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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

J.C.Z.L.,

Petitioner,

v.

Minga WOFFORD, Facility Administrator, Mesa Verde ICE Processing Center; Sergio ALBARRAN, Acting Field Office Director, San Francisco Immigration and Customs Enforcement; David VENTURELLA, Acting Director, United States Immigration and Customs Enforcement; Markwayne MULLIN, Secretary of the United States Department of Homeland Security; Todd BLANCHE, Attorney General of the United States, acting in their official capacities,

Respondents.

Case No. _____

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

IMMIGRATION HABEAS

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INTRODUCTION

1. Petitioner ("J.C.Z.L." or "Petitioner"), is a noncitizen who is detained in Respondents' custody at Mesa Verde ICE Processing Center ("Mesa Verde"). Petitioner is a 28-year-old asylum seeker who timely filed a Form I-589, Application for Asylum and Withholding of Removal, within the required one-year deadline. He applied for and received an Employment Authorization Document (commonly called a "work permit"), and has been lawfully employed as a delivery driver. On information and belief, he has no criminal convictions in the United States other than a pending charge for driving without a license.

2. The Constitution protects Petitioner—and every other person present in this country—from arbitrary deprivations of their liberty and guarantees them due process of law. The government's power over immigration is broad, but as the Supreme Court has declared, it "is subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

3. Petitioner has now been detained by U.S. Immigration and Customs Enforcement (ICE) for 16 days.

4. Moreover, Petitioner is a member of the certified class in *Garro Pinchi v. Noem*, 813 F. Supp. 3d 973, 1009 (N.D. Cal. 2025), which challenges the Department of Homeland Security's (DHS) new policy of re-arresting and re-detaining class members despite no change in their individual circumstances as to their dangerousness or flight (the "Re-Detention Policy").

5. On December 19, 2025, the district court made a factual finding that DHS adopted the Re-Detention Policy in May 2025 and held that the policy is likely unlawful under the Administrative Procedure Act (APA). *Garro Pinchi*, 813 F. Supp. 3d at 1026, 1040.

6. Accordingly, the *Garro Pinchi* court granted "Plaintiffs' motion to stay DHS's re-detention policy pending final resolution of their APA claims," and "postpone[d] the effective date of the re-detention policy within ICE's San Francisco Area of Responsibility until the entry of a final judgment in this action." *Garro Pinchi*, 813 F. Supp. 3d at 1040.

7. ICE re-detained Petitioner on June 23, 2026, under the Re-Detention Policy, which now has no legal effect. Pursuant to the *Garro Pinchi* order, Petitioner's ongoing detention is unlawful. Petitioner is entitled to immediate release.

8. Petitioner respectfully requests a writ of habeas corpus ordering the government to immediately release him from their ongoing, unlawful detention, and prohibiting his re-arrest without a hearing before a neutral decision-maker to contest that re-arrest. Also, to preserve this Court's jurisdiction, Petitioner requests that this Court order the government not to transfer him outside of the District, or deport him, for the duration of this proceeding.

CUSTODY

9. Petitioner is in the physical custody and under the direct control of Respondents and their agents. Petitioner is imprisoned at Mesa Verde ICE Processing Center in Bakersfield, California.

JURISDICTION

10. This Court has subject matter jurisdiction to entertain this habeas petition under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), and the Due Process Clause of the Fifth Amendment.

VENUE

11. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and

28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district, Petitioner's immediate physical custodian is in this district, at least one Respondent is in this district, and a substantial part of the events giving rise to the claims in this action took place in this district.

REQUIREMENTS OF 28 U.S.C. § 2243

12. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal quotation marks omitted).

13. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved for *Garro Pinchi* class members. 8 U.S.C. § 2243.

PARTIES

14. Petitioner is a 28-year-old asylum seeker who timely filed a Form I-589, Application for Asylum and Withholding of Removal, and is in immigration court proceedings. On information and belief, he has no criminal convictions in the United States other than a pending charge for driving without a license. Petitioner is currently detained by Respondents at Mesa Verde ICE Processing Center, an immigration detention facility. Petitioner has been detained in ICE custody since on or about June 23, 2026, when he was arrested outside his home.

15. Respondent Minga Wofford is the Facility Administrator, and de facto warden, of Mesa Verde ICE Processing Center. She oversees operations at Mesa Verde, where Petitioner is

detained. She is an employee of The GEO Group, Inc., a private prison company that contracts with ICE to operate Mesa Verde. Respondent Wofford is Petitioner's immediate physical custodian. As de facto warden, she is properly named as respondent per *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024). Respondent Wofford is sued in her official capacity.

16. Respondent Sergio Albarran is the Field Office Director of the San Francisco ICE Field Office, whose jurisdiction includes Mesa Verde. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's San Francisco Area of Responsibility, including the detention of Petitioner. He is the legal custodian of Petitioner and has the authority to release him. Respondent Albarran is sued in his official capacity.

17. Respondent David Venturella is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States; routinely transacts business in this District; and is legally responsible for pursuing any effort to detain and remove Petitioner. Respondent Venturella is sued in his official capacity.

18. Respondent Markwayne Mullin is the Secretary of Homeland Security and has ultimate authority over DHS. In that capacity and through his agents, Respondent Mullin has broad authority over and responsibility for the operation and enforcement of the immigration laws; routinely transacts business in this District; and is legally responsible for pursuing any effort to detain and remove Petitioner. Respondent Mullin is sued in his official capacity.

19. Respondent Todd Blanche is the Acting Attorney General of the United States and the most senior official at the Department of Justice. In that capacity and through his agents, he is responsible for overseeing the implementation and enforcement of the federal immigration laws. The Attorney General delegates this responsibility to the Executive Office for

Immigration Review, which administers the immigration courts and the Board of Immigration Appeals ("BIA"). Respondent Blanche is sued in his official capacity.

EXHAUSTION

20. In habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). As applicable here, a court may waive the prudential exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted). Here, exhaustion is not required because no other forum exists in which Petitioner can raise his claims, exhaustion would be futile, there is no requirement to exhaust before challenging the constitutionality of an arrest or detention, and Petitioner will "suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992).

STATEMENT OF FACTS

A. Petitioner is Re-detained After His Previous Release from DHS Custody Without Notice, a Warrant, a Hearing, or a Material Change in Circumstances to Justify Re-detention.

21. Petitioner entered the United States without inspection in September 2023. Declaration of Tala Hartsough (ECF4) at ¶ 5. Respondents encountered Petitioner and detained him. *Id.* Respondents charged Petitioner with inadmissibility under 8 U.S.C. § 1182 and released him from custody. Petitioner was released on an order of recognizance. *Id.*

22. In granting Petitioner release into the interior of the country, Respondents necessarily determined that he posed no or little risk of flight or dangerousness to the community.

See 8 C.F.R. § 236.1(c)(8) (permitting release "provided that the [noncitizen] must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding").

23. After Petitioner's release from custody, Petitioner first lived in Florida, and then settled in California. Declaration of Tala Hartsough at ¶ 6. Petitioner is a political activist who is seeking asylum because he was detained, falsely charged with criminal conduct, and tortured because of his activities against the Venezuelan government. *Id.* at ¶ 6; *Id.,* Exh. 1 (Declaration of Petitioner's Partner D.C.M.) at ¶ 8. His asylum was timely filed, and based on this he later applied for work authorization, from his California address, where he received his employment authorization document by mail. *Id.* at ¶ 6. He secured regular work as a delivery driver. Petitioner settled down with a long-term partner, D.C.M., and in 2026, she became pregnant with their first child. D.C.M. is experiencing a high-risk pregnancy, and Petitioner has been her emotional, financial, and logistical support during months of urgent hospital care, transportation for appointments and infusions, and providing her daily assistance and medications. *Id.* at ¶¶ 7-8; *Id.,* Exh. 1 at ¶¶ 11-12; *Id.,* Exh. 2 (Letter of Physician Treating D.C.M.'s High-Risk Pregnancy).

24. Petitioner has no criminal history in the United States other than a pending ticket for driving without a license, which he received shortly after arriving in Florida. *Id.,* Exh. 1 at ¶ 9.

25. On June 23, 2026, at approximately 11:00 a.m. J.C.Z.L. stepped out of his car in front of his home and was arrested by several officers in plainclothes, with their faces covered, who pushed him into a large vehicle and quickly drove off. *Id.* at ¶ 9. Upon information and belief, he was not shown an arrest warrant nor a detention order when detained. *Id.* Petitioner asked the arresting officers why he was being arrested and was told they had information he was a gang member in Venezuela, an accusation that is both baseless and false--he could only guess this related to the false allegations against him because of his political activities against the Venezuelan

government. *Id.* Petitioner was moved to two locations in San Francisco, one in Santa Clara, one in Stockton, and then transferred to Mesa Verde. *Id.*, Exh. 1 at ¶ 5. Although his partner contacted the Rapid Response Network shortly after his 11:00 a.m. arrest in San Francisco, the network of responders attempting to find Petitioner were told repeatedly by ICE that he was not in their custody, nor being transported. They were finally able to locate him in Stockton, California, at 4:30 p.m. Petitioner arrived at Mesa Verde in the early morning hours after midnight on June 24, 2026. *Id.* at ¶ 9.

26. Petitioner is being deprived of liberty without any permissible justification. Respondents previously released Petitioner upon a determination that Petitioner was neither a flight risk nor danger to the community to warrant detention. Nothing has changed to alter that initial determination. Petitioner has one pending charge for driving without a license, and there is no basis to believe he poses a danger to the community. And Petitioner, who was arrested outside his home, where his work permit had been mailed the previous year and from where he filed his taxes earlier in 2026, is not a flight risk. Accordingly, his ongoing detention furthers no legitimate government interest.

27. Petitioner's arrest and detention are causing him ongoing irreparable harm. Petitioner has celiac disease and requires a strict diet to avoid medical complications and inflammation of the intestines and colon.

28. In Venezuela, Petitioner was arrested and held in custody for months under investigation due to his political activities. *Id.* at ¶ 9; *Id.*, Exh 1 at ¶ 8. He was tortured during his detention and until he was released. *Id.* Consequently, he suffers from insomnia and nightmares and is terrified of being deported. *Id.* at ¶ 9; *Id.*, Exh 1 at ¶ 7. Petitioner's partner D.C.M. is pregnant, was hospitalized for a complication, hyperemesis gravidarum, and is unable to work due to its severity; she is in need of significant support. *Id.* at ¶¶ 7-8; *Id.*, Exh. 1 at ¶¶

11-12; *Id.*, Exh. 2.. Petitioner is her main source of emotional, financial, and familial support. *Id.* at ¶ 7; *Id.*, Exh 1 at ¶¶ 10-11. He works as a delivery driver for [redacted] *Id.* at ¶ 6; *Id.*, Exh 1 at ¶ 10. The condition associated with D.C.M.'s high-risk pregnancy caused her to seek hospital care multiple times resulting in two hospitalizations in the last month alone. *Id.* at ¶¶ 7-8; *Id.*, Exh. 1 at ¶¶ 11-12; *Id.*, Exh. 2. Her current regimen of care includes infusions multiple times per week and several daily medications. D.C.M. relies on Petitioner for support, transportation, and daily help. *Id.*, Exh. 1 at ¶¶ 11-12; *Id.*, Exh. 2. Petitioner's separation from his partner and his inability to attend to her needs is devastating to him. *Id.* at ¶¶ 7-8. He is unable to adequately prepare for his removal proceedings from custody. *Id.* at ¶ 8. Every additional day Petitioner spends in unlawful detention subjects him to further irreparable harm.

B. ICE Implements New Policy of Re-detaining Previously Released Noncitizens Even Where There Are No Materially Changed Circumstances to Justify Re-Detention

29. The Immigration and Nationality Act and implementing regulations govern Respondents' authority to detain or release noncitizens pending removal proceedings. Release is available only after an immigration agent or immigration judge ("IJ") first determines that a noncitizen is neither a flight risk nor a danger to the community. *See, e.g.*, 8 C.F.R. §§ 212.5(b), 236.1(c)(8), 1236.1(c)(8); 8 U.S.C. § 1226(c)(4); *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

30. Accordingly, for more than 40 years, Respondents' practice was to re-detain a noncitizen whom it had previously released only after making an individualized determination that the noncitizen's circumstances had materially changed since their release, such that the noncitizen posed a flight risk or danger to the public. *See generally Garro Pinchi*, 813 F. Supp. 3d at 1019.

31. In May 2025, that changed. Respondents adopted the Re-Detention Policy and began re-arresting and re-detaining noncitizens whom they had previously released, without first making any individualized determination of changed circumstances. Many of these arrests occurred without notice, after noncitizens appeared for removal proceedings at immigration courthouses, check-ins with ICE or ICE's Intensive Supervision Appearance Program (ISAP), or scheduled immigration-related interviews. *Id.* at *3.

C. Garro Pinchi v. Noem Litigation and Order of Preliminary Relief

32. In October 2025, three plaintiffs filed a complaint challenging the Re-Detention Policy under the Administrative Procedure Act (APA). *Garro Pinchi*, No. 5:25-cv-05632-PCP, Dkt. No. 38 (Class Action Complaint and Amended Petition for Writ of Habeas Corpus) (N.D. Cal. filed Oct. 10, 2025). The plaintiffs further filed a motion to "stay" the Re-Detention Policy pending final judgment on their claims and a motion for provisional class certification.

33. On December 19, 2025, the *Garro Pinchi* court issued an order granting the plaintiffs' motions to provisionally grant class certification and stay agency action. *Garro Pinchi*, 813 F. Supp. 3d at 1040.

34. *Garro Pinchi* certified the following class: "All noncitizens in the jurisdiction of the San Francisco ICE Field Office who (1) entered or will enter the United States without inspection; (2) have been or will be charged with inadmissibility under 8 U.S.C. § 1182 and have been or will be released from DHS custody; and who (3) are in removal proceedings under 8 U.S.C. § 1229a, including any § 1229a proceedings that have been dismissed where the dismissal is not administratively final; and (4) are not subject to detention under 8 U.S.C. § 1226(c)." *Id.* at 1010.

35. Relevant to the class definition, the jurisdiction of the San Francisco ICE Field Office covers California from the Oregon border to (and including) Kern County; Hawaii; Guam; and the Northern Mariana Islands. Within California, the Sacramento, Stockton, San Jose/Morgan

Hill, Fresno, and Bakersfield sub-field ICE offices are all within the San Francisco Area of Responsibility.[1]

36. *Garro Pinchi* further certified the following subclass: "All members of the Class whose release from DHS custody was or will be on bond, conditional parole, or their own recognizance under 8 U.S.C. § 1226(a) and/or 8 C.F.R. § 236.1(c)(8)." *Id.*.

37. On the merits, *Garro Pinchi* held that the Re-Detention Policy is likely arbitrary and capricious because, based on the preliminary record: Respondents failed to provide a reasoned explanation for their new policy at the time of its implementation; any post hoc rationalization Respondents provided for the Re-Detention Policy was based on legal error; Respondents failed to consider released noncitizens' serious reliance interests when implementing the new policy; and Respondents failed to adequately consider noncitizens' protected liberty interests when implementing the new policy. *Id.* at 1027.

38. The *Garro Pinchi* court held that the DHS' new interpretation of 8 U.S.C. § 1225(b)(2) did not justify the agency's adoption of the Re-Detention Policy. *Id.* at 1028-1031. The court held that the Re-Detention Policy was likely unlawful regardless of whether the underlying statutory authority for re-detention was 8 U.S.C. § 1225(b)(2) or § 1226(a), and stayed the policy from applying to any class member detained under color of either statute. *Id.* at 1040.

39. *Garro Pinchi* further concluded that class members would suffer irreparable harm without preliminary relief, and that the balance of equities and public interest favored such relief. *Id.* at 1036-37.

40. Accordingly, *Garro Pinchi* granted preliminary relief and stayed Respondents' Re-Detention Policy, effective immediately. *Id.* at 1037. The order has the effect of requiring

[1] A map depicting the geographic the jurisdiction of the San Francisco ICE Field Office is available at https://www.ice.gov/doclib/about/offices/ero/pdf/eroFieldOffices.pdf.

Respondents to revert to their longstanding prior policy of refraining from re-arresting and re-detaining class members, unless they make an individualized determination that there are materially changed circumstances as to the class member's dangerousness or flight risk. *See Paulsen v. Daniels*, 413 F.3d 999, 1008 (9th Cir. 2005) ("The effect of invalidating an agency rule is to reinstate the rule previously in force.").

LEGAL FRAMEWORK

A. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and Detention.

41. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533 U.S. at 693). These due process rights are both substantive and procedural.

42. *First*, "[t]he touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including "the exercise of power without any reasonable justification in the service of a legitimate government objective," *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

43. These protections extend to noncitizens facing detention, as "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

44. Substantive due process thus requires that all forms of civil detention—including immigration detention—bear a "reasonable relation" to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible

non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

45. *Second*, the procedural component of the Due Process Clause prohibits the government from imposing even permissible physical restraints without adequate procedural safeguards.

46. Generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d 671, 683 (D.C. Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

47. After an initial release from custody on conditions, even a person paroled following a conviction for a criminal offense for which they may lawfully have remained incarcerated has a protected liberty interest in that conditional release. *Morrissey*, 408 U.S. at 482. As the Supreme Court recognized, "[t]he parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Id.* "By whatever name, the liberty is valuable and must be seen within the protection of the [Constitution]." *Id.*

48. This reasoning applies with equal, if not greater, force to people previously released from civil immigration detention, like Petitioner. Noncitizens living in the United States like Petitioner have a protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at 690. And, "[g]iven the civil context [of immigration detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees."

Ortega v. Bonnar, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

49. ***Procedural Due Process***: J.C.Z.L.'s re-detention without notice and an opportunity to be heard violates his right to procedural due process. To determine whether any additional process is due, the Court applies the familiar *Matthews v. Eldridge* test, weighing the private interest at stake, the risk of erroneous deprivation through existing safeguards and the value of additional procedures, and the government's interest. 424 U.S. 319, 334-335 (1976); *see also Rodriguez-Diaz v. Garland*, 53 F.4th 1189, 1207 (9th Cir. 2022).

50. Each of these factors weigh in J.C.Z.L.'s favor as he "has identified a strong liberty interest in remaining out of detention; without notice, an opportunity to be heard, and an individualized custody determination prior to being re-detained there is a significant risk of erroneous deprivation of [her] liberty interest; [and] conversely, the Government has a limited interest in detaining [J.C.Z.L.] without those constitutional protections." *Castillo Gomez v. Albarran*, No. 26-cv-01790-NW, 2026 WL 1229590, at *6 (N.D. Cal July 6, 2026)

51. Petitioner's liberty interest is heightened by the nearly three years since his initial release from custody during which he has worked and established a family with his partner who is currently pregnant and experiencing complex medical needs for which he provides emotional, financial, and logistical support daily.

52. The risk of erroneous deprivation in the absence of additional process is also high in this case. Petitioner's release from ICE custody after his initial apprehension necessarily "reflected a determination by the government that [he] was neither a flight risk nor a danger to the community" considering the relevant regulatory criteria for release, which require demonstrating to the immigration officer that the noncitizen does not pose a danger or flight risk. *Pinchi v. Noem*, 792 F. Supp. 3d at 1034 (citing 8 C.F.R. § 1236.1(c)(8)). Here, his vulnerable pregnant partner, his own medical needs, as well as his pending asylum application make it highly unlikely he will

abscond, nor can Respondents point to any criminal history that renders him a danger.

53. Finally, with regard to the third factor, while the government has a strong interest in enforcement of immigration law, *Rodriguez-Diaz*, 53 F.4th at 1208, the government has "no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions." *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017). Indeed, the government has been aware of J.C.Z.L.'s presence in the United States, has accepted his applications for relief since 2023, but did not attempt to detain him at any point until now.

54. Additionally, custody determinations that provide notice and an opportunity to be heard "cannot be said to be a fiscal or administrative burden on the Government, as these procedures have existed and been utilized in the immigration context for decades." *Maldonado Vazquez v. Feeley*, 805 F. Supp. 3d 1112, 1148 (D. Nev. 2025); *see also Doe v. Becerra*, 787 F. Supp. 3d at 1094 (describing effort and cost of providing a bond hearing as "minimal").

55. ***Substantive Due Process***: Second, J.C.Z.L.'s detention violates his substantive due process rights in that it is not serving the only permissible purposes of civil immigration detention – preventing flight risk or danger to the community. *Zadvydas*, 533 U.S. at 690 (explaining that proceedings to remove noncitizens are "are civil, not criminal, and we assume that they are nonpunitive in purpose and effect"); *see also United States v. Torres,* 995 F.3d 695, 708 (9th Cir. 2021) (due process violation occurs when civil detention "punitive rather than regulatory" in purpose or in effect, including civil detention that "appears excessive in relation to its regulatory purpose.").

56. As noted above, J.C.Z.L.'s initial release in 2023 reflected a determination that he did not pose a danger or flight risk such that detention is necessary. Moreover, since then, he has

obtained work authorization and is starting a family, deepening his roots in the community, and his partner's complex medical needs as well as his own condition make him highly unlikely to flee. Petitioner applied for asylum and obtained lawful permission to work in the United States. He has no criminal history indicating a propensity of violence or risk of danger in the United States. When pressed by Petitioner, the ICE officers arresting Petitioner claimed an unsubstantiated and entirely false accusation of gang membership in his country of origin. This follows a pattern of false accusations against Petitioner by the Venezuelan government, which are documented in his asylum application pending before the immigration court. Moreover, the Department of Homeland Security already determined Petitioner not to be a danger or flight risk when they released him following two days of detention at the border.

57. Because the evidence in this case does not suggest that J.C.Z.L. is a flight risk or danger, his detention "does not bear a reasonable relation to the statutory purposes" of civil detention, thus violating his "right to be free from impermissible government custody." *Valencia Zapata v. Kaiser*, 801 F. Supp. 3d 919, 939 (N.D. Cal. 2025) (citing *Zadvydas*, 533 U.S. at 690).

B. Under the *Garro Pinchi* Order in Effect, Petitioner Must Be Immediately Released

58. Petitioner is a *Garro Pinchi* class member. Specifically, Petitioner (a) is in the jurisdiction of the San Francisco ICE Field Office, (b) entered the United States without inspection, (c) was charged with inadmissibility under 8 U.S.C. § 1182 and was released from DHS custody; (d) is in removal proceedings under 8 U.S.C. § 1229a, including any § 1229a proceedings that have been dismissed where the dismissal is not administratively final; and (e) is not subject to detention under 8 U.S.C. § 1226(c).

59. The December 19, 2025 *Garro Pinchi* order stayed the Re-Detention Policy and required Respondents to follow their prior policy within ICE's San Francisco Area of Responsibility while the stay is in effect. *See Garro Pinchi*, 813 F. Supp. 3d at 1040.

60. The *Garro Pinchi* order applies to Petitioner and renders his arrest and ongoing detention in Respondents' custody unlawful. "Agency action taken under a void rule has no legal effect." *W.C. v. Bowen*, 807 F.2d 1502, 1505 (9th Cir. 1987), *as amended on denial of reh'g*, 819 F.2d 237. Accordingly, "when a court with jurisdiction finds that the plaintiffs before it were harmed by an agency decision issued under an illegal rule, the court should vacate that wrongful decision as a remedy." *D.A.M. v. Barr*, 486 F. Supp. 3d 404, 416 (D.D.C. 2020) (applying *W.C. v. Bowen*). Because Petitioner remains re-detained under an unlawful policy that is no longer in effect, Petitioner's detention is unlawful. Petitioner is thus entitled to immediate release.

C. Respondent's Arrest and Detention of Petitioner Without a Warrant Violates the Immigration and Nationality Act (8 U.S.C. § 1226(a)) and Implementing Regulations (8 C.F.R. § 287.8(c)(2)(ii) – Warrantless Arrest – and Requires His Immediate Release

61. Because Petitioner is not an applicant for admission and does not have a final order of removal, the only legal basis for his arrest would be pursuant to 8 U.S.C. § 1226(a). *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (Section 1226(a) "authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings"); *see also J.A.C.P. v. Wofford*, No. 1:25-cv-01354-KES-SKO (HC), 2025 WL 3013328, at *2–7 (E.D. Cal. Oct. 27, 2025). However, arrests under § 1226(a) expressly require a warrant. *See* 8 U.S.C. § 1226(a) ("On a warrant issued by the Attorney General, a [noncitizen] may be arrested and detained pending a decision on whether the [noncitizen] is to be removed from the United States.); *see also Jennings v. Rodriguez,* 583 U.S. 281, 302 (2018) *see also Chogllo Chafla v. Scott*, 804 F.Supp. 3d 247, 256-61 (D. Me. 2025) ("[A]bsent a warrant a noncitizen may not be arrested and detained under section 1226(a).").

62. In this case, ICE arrested and detained Petitioner without a warrant. By arresting Petitioner without a warrant, the Government did not comply with the express terms of section

1226(a) when it detained Petitioner. "Issuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a) . . . As such, it follows that absent a warrant a noncitizen may *not* be arrested and detained under section 1226(a)." *J.A.C.P.*, 2025 WL 3013328 at *8 (citing *Chogllo Chafla*, 804 F. Supp. 3d at 264; *Chiliquinga Yumbillo v. Stamper*, No. 2:25-CV-00479-SDN, 2025 WL 2783642, at *5 (D. Me. Sept. 30, 2025)). As in *J.A.C.P.*, Petitioner's detention is improper because he was not arrested pursuant to a warrant; since the Government did not comply with the plain language of section 1226(a), Petitioner's immediate release is justified. 2025 WL 3013328 at *4.

63. Under the implementing regulation of section 1226(a), a specific limited exception can justify the warrantless arrest of a person believed to have committed an offense against the United States or be present illegally—if the officer "has reason to believe that the person is likely to escape before a warrant can be obtained." 8 C.F.R. § 287.8(c)(2)(ii); *see also* 8 U.S.C. § 1357(a)(2) (authority to conduct a warrantless immigration arrest only if the officer "has reason to believe that [1] the [noncitizen] … is in the United States in violation of any … law or regulation and [2] is likely to escape before a warrant can be obtained for his arrest.").

64. In this case, Respondents planned the arrest to take place in front of J.C.Z.L.'s home and could have obtained a warrant. "Petitioner's longtime residence, employment and family ties belie any suggestion that the arresting officers had 'reason to believe that [Petitioner was] likely to escape before a warrant [could] be obtained.'" *Carbajal Torres v. Semaia*, No. ED CV 26-3374-E (C.D. Cal June 29, 2026) (quoting 8 C.F.R. § 287.8(c)(2)(ii)).; *see also Urias v. Semaia,* No. 5:26-CV-02753-DTB, 2026 WL 1710375, at *6 (C.D. Cal. June 10, 2026); *Galvez Pantoja v. DHS,* No. 5:26-CV-02084-JDE, 2026 WL 1601897, at *4 (C.D. Cal. June 1, 2026); *Ahmed M. v. Bondi*, No. 25-CV-4711 (ECT/SGE), 2026 WL 25627, at *3 (D. Minn. Jan. 5, 2026); *Lopez-Sanchez v. Blanche,* No. 8:26CV264, 2026 WL 1759557, at *3 (D. Neb. June 18,

2026); *Chiliquinga Yumbillo v. Stamper*, 2025 WL 2783642, at *5; *J.A.C.P. v. Wofford*, 2025 WL 3013328, at *8.

D. The appropriate remedy is immediate release followed by a prohibition on re-detention without a hearing before a neutral arbiter in which the government bears the burden of proof

65. Courts in this district and elsewhere have regularly ordered the immediate release of ICE detainees, with a mandate that any future detention be preceded by a hearing in which the government has to show, by clear and convincing evidence that circumstances have changed such that the individual is a flight risk or public danger. *Martinez Hernandez v. Andrews*, No. 1:25-cv-01035-JLT-HBK, 2025 WL 2495767, at *13–14 (E.D. Cal. Aug. 28, 2025); *Castellon v. Kaiser*, No. 1:25-cv-00968-JLT-EPG. 2025 WL 2373425, at *11–12 (E.D. Cal. Aug. 14, 2025); *Garcia Mariagua*, 2025 WL 3551700 at *5; *Pablo Sequen*, 806 F. Supp. 3d at 1093; *Garcia v. Andrews*, No. 1:25-cv-01006 JLT SAB 2025 WL 2420068 at *13 (E.D. Cal Aug 21, 2025); *S.F.Z. v. Warden*, No. 1:26-cv-02966-TLN-CKD 2026 WL 1802129 at *4 (E.D. Cal. June 22, 2026). That comports with the typical standards for depriving someone of their right to liberty, and it affords proper respect for the prior court's order of release.

1. Petitioner is suffering an ongoing constitutional violation causing irreparable harm.

66. As described *supra*, Petitioner's unjust detention without a prior hearing is a constitutional injury that continues every day that he remains incarcerated. "It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'" *Hernandez*, 872 F.3d at 994-95 (citing *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). "When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary." *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02 (9th

Cir. 2005) (internal quotation marks omitted). More, the unlawful deprivation of physical liberty is the quintessential irreparable harm. See *Hernandez*, 872 F.3d at 994 (holding that plaintiffs were irreparably harmed "by virtue of the fact that they [we]re likely to be unconstitutionally detained for an indeterminate period of time"); *see also, e.g., Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing that "[a]ny amount of actual jail time is significant, and has exceptionally severe consequences for the incarcerated individual" (cleaned up)).

67. In addition to his constitutional injury, Petitioner will suffer other irreparable harms from continued detention, including separation from his family; loss of income, and the knowledge that his family cannot afford rent and living expenses without his contribution; the knowledge of his pregnant partner's severe distress caused by his incarceration; and the difficulty of preparing an immigration case while detained. He has to endure the physical hardships and humiliations that arise from prison conditions.[2] He suffers from celiac disease and does not receive the appropriate diet to avoid harm to his body.

2. A post-deprivation hearing would be an affront to the Constitution, would punish Petitioner, and would reward the government's unlawful conduct

68. The only appropriate remedy is to undo the violation via immediate release and a prohibition on re-detention without a hearing before a neutral adjudicator. *See Morrissey*, 408 U.S. at 481-82; *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985); *Jones*, 393 F.3d at 932; *Zinermon*, 494 U.S. at 985. In this district and others, courts have regularly come to this conclusion in a variety of situations. *See, e.g., Ramazan M.*, 2025 WL 3145562 (accused of ISAP violations); *Garcia Mariagua*, 2025 WL 3551700 at *5 (E.D. Cal. Dec. 11, 2025) (same); *J.O.L.R. v. Wofford*,

[2] *See CA DOJ releases 2025 report on immigration detention facilities, including Mesa Verde*, Bakersfield Now, April 29, 2025, https://bakersfieldnow.com/news/local/ca-doj-releases-2025-report-on-immigration-detention-facilities-including-mesa-verde-ice-california-rob-banta-attorney-general-mental-health-suicide-medication-treatment

No. 1:25-cv-01241- KES-SKO, 2025 WL 2718631 (E.D. Cal. Sept. 23, 2025) (accused of violating an unspecified order); *Arzate*, 2025 WL 2230521 at *5 (recent criminal arrest); *Guzman*, 2025 WL 2617256 (multiple convictions); *Claros*, 2025 WL 3458888 (prior deportation, earlier conviction, later arrest, failed reasonable fear interview).

69. To do otherwise would allow the government to perpetuate its own violations by creating facts on the ground and then using them to justify its continued abuses. Their unconstitutional action should not be rewarded by forcing Petitioner to clear more hurdles to vindicate his rights. A post-deprivation hearing would not only prolong Petitioner's detention; it would also implicitly and impermissibly shift the burden to him, by making detention the default condition.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution (Procedural Due Process—Detention)

70. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

71. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty liberty interest in avoiding re-incarceration after his release. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an IJ's bond determination).

72. Accordingly, "[i]n the context of immigration detention, it is well-settled that due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest

in avoiding physical restraint." *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinermon*, 494 U.S. at 127 (explaining that generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property."). In the immigration context, for such hearings to comply with due process, the government bears the burden to demonstrate, by clear and convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

73. Petitioner's re-detention without a pre-deprivation hearing violated due process. After deciding to release Petitioner from custody on their own recognizance, Respondents re-detained Petitioner with no notice and no opportunity to contest his re-detention before a neutral adjudicator before being taken into custody.

74. Petitioner has a profound personal interest in his liberty. Because Petitioner received no procedural protections, the risk of erroneous deprivation is high. And the government has no legitimate interest in detaining Petitioner without a hearing; bond hearings are conducted as a matter of course in immigration proceedings, and nothing in Petitioner's record suggested that he would abscond or endanger the community before a bond hearing could be held. *See, e.g.*, *Jorge M.F. v. Wilkinson*, No. 21-cv-01434-JST, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) ("[T]he government's concern that delay in scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of petitioner's strong family ties and his continued employment during the pandemic as an essential agricultural worker.").

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution (Substantive Due Process—Detention)

75. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

76. The Due Process Clause of the Fifth Amendment protects all "person[s]" from deprivation of liberty "without due process of law." U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

77. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *See id.*

78. Petitioner is neither a flight risk nor a danger to the community. Respondents' detention of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in violation of the Due Process Clause of the Fifth Amendment.

79. Moreover, Petitioner's detention is punitive as it bears no "reasonable relation" to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly "nonpunitive in purpose and effect"). Here, the purpose of Petitioner's detention appears to be "not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons," *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring)—namely, to effectuate Respondents' unlawful Re-Detention Policy and re-detain individuals without any materially changed circumstances since their previous release from Respondents' custody.

THIRD CLAIM FOR RELIEF

Violation of the Administrative Procedure Act / Unlawful Application of Stayed Policy: (Request for Relief Pursuant to *Garro Pinchi v. Noem*)

80. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

81. The order granting preliminary relief pending final adjudication of the claims in *Garro Pinchi v. Noem* held that Respondents' new Re-Detention Policy is likely unlawful as arbitrary and capricious. The order thereby stays the Re-Detention Policy, under which Respondents re-arrested and re-detained previously released noncitizens without an individualized determination that materially changed circumstances as to flight risk or dangerousness warrant re-detention.

82. Despite the *Garro Pinchi* order, Respondents re-arrested and re-detained Petitioner even though Petitioner had no materially changed circumstances as to flight risk or dangerousness to warrant re-detention.

83. As a member of the certified class in *Garro Pinchi*, Petitioner's ongoing detention is unlawful and Petitioner is entitled to immediate release.

84. Every moment Respondents continue to detain Petitioner and deprive him of his liberty, Respondents violate the Administrative Procedure Act and the court's order in *Garro Pinchi*.

FOURTH CLAIM FOR RELIEF

Violation of the Immigration and Nationality Act and Implementing Regulations (8 U.S.C. § 1226(a)/8 C.F.R. § 287.8(c)(2)(ii) – Warrantless Arrest)

85. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

86. Petitioner was arrested on June 23, 2026, and ICE did not produce a warrant. A

noncitizen may be arrested and detained pending removal proceedings only "on a warrant issued by the Attorney General." The warrant requirement is an absolute precondition to any arrest or subsequent detention under § 1226(a).

87. Because no warrant was issued before Petitioner's arrest, the government lacks statutory authority to detain him. No other provision of the INA authorizes his detention: § 1226(c) (criminal mandatory detention) does not apply; § 1225(b)(2) does not apply as Petitioner is not an applicant for admission; and § 1231 does not apply because he has no final removal order.

88. Detention without a pre-arrest warrant, and with no "likely to escape" exception justified by 8 C.F.R. § 287.8(c)(2)(ii), violates § 1226(a) and requires immediate release. *See J.A.C.P.*, 2025 WL 3013328, at *8

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;
3. Declare that Petitioner's arrest and ongoing detention violate the Due Process Clause of the Fifth Amendment, Administrative Procedures Act, and Immigration and Nationality Act with implementing regulations;
4. Declare that Petitioner's arrest and ongoing detention violate the order granting preliminary relief to the *Garro Pinchi* class;
5. Enjoin Respondents from re-detaining Petitioner unless Respondents provide at least seven days' notice to Petitioner that they will seek a pre-deprivation bond hearing before a neutral arbiter at which the government bears the burden of

proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community;

6. Enter an order requiring Respondents, at the time of Petitioner's release, to return all of Petitioner's personal property, documents, and electronics;

7. Enjoin Respondents from imposing any new conditions of release on Respondent, including GPS monitoring;

8. Enjoin Respondents from transferring Petitioner outside this District or deporting Petitioner pending these proceedings;

9. Award Petitioner his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, as amended; 28 U.S.C. § 2412; and on any other basis justified by the law; and

10. Grant such further relief as the Court deems just and proper.

Dated: July 10, 2026

Respectfully Submitted,

/s/ Tala Hartsough

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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I have discussed with Petitioner the events described in this Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's class membership in *Garro Pinchi v. Noem*, 813 F. Supp. 3d 973, 1010 (N.D. Cal. 2025), are true and correct to the best of my knowledge.

Date: July 10, 2026

Respectfully Submitted,

/s/ Tala Hartsough
Tala Hartsough (SBN 230204)

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