 including by pursuing “collaterals”—individuals who by definition would not have warrants.⁸

2 As another e-mail put it: “If it involves handcuffs on wrists, it’s probably worth pursuing.”⁹

3 51. The overriding message, communicated by and to Respondents, is that agents
4 and officers carrying out immigration operations on the ground must prioritize arrest numbers,
5 regardless of the law. As one ICE official put it earlier this year, all that matters is “numbers,
6 pure numbers, [q]uantity over quality.”¹⁰

7 **Petitioner’s Background and Arrest**

8 52. Petitioner Marin Ariel Garcia Gabriel entered the United States at San Luis,
9 Arizona on May 25, 2016 when he was 17 years old. Upon entry, due to his status as a minor
10 child, he was designated as a UAC by the Office of Refugee Resettlement, U.S. Department of
11 Health and Human Services.

12 53. At the time of his entry, Petitioner was initially detained at the Southwest Kay
13 Casa Phoenix care facility operated by the Office of Refugee Settlement. There a Notice to
14 Appear was issued and served on him by a Border Patrol Agent, which was later filed with the
15 immigration court located in Portland, Oregon to commence removal proceedings against him.
16 After brief detention, he was released into custody and care of a family relative who lived in
17 Springfield, Oregon.

18
19 ⁸ José Olivares, *US immigration officers ordered to arrest more people even without warrants*, The
20 Guardian (June 4, 2025), <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>.

21 ⁹ José Olivares, *US immigration officers ordered to arrest more people even without warrants*, The
22 Guardian (June 4, 2025), <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests>.

23 ¹⁰ Jennie Taer, *Trump admin’s 3,000 ICE arrests per day quota is taking focus off criminals and ‘killing morale’: insiders warn*, NY Post, June 17, 2025, <https://nypost.com/2025/06/17/us-news/trump-admins-3000-ice-arrests-per-day-quota-is-taking-focus-off-criminals-and-killing-morale-insiders/>,
24 <https://perma.cc/DB9R-MJUC> (last visited Oct. 15, 2025) (“The Trump administration’s mandate to
25 arrest 3,000 illegal migrants per day is forcing ICE agents to deprioritize going after dangerous
26 criminals and targets with deportation orders, insiders warn. Instead, federal immigration officers are spending more time rounding up people off the streets sources said. ‘All that matters is numbers, pure numbers. Quantity over quality,’ one Immigrations and Customs Enforcement insider told The Post.”).

1 54. On February 13, 2017, before he reached 18 years old, with the assistance of
2 Oregon Law Center Petitioner filed an asylum application with the USCIS asylum office as
3 UAC. His application was based on his fear of returning to Guatemala resulting from violence,
4 abuse and threats he experienced during his childhood on account of his physical disability,
5  and his mam ethnicity. Through this application, he is requesting
6 the United States government to provide him with protection and humanitarian assistance to
7 allow him to reside in the United States in order to avoid suffering serious harms he had
8 experienced in his home country before he left there. Pursuant to 8 U.S.C. §1158(b)(3)(C),
9 USCIS “shall have initial jurisdiction over [an] asylum application filed by an unaccompanied
10 alien child.” Since February 2017, Petitioner’s asylum application has been pending before the
11 USCIS for interview and adjudication.

12 55. On May 17, 2017, Respondent ICE issued the Order of Release on
13 Recognizance after Petitioner turned 18 years old. Under the Order, Petitioner would be free
14 from ICE detention if he complied with its terms. The Order required Petitioner to report to
15 ICE as requested, to notify ICE of his address change, to assist ICE in obtaining a travel
16 document, and to not violate any laws.

17 56. Petitioner reported to ICE periodically as required until ICE notified him that he
18 was no longer required to report and otherwise complied with all other terms of the Order.

19 57. On December 19, 2024, pursuant to 8 C.F.R. §1003.18(d)(I)(ii)(A), the
20 immigration court in Portland, Oregon exercised its discretion to order termination of the
21 removal proceedings; the termination effectively afforded USCIS sole jurisdiction to
22 adjudicate Petitioner’s pending application for asylum.

23 58. Based on his pending asylum application, USCIS issued Petitioner an
24 employment authorization card, which is valid until April 24, 2030. Pursuant to this
25 employment authorization, he has engaged in landscaping services in the Eugene/Springfield
26

1 community. Due to the excellent quality of his work and his strong work ethics, he has gained
2 good reputation and strong community support in the local community.

3 59. Petitioner and his partner have a 3-year-old daughter A-B-S-D- who was born in
4 Eugene, Oregon. He has worked hard to provide the needed financial support to his family and
5 is known as a family man who takes good care of his family in the local community. He has
6 filed income taxes on his earnings and made contributions to the local economy.

7 60. On November 5, 2025, Petitioner and his co-worker drove a truck to work in
8 Eugene, Oregon, and Petitioner was sitting on the passenger seat while the co-worker drove the
9 truck. The truck, registered to a third person, was stopped by government vehicles operated by
10 immigration agents in Eugene, Oregon who were present in Eugene that day, arresting
11 immigrant workers like Petitioner on their way to work.

12 61. On information and belief, Petitioner was arrested and detained by immigration
13 agents on November 5, 2025, although agents had no lawful basis for his stop or arrest. After
14 his arrest, he was transferred to Tacoma, Washington for detention, hundreds of miles away
15 from Eugene, Oregon where he, his partner and their young daughter reside.

16 62. On information and belief, at no point during the stop of Petitioner did any
17 agent produce a warrant, explain why Petitioner had been stopped initially, or provide any
18 documents of any kind.

19 63. On information and belief, at no point during the stop did any agent provide
20 their name or badge number to Petitioner or advise Petitioner that they were immigration
21 officials authorized to make immigration arrests.

22 64. On information and belief, at no point during the stop did any agent ask
23 Petitioner any questions about his pending asylum application with USCIS, the Order of
24 Release, the prior termination of his removal proceedings, his family, his employment, or his
25 community ties.
26

65. On information and belief, at no time during the stop did any officer conduct an individualized assessment of whether Petitioner was a flight risk.

66. On information and belief, at no time during the stop did any officer conduct an individualized assessment of whether Petitioner was a danger to the community.

67. On information and belief, at the time of their warrantless arrest, Respondents' officers had determined based solely on Petitioner's apparent race and ethnicity that Petitioner was in the United States without status.

68. On information and belief, the agents who stopped and detained Petitioner had no reasonable suspicion that Petitioner was either a flight risk or unlawfully present in the United States.

69. On information and belief, prior to Petitioner's re-arrest, Petitioner was not afforded a hearing before a neutral decisionmaker to determine if his re-detention is justified when the immigration court had terminated prior removal proceedings against him, he was released under the Order of Release, he had complied with ICE orders and instructions, and he had filed an asylum application for asylum as a UAC.

70. On information and belief, prior to the arrest and detention, Respondent ICE neither revoked the Order of Release, nor was Petitioner given proper notice of the revocation of the Order or the re-detention, nor was he afforded a meaningful hearing or opportunity to respond to the revocation or the re-detention.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Fourth Amendment of the United States Constitution
Unreasonable Seizures

71. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

1 72. Except at the border and its functional equivalents, the Fourth Amendment to
2 the U.S. Constitution prohibits Respondents from conducting a detentive stop to question a
3 person without reasonable suspicion that a person is a noncitizen unlawfully in the United
4 States. Likewise, the Fourth Amendment prohibits Respondents from making an arrest without
5 probable cause to believe that a person is a noncitizen unlawfully in the United States.

6 73. “A person’s mere propinquity to others independently suspected of [unlawful]
7 activity does not, without more, give rise to probable cause to search [or seize] that person.”
8 *Perez Cruz v. Barr*, 926 F.3d 1128, 1138 (9th Cir. 2019) (quotation omitted). “‘Reasonable
9 suspicion’ is no different.” *Id.*

10 74. Race or apparent ethnicity, standing alone, cannot form the basis for reasonable
11 suspicion. *United States v. Brignoni-Ponce*, 422 U.S. 873, 886-87 (1975). Because probable
12 cause is a more demanding standard than reasonable suspicion, race or apparent ethnicity,
13 standing alone, is also necessarily insufficient to form the basis for probable cause.

14 75. Respondents had no basis to detain Petitioner and inquire about his immigration
15 status other than his race and apparent ethnicity. Likewise, Respondents had no basis to arrest
16 Petitioner other than his race and apparent ethnicity. No other salient factors existed to suggest
17 that Petitioner might not be a citizen of the United States. Because Respondents only detained
18 Petitioner because of his race, they did not have reasonable suspicion, and the detention
19 violated the Fourth Amendment.

20 76. Petitioner was detained by Respondents despite officers’ lack of any reasonable
21 suspicion that Petitioner was unlawfully in the United States. Petitioner was also ultimately
22 arrested despite officers’ lack of probable cause to believe that Petitioner was either a flight
23 risk or present unlawfully in the United States.

24 77. Respondents’ stop of Petitioner without reasonable suspicion and arrest of
25 Petitioner without probable cause violate the Fourth Amendment to the U.S. Constitution.

26
COUNT TWO

**Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)
Violation of 8 C.F.R. § 287.8(c)(2)(ii)
Detentive Stop Without Reasonable Suspicion**

78. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

79. Under the APA, a court shall “hold unlawful and set aside agency action” that is not in accordance with law or an abuse of discretion. 5 U.S.C. § 706(2)(A).

80. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983)).

81. 8 C.F.R. § 287.8(c)(2)(ii) requires that before detaining an individual for questioning, an immigration officer must have “a reasonable suspicion, based on specific articulable facts, that the person being questioned is, or is attempting to be, engaged in an offense against the United States or is an alien illegally in the United States.”

82. Respondents’ detentive stop of Petitioner, without any reasonable suspicion of a qualifying offense, violates the APA and Respondents’ authority under 8 C.F.R. § 287.8(c)(2).

83. Separate from the APA, Respondents’ detention of Petitioner without any reasonable suspicion is *ultra vires*.

COUNT THREE

**Violation of the Administrative Procedure Act – 5 U.S.C. §
706(2)(A)-(D) Violation of 8 U.S.C. § 1357(a)(2), 8 C.F.R. §
287.8(c)(2)(i) Warrantless Arrest Without Probable Cause of
Likelihood of Immigration Violation**

84. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

1 85. Under the APA, a court shall “hold unlawful and set aside agency action” that is
2 “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory
3 jurisdiction, authority, or limitations;” or “without observance of procedure required by law.” 5
4 U.S.C. §706(2)(A)-(D).

5 86. 8 U.S.C. § 1357(a)(2) permits an immigration officer to conduct a warrantless
6 arrest only if that officer has “reason to believe” that an individual is in the United States in
7 violation of the immigration laws. A “reason to believe” is equivalent to “the constitutional
8 requirement of probable cause.” *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980).

9 87. 8 C.F.R. § 287.8(c)(2)(i) requires that before making a warrantless arrest, an
10 immigration officer must have probable cause “to believe that the person to be arrested has
11 committed an offense against the United States or is an alien illegally in the United States.”

12 88. Because criminal penalties may attach to some immigration offenses, the Fifth
13 Amendment right to remain silent may be properly invoked during a civil immigration arrest.
14 *See* U.S. Const., amend. V. An immigration officer may not establish probable cause on the
15 basis of a noncitizen’s silence pursuant to his Fifth Amendment rights. *See Hurd v. Terhune*,
16 619 F.3d 1080, 1088 (9th Cir. 2010) (affirming “the fundamental principle that a suspect’s
17 silence in the face of questioning cannot be used as evidence against him at trial”).

18 89. Respondents’ warrantless arrest of Petitioner, based on no information beyond
19 his apparent race and ethnicity, is “final agency action” that is “in excess of statutory
20 jurisdiction, authority, or limitations” under 8 U.S.C. § 1357(a)(2) and federal regulations. 5
21 U.S.C. §§ 704, 706(2)(C).

22 90. Separate from the APA, Respondents’ warrantless arrest of Petitioner without
23 probable cause that any Petitioner had committed an immigration violation is *ultra vires*.

24 **COUNT FOUR**

25 **Violation of the Administrative Procedure Act – 5 U.S.C. §**
26 **706(2)(A) Violation of 8 U.S.C. § 1357(a)(2), 8 C.F.R. §**
287.8(c)(2)(ii) Warrantless Arrest Without Probable Cause of
Likelihood of Escape

1 91. Petitioner realleges and incorporates by reference each allegation contained in
2 the preceding paragraphs as if set forth fully herein.

3 92. 8 U.S.C. § 1357(a)(2) permits an immigration officer to conduct a warrantless
4 arrest only if that officer has “reason to believe” that an individual is “likely to escape before a
5 warrant can be obtained for [their] arrest.” To meet this requirement, officers must have
6 “grounds for a reasonable belief that they were particularly likely to escape.” *Mountain High*
7 *Knitting, Inc. v. Reno*, 51 F.3d 216, 218 (9th Cir. 1995). A “reason to believe” is equivalent to
8 “the constitutional requirement of probable cause.” *Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th
9 Cir. 1980).

10 93. 8 C.F.R. § 287.8(c)(2)(ii) requires that before making a warrantless arrest, an
11 immigration officer must make an individualized determination that an individual is “likely to
12 escape before a warrant can be obtained.”

13 94. Respondents’ warrantless arrest of Petitioner without an individualized
14 determination that Petitioner was “likely to escape” before a warrant is issued is “final agency
15 action” that is “in excess of statutory jurisdiction, authority, or limitations” under 8 U.S.C.
16 §1357(a)(2) and federal regulations. 5 U.S.C. §§ 704, 706(2)(C).

17 95. Separate from the APA, Respondents’ warrantless arrest of Petitioner without
18 probable cause that Petitioner was likely to escape before a warrant could be obtained is *ultra*
19 *vires*.

20 **COUNT FIVE**
21 **Violation of the Administrative Procedure Act – 5 U.S.C. §**
22 **706(2)(A) Violations of the *Accardi* Doctrine**
23 **Violations of *Nava* Broadcast Policy on Warrantless**
24 **ICE Arrest and Vehicle Stop**

25 96. Petitioner realleges and incorporates by reference each allegation contained in
26 the preceding paragraphs as if set forth fully herein.

1 97. The APA authorizes this Court to set aside agency action that is “arbitrary and
2 capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C.
3 §706(2)(A).

4 98. Respondent ICE is bound by the *Nava* Broadcast Policy, pursuant to the
5 *Castañon Nava* settlement agreement, to consider a delineated set of factors before effectuating
6 a warrantless arrest. In particular, before concluding whether or not the person is at risk of
7 fleeing before a warrant is obtained, ICE must consider “the totality of circumstances,”
8 including the following factors: “the ICE Officer’s ability to determine the individual’s
9 identity, knowledge of that individual’s prior escapes or evasions of immigration authorities,
10 attempted flight from an ICE Officer, ties to the community (such as a family, home, or
11 employment) or lack thereof, or other specific circumstances that weigh in favor or against a
12 reasonable belief that the subject is likely to abscond.” Settlement Agreement, *Castañon Nava*
13 *et al. v. Dep’t of Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.)¹¹

14 99. Moreover, ICE Officers “may stop a vehicle to enforce civil immigration laws
15 only if they are aware of specific, articulable facts that reasonably warrant suspicion that the
16 vehicle contains an [noncitizen] who may be illegally in the country.” *Id.*

17 100. Pursuant to the October 7, 2025, order of the U.S. District Court for the
18 Northern District of Illinois, Respondent ICE reissued the *Nava* Broadcast Policy to all ICE
19 officers nationwide on October 22, 2025, with the instruction that the *Nava* Broadcast Policy
20 shall remain in effect through February 2, 2026. *See Castañon Nava et al. v. Dep’t of*
21 *Homeland Sec.*, No. 18-cv-3757 (N.D. Ill.) at Dkt. 224, 224-1 at ¶ 5.

22
23
24 ¹¹ Available at [https://immigrantjustice.org/sites/default/files/content-](https://immigrantjustice.org/sites/default/files/content-type/page/documents/20201/Nava_Settlement_ICE_Warrantless_Arrest_Vehicle_Stop_Policy_2021.pdf)
25 [type/page/documents/20201/Nava_Settlement_ICE_Warrantless_Arrest](https://immigrantjustice.org/sites/default/files/content-type/page/documents/20201/Nava_Settlement_ICE_Warrantless_Arrest_Vehicle_Stop_Policy_2021.pdf)
26 [Vehicle_Stop_Policy_2021.pdf](https://immigrantjustice.org/sites/default/files/content-type/page/documents/20201/Nava_Settlement_ICE_Warrantless_Arrest_Vehicle_Stop_Policy_2021.pdf).

101. On information and belief, Respondent ICE conducted warrantless arrest of Petitioner without considering the totality of circumstances or the required factors delineated in its nationwide policy, pursuant to the *Castañon Nava* settlement. Respondent ICE also stopped Petitioner's vehicle without any "specific, articulable facts that reasonably warrant suspicion", as required by the settlement. Respondents' traffic stop and warrantless arrest of Petitioner violate their own binding policy (to which they are also bound by court order) and therefore violate the APA.

COUNT SIX
Violation of Fifth Amendment Right to Due
Process Procedural Due Process

102. Petitioner realleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

103. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *accord Flores*, 507 U.S. at 306.

104. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007). Due process also requires notice and “the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

105. Due process does not permit ICE to re-detain Petitioner and strip him of his liberty without written notice and a pre-deprivation hearing before a neutral decisionmaker to determine whether re-detention is warranted based on danger or flight risk. *See Morrissey*, 408 U.S. at 487-88. Such written notice and a hearing must occur prior to any re-detention.

1 106. Here, Petitioner has been stopped, arrested, and detained in an arbitrary manner,
2 without any notice of the basis for Petitioner's arrest and continued detention, and not based on
3 a rational and individualized determination of whether any Petitioner should be detained based
4 on the individual facts and circumstances pertaining to whether Petitioner was a flight risk or
5 unlawfully present in the United States.

6 107. Furthermore, Respondent ICE re-detained Petitioner and deprived him of liberty
7 without first revoking the Order of Release and providing him with written notice and a
8 meaningful opportunity to be heard before a neutral decisionmaker prior to their taking action
9 to re-detain him.

10 108. Respondents' stop, arrest, and continued detention of Petitioner violate
11 Petitioner's due process rights under the Fifth Amendment to the U.S. Constitution.

12 **PRAYER FOR RELIEF**

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

- 14 (1) Assume jurisdiction over this matter;
- 15 (2) Issue an immediate Order prohibiting the Respondents from transferring
16 Petitioner from the Western District of Washington without notice to and
17 approval by the Court;
- 18 (3) Issue an Order to Show Cause ordering Respondents to show cause why this
19 Petition should not be granted within three days;
- 20 (4) Declare that Petitioner's detentive stop without reasonable suspicion violates
21 the APA, the INA, and the Fourth Amendment;
- 22 (5) Declare that Petitioner's warrantless arrest without probable cause violates the
23 Fourth Amendment, the APA, the INA, and implementing regulations;
- 24 (6) Declare that Petitioner's warrantless arrest and traffic stop without reasonable
25 suspicion violate Respondents' nationwide *Nava* Broadcast Policy;
- 26

- 1 (7) Declare that Petitioner's deprivation of liberty through their unlawful stop and
2 arrest violate the Due Process Clause of the Fifth Amendment;
- 3 (8) Declare that Petitioner's deprivation of liberty based on their unlawful re-
4 detention without first revoking the Order of Release and providing him with
5 written notice and a pre-detention hearing violates the Due Process Clause of the
6 Fifth Amendment;
- 7 (9) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from
8 custody immediately;
- 9 (10) Award Petitioner attorney's fees and costs under the Equal Access to Justice
10 Act, and on any other basis justified under law; and
- 11 (11) Grant any further relief this Court deems just and proper.
- 12
- 13

14 Dated: December 17, 2025.

/s/ Kelly Vomacka

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Attorneys for Petitioner

VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the
Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition.
On the basis of those discussions, I hereby verify that the statements made in this Petition are
true and correct to the best of my knowledge.

Dated: December 17, 2025

/s/ Benjamin Wang

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