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UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

THIERNO AMADOU BARRY, *Petitioner*, v. JEREMY CASEY, Facility administrator at the Imperial Regional Detention Facility, GREGORY J. ARCHAMBEAULT, Director of the U.S. Immigration and Customs Enforcement San Diego Field Office, DAVID VENTURELLA, acting Director of U.S. Immigration and Customs Enforcement, MARKWAYNE MULLIN, Secretary of the U.S. Department of Homeland Security, and TODD BLANCHE, Acting U.S. Attorney General	Case No.: 26-cv-3947-JES-DEB **VERIFIED EMERGENCY PETITION FOR A WRIT OF HABEAS CORPUS, ORDER TO SHOW CAUSE WITHIN THREE DAYS, AND COMPLAINT FOR DECLARATORY RELIEF**

In light of the Government's Return, Mr. Barry respectfully requests that this Court grant his petition for habeas corpus and order his immediate release under the same conditions as his previous release status. Due Process requires the government to provide noncitizens with notice and a hearing prior to re-detention, and re-detention without prior notice, a showing of changed circumstance, or a meaningful opportunity to respond, violates procedural due process under the Fifth Amendment. *See e.g. Ariza Garcia v. Mullin*, No. 3:26-CV-02241-RBM-MSB, 2026 WL 1142629, at *2 (S.D. Cal. Apr. 27, 2026); *Faizyan v. Casey*, No.: 3:25-cv-02884-RBM-JLB, 2025 WL 3208844, at *7 (S.D. Cal. Nov. 17, 2025). The Department of Homeland Security (DHS) did not provide Mr. Barry with prior notice that it was revoking his release or provide him an opportunity to contest his re-detention. Thus, Mr. Barry's re-detention violated the Fifth Amendment's Procedural Due Process guarantee.

As noted on the Notice to Appear, Mr. Barry entered the United States on December 27, 2023, and on December 29, 2023, DHS directed him to appear in Court on October 4, 2024. Dkt. No 1, Ex. A. On that date, he was released by DHS on his own recognizance. Mr. Barry timely filed an application for asylum within one year of his arrival to the United States. DHS granted him work authorization on account of his pending asylum application. Upon release, he will have valid work authorization through January 8, 2030. During his time in the United States, Mr. Barry lived with the expectation that he would not be subject to re-detention absent some material change in circumstances. He made every effort to comply with the law and follow the rules of the United States.

Despite his full compliance with all immigration laws while in the United States, Immigration and Customs Enforcement (ICE) officers arrested Mr. Barry on October 23, 2025, while he attended an in-person ICE check-in. He appeared at the ICE office in New York City as instructed because he wanted to comply with the terms and conditions of his release status. The ICE officer did not inform Mr. Barry as to why ICE detained him, nor did ICE provide Mr. Barry any notice or opportunity

to contest the detention at any point prior to this arrest.

Judges in the Southern District of California have agreed that immediate release is the appropriate remedy for similarly situated individuals. *See Aguilera v. City of Holtville*, 26-CV-532-LL-MSB, 2026 WL 381633 (S.D. Cal. Feb. 11, 2026); *Escamilla-Alvarado v. Casey,* No. 26-cv-2593-JO-BJW (S.D. Cal. May 7, 2026), Dkt. No. 6; *Magana-Hernandez v. Casey,* No. 26-cv-2952-JLS (MSB) (S.D. Cal. May 18, 2026), Dkt. No. 5. Thus, Mr. Barry's "release from ICE custody after [his] initial apprehension reflected a determination by the government that [he] was neither a flight risk nor a danger to the community, and [Petitioner] has a strong interest in remaining at liberty unless [he] no longer meets those criteria. *Pinchi v. Noem*, 792 F. Supp. 3d. 1025, 1034 (N.D. Cal. 2025).

As such, this Court should order Respondents to immediately release Mr. Barry on the same terms and conditions as his original release on his own recognizance.

Respectfully submitted,

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