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CLERK. U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Carlos Enrique Garcia Morales,

Petitioner,

v.

Jeremy CASEY, Warden, Imperial Regional Detention Facility;
Daniel A. BRIGHTMAH, Field Office Director, San Diego Field Office, United States Immigration and Customs Enforcement;
Todd M. LYONS, Acting Director, United States Immigration and Customs Enforcement;
Markwayne MULLINS, Secretary of Homeland Security;
Todd BLANCHE, Acting Attorney General, in their official capacities,

Respondents.

Case No.: '26CV4730 TWR JAC

PETITION FOR WRIT OF HABEAS CORPUS.

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

INTRODUCTION

1. Petitioner is currently detained by Immigration and Customs Enforcement ("ICE") at Imperial Regional Detention Facility Center. ICE alleges Petitioner is a citizen of Mexico.

2. Petitioner has been detained in ICE custody since on or about June 3, 2026, when he was arrested at by Border Patrol, they came to Petitioner's house.

3. Prior to Petitioner's current, ongoing detention, Petitioner lived in Thermal, California. Respondents Department of Homeland Security (DHS) and/or its component agencies, including ICE, Customs and Border Patrol (CBP), and/or U.S. Citizenship and Immigration Services (USCIS) knew about Petitioner. Respondents had previously encountered Petitioner and had chosen to release Petitioner and/or allow them to remain non-detained, upon a determination that Petitioner was neither dangerous nor a flight risk.

4. Since Respondents' prior determination that Petitioner was neither dangerous nor a flight risk, there has been no material change in Petitioner's individual circumstances as to dangerousness or flight risk. Petitioner lived a law-abiding life in the United States and diligently pursued their immigration claims before the agency or in immigration court.

5. Despite the lack of materially changed circumstances as to Petitioner's dangerousness or flight risk, Respondents re-arrested Petitioner.

6. Immigration detention is civil. It is permissible for only two reasons: to ensure a noncitizen's appearance at immigration hearings and to prevent danger to the community. Petitioner's arrest cannot be explained by either justification: Respondents previously determined that Petitioner is neither dangerous nor a flight risk and Petitioner's conduct while free confirmed Respondents' determination was correct.

7. The Constitution protects Petitioner, like all noncitizens, from arbitrary deprivations of liberty. The Constitution also guarantees Petitioner due process of law. The government's power over immigration is broad, but 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).

8. The Fourth Amendment prohibits the re-arrest of immigrants without a "material change in circumstance." *Saravia v. Sessions,* 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions,* 905 F.3d 1137 (9th Cir. 2018). For a re-arrest to comport with the Fourth Amendment, the government must have new probable cause separate from the probable cause that supported a person's initial arrest. *Id.*

9. To the extent that Petitioner was re-arrested; the re-arrest violated the Fourth Amendment because it was not supported by a new probable cause.

10. Furthermore, Petitioner may be a member of the certified class in *Garro Pinchi v. Noem,* 813 F. Supp. 3d 973 (N.D. Cal. 2025). That litigation challenges DHS's new policy of re-detaining class members despite no change in their individual circumstances as to their dangerousness or flight. *Garro Pinchi* found that DHS adopted that new re-detention policy in or around May 2025, and held the policy is likely unlawful under the Administrative Procedure Act (APA). *Id.* at 995-96, 1036. The 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." *Id.* at 1040.

11. To the extent Petitioner is a member of the *Garro Pinchi* class, Respondents appear to have re-detained Petitioner in violation of the *Garro Pinchi* order cited above, which remains in effect. Accordingly, Petitioner's ongoing detention is unlawful.

12. Petitioner's arrest and detention have caused them ongoing, irreparable harm. Every additional day Petitioner spends unlawfully detained subjects them to compounding harm.

13. Petitioner is entitled to immediate release.

14. Petitioner respectfully requests a writ of habeas corpus ordering the government to

immediately release them from their unlawful detention. To preserve this Court's jurisdiction, Petitioner further requests an order prohibiting Respondents from transferring them outside the District or deporting them for the duration of this habeas proceeding.

JURISDICTION

15. Petitioner is detained by Respondents at Imperial Regional Detention Center.

16. This action arises under the Due Process Clause of the Fifth Amendment to the U.S. Constitution. Jurisdiction is proper 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 (Suspension Clause), and the Due Process Clause of the Fifth Amendment.

VENUE

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

18. The Court should grant the petition for writ of habeas corpus "forthwith," as Petitioner's unlawful detention constitutes compounding and irreparable harm. 8 U.S.C. § 2243. Furthermore, to the extent Petitioner is a member of the *Garro Pinchi* class, the legal issues have already been resolved for *Garro Pinchi* class members.

19. 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). "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) (citation modified).

PARTIES

20. Petitioner is a noncitizen currently civilly detained by Respondents.

21. Respondent Warden, Jeremy Casey is the Facility Administrator of Imperial Regional Detention Facility, a private, for-profit detention facility that contracts with ICE to detain individuals suspected of civil immigration violations. Respondent Warden, Jeremy Casey is Petitioner's immediate physical custodian. Respondent Warden, Jeremy Casey is sued in their official capacity.

22. On information and belief, Respondent Daniel A. Brightman is the current Field Office Director responsible for the San Diego Field Office of ICE with administrative jurisdiction over Petitioner's immigration case. He is Petitioner's legal custodian. Petitioner sues him in his official capacity.

23. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official Performing the Lyons 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 any effort to detain and remove the Petitioner. Respondent Lyons is sued in his official capacity.

24. Respondent Markwayne Mullins is the Secretary of Homeland Security and has ultimate authority over DHS. In that capacity and through her agents, Respondent Mullins 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 the Petitioner. Respondent Mullins is sued in her official capacity.

25. Respondent Todd Blanche is the Attorney General of the United States and the most senior official at the Department of Justice. In that capacity and through her agents, she 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 BIA. Respondent Blanche is sued in her official capacity.

EXHAUSTION

26. In habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions,* 872 F.3d 976, 988 (9th Cir. 2017). 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 modified)). Here, exhaustion is not required because no other forum exists in which Petitioner can raise their 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 [their] claim." *McCarthy v. Madigan,* 503 U.S. 140, 147 (1992).

LEGAL BACKGROUND

27. 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,* 872 F.3d at 990 (quoting *Zadvydas,* 533 U.S. at 693). These due process rights are both substantive and procedural. These rights protect Petitioner from arbitrary arrest and detention.

28. *First,* the procedural component of the Due Process Clause prohibits the government from imposing physical restraints without adequate procedural safeguards.

29. 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 where that freedom is lawfully revocable. *See Gagnon v. Scarpelli,* 411 U.S. 778, 782 (1973) (re-detention after release on probation requires pre-deprivation hearing); *Morrissey v. Brewer,*

408 U.S. 471 (1972) (same, for parole); *see also Johnson v. Williford,* 682 F.2d 868, 873 (9th Cir. 1982) (returning to prison a person even *mistakenly* released on parole would violate due process).

30. 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.*

31. This reasoning applies with equal if not greater force to people subject to civil immigration detention authority, like Petitioner. Noncitizens living in the United States like Petitioner have a protected liberty interest in their ongoing freedom from confinement, regardless of their immigration status. *See Zadvydas,* 533 U.S. at 690. And "[g]iven the civil context [of immigration detention], [their] liberty interest is arguably greater than the interest of parolees." *Ortega v. Bonnar,* 415 F. Supp. 3d 963,970 (N.D. Cal. 2019); *see also Vilela v. Robbins,* No. 1:25-cv-01393-KES-HBK (HC), 2025 WL 3101334, at *6 n.5 (E.D. Cal. Nov. 6, 2025).

32. *Second,* "[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).

33. 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.

34. 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, 73 8 (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).

35. *Finally,* the Fourth Amendment prohibits law enforcement, including immigration officers, from re-arresting people who have been previously arrested absent a new intervening cause. *Saravia,* 280 F. Supp. at 1196. Immigration authorities may not conduct re-arrests without new probable cause so as to avoid "harassment by continual rearrests." *United States v. Holmes,* 452 F.2d 249, 261 (7th Cir. 1971) (Stevens, J.) (prohibiting re-arrest without change in circumstances in criminal context); *see also U.S. v. Brignoni-Ponce,* 422 U.S. 873, 884 (1975) (applying Fourth Amendment principles from criminal context to "limit" scope of immigration agents' seizure authority); *Gonzalez v. ICE,* 975 F.3d 788, 817 (9th Cir. 2020) (Fourth Amendment limits apply equally to seizures in criminal and civil immigration context).

STATEMENT OF FACTS

A. ICE Begins Arresting and Detaining Noncitizens Previously Released or Previously Permitted To Live in the Community, Without Any Materially Changed Circumstances

36. 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 forA.H. v. Sessions,* 905 F.3d 1137 (9th Cir. 2018).

37. Moreover, the authority to arrest is always subject to the Fourth Amendment's requirement of probable cause.

38. For more than 40 years, Respondents' practice was to arrest and detain noncitizens who had been released or whom Respondents had previously allowed to live in the community, only *after* making an individualized determination that the noncitizen's circumstances had materially changed, such that the noncitizen posed a flight risk or danger to the public. *See generally Garro Pinchi,* 813 F. Supp. 3d at 994—95.

39. In the second Trump administration, that changed. Respondents began arresting and detaining noncitizens who had been previously released or whom Respondents had previously permitted to live in the community, 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. *See generally Garro Pinchi,* 813 F. Supp. 3d at 996.

40. Dozens, if not hundreds, of federal courts in California have found these arrests and detentions are, or likely are, unconstitutional. *See, e.g, R.A.N.O. v. Wofford,* 820 F. Supp. 3d 1094, 1105 (E.D. Cal. 2026) (E.D. Cal. Jan. 6, 2026); *Huang v. Albarran,* 818 F. Supp. 3d 1154, 1166 (E.D. Cal. 2026); *Meneses* v. *Santacruz,* 811 F. Supp. 3d 1158, 1163 (C.D. Cal. 2025); *Kharitonova v. Albarran,* No. 3:26-CV-01362-JSC, 2026 WL 531441, at *4 (N.D. Cal. Feb. 25, 2026); *E.E.O.H. v. Noem,* No. 1:26-CV-01266-JLT-SAB, 2026 WL 850363, at *5 (E.D. Cal. Mar.

26, 2026), *report and recommendation adopted,* No. 1:26-CV-01266 JLT SAB, 2026 WL 967670 (E.D. Cal. Apr. 9, 2026). This district has been flooded with such challenges, and judges have overwhelmingly concluded that Respondents' new practice of arresting and detaining individuals without an individualized determination of materially changed circumstances violates the Constitution and the law.

B. Respondents Arrest and Detain Petitioner Despite No Material Change in Circumstances to Justify Arrest or Detention

41. Petitioner first entered the United States near Calexico, California, in or about January 2003, without inspection and has remained in the United States for more than twenty-three years.

42. Petitioner settled into life in the United States. Petitioner settled in Mecca, California, with his parents.

43. Prior to being re-arrested, he was living in Thermal, California, with his girlfriend and their son. Petitioner has worked as a construction to financially support his family. He has been granted an employment authorization document ("EAD"). Petitioner signing a 12-month leases on a home and did monthly payments on a car. He also joined a local church, where he was an avid attendee.

44. On September 29, 2024, Petitioner was a victim of a robbery. He was robbed at gunpoint in front of his son and his mother. Petitioner filed a police report and cooperated with the authorities.

45. Petitioner has been arrested October 6, 2025, for gun possession and was release same day. Petitioner's record should be clear on August 21, 2026, at 8:30 am. Petitioner was granted diversion; he did community service, a gun program class and a "life skills class".

46. On April 20, 2026, Petitioner reported to police that he was [redacted]

assault. On July 6, 2026, Petitioner filed a Form I-918 Petition for U Nonimmigrant Status, supported by a law-enforcement certification his cooperation as a crime victim. On July 21, 2026, U.S. Citizen and Immigration Services determined his petition to be bona fide, granted deferred action, and issued employment authorization.

47. Respondents knew Petitioner was present in the United States and allowed Petitioner to remain at liberty.

48. In releasing Petitioner and/or allowing Petitioner to remain at liberty, Respondents necessarily determined that Petitioner was not a flight risk.

49. In releasing Petitioner and/or allowing Petitioner to remain at liberty, Respondents necessarily determined that Petitioner was not a danger to the community.

50. For the reasons explained above, Petitioner was neither a flight risk nor danger while Respondents allowed Petitioner to live in the community.

51. Despite Petitioner's constitutionally protected interest in their liberty and lack of materially changed circumstances as to dangerousness or flight risk, Respondents arrested and detained Petitioner arrested on June 2, 2026, in Coachella, California.

52. Petitioner is being deprived of liberty without permissible justification. Respondents previously released Petitioner, and/or previously encountered Petitioner and allowed them to live in the community, upon a determination that Petitioner was neither a flight risk nor danger to the community to warrant detention. Nothing material has changed to justify altering that initial determination. Therefore, Petitioner's ongoing detention is not related to either of the permissible justifications for civil immigration litigation: danger or flight risk. Petitioner's ongoing detention furthers no legitimate government interest.

53. To the extent Respondents re-arrested Petitioner without any material change in

circumstances; the re-arrest was without new probable cause, in violation of Petitioner's Fourth Amendment right against unreasonable seizures.

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

54. Petitioner brings to the Court's attention that Petitioner may be a member of the provisionally certified class in *Garro Pinchi v. Noem,* 813 F. Supp. 3d 973 (N.D. Cal. 2025).

55. In October 2025, three plaintiffs filed a complaint under the Administrative Procedure Act (APA) challenging DHS's new policy of re-detaining previously released noncitizens without materially changed circumstances as to dangerousness or flight risk. *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 filed a motion to "stay" the challenged policy pending final judgment on their claims and a motion for provisional class certification. *Id.* at Dkt. No. 48 (Notice of Motion and Motion to Stay Effective Date of Agency Action or Preserve Status or Rights) (N.D. Cal. filed Oct. 16, 2025).

56. 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,* 813F. Supp. 3d at 1039-40.

57. *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)." *Garro Pinchi,* 813 F. Supp. 3d at 1010-11.

58. 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. A map depicting the geographic the jurisdiction of the San Francisco ICE Field Office is available athttps://www.ice.gov/doclib/about/offices/ero/pdf/eroFieldOffices.pdf.

59. *Garro Pinchi* certified one 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)." *Garro Pinchi,* 813 F. Supp. 3d at 1010-11.

60. On the merits, *Garro Pinchi* held that the new 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 new 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. *Garro Pinchi,* 813 F. Supp. 3d at 1027.

61. *Garro Pinchi* held that DHS's new interpretation of 8 U.S.C. § 1225(b)(2) did not justify the agency's adoption of the new policy. *Garro Pinchi,* 813 F. Supp. 3d at 1028-33. The court held that the new 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 1037.

62. *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. *Garro Pinchi,* 813 F. Supp. 3d at 1018.

63. Accordingly, *Garro Pinchi* granted preliminary relief and stayed Respondents' new re-detention policy, effective immediately. *Garro Pinchi,* 813 F. Supp. 3d at 1040. The order has the effect of requiring Respondents to revert to their longstanding prior policy of *not* re-arresting and re-detaining class members without 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.").

D. Petitioner is Experiencing Irreparable Harm

64. Petitioner's arrest and detention are causing them ongoing irreparable harm. Respondents previously released Petitioner, and/or previously encountered Petitioner and allowed them to live in the community, necessarily entailing a determination that Petitioner was neither a danger to the community nor a flight risk to warrant detention. No material changes in circumstances warranted departing from that previous determination.

65. Due to Petitioner's ongoing detention, they are suffering irreparable harm, and every additional day Petitioner spends in unlawful detention subjects them to further irreparable harm.

66. Petitioner is being irreparably harmed in the following ways: Petitioner has not seen his son or talked to him in two months. Petitioner's son thinks he is out town working to earn money for his upcoming birthday in September. Due to being detained, Petitioner is unable to work which makes him unable to buy his son clothes and school supplies.

67. Petitioner is using his savings on lawyers for his "U" visa, as well on paying house bills and truck payment. Petitioner is seeing a physiologist in detention, and he currently experiences nightmares. He is taking medication due to trauma from [redacted] robbed at gunpoint. Petitioner has appointment for fingerprints for his "U" visa and he cannot attend due to his detention.

68. Petitioner started to take God's word to sick people in hospitals and to people who are unable to attend church due to disabilities. Since he is detained, he cannot continue to spread God's word.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Procedural Due Process—Detention)

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

70. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty interest in avoiding re-incarceration after Respondents released them from custody and/or encountered them and allowed them to live in the community. *See Young,* 520 U.S. at 146-47; *Gagnon,* 411 U.S. at 781—82; *Morrissey,* 408 U.S. at 482—83; *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).

71. 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.").

72. 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 detention without a pre-deprivation hearing violated due process. After deciding to release Petitioner from custody and/or encountering Petitioner and allowing them to live in the community because custody was not required to protect against flight risk or dangerousness, Respondents detained Petitioner with no notice, no explanation of the justification of their detention, and no opportunity to contest their detention before a neutral adjudicator before being taken into custody.

74. Petitioner has a profound personal interest in their 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 Petitioner's record sufficiently shows they would not 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.* (immigration detention is civil and thus ostensibly "no punitive 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 new policy of detaining individuals previously released and/or encountered and permitted to live in the community, without any materially changed circumstances to justify detention.

THIRD CLAIM FOR RELIEF

Violation of the Fourth Amendment to the United States Constitution

(Petitioner's Re-Arrest Constitutes an Unreasonable Seizure)

Petitioner re-alleges and incorporates by reference the paragraphs above and brings this Claim.

80. The Fourth Amendment protects the right of all persons present in the United States to be free from unreasonable seizures by government officials. Petitioner therefore has the right to be free from unreasonable seizures.

81. As a corollary to that right, the Fourth Amendment prohibits re-arrest on the same charge without a material change in circumstances.

82. Petitioner was re-arrested on the same charge without a material change in circumstances. Petitioner's re-arrest violated the Fourth Amendment.

FOURTH CLAIM FOR RELIEF

Violation of the Administrative Procedure Act/ Unlawful Application of Stayed Policy:

(Request for Relief Pursuant to *Garro Pinchi v. Noem*)

Petitioner re-alleges and incorporates by reference the paragraphs above and brings this Claim.

83. In *Garro Pinchi v. Noem,* 813 F. Supp. 3d at 973, the court issued an order on December 19, 2025, granting preliminary relief pending final adjudication of the class's claims. The court held that Respondents' new policy of re-detaining people without an individualized determination of materially changed circumstances is likely unlawful as arbitrary and capacious. The order stayed the new policy, prohibiting Respondents from re-arresting and re-detaining previously released noncitizens without an individualized determination that materially changed circumstances as to flight risk or dangerousness warrant re-detention.

84. 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.

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

86. Every moment that Respondents continue to detain Petitioner and deprive them of their liberty, Respondents violate the Administrative Procedure Act and the court's binding order in *Garro Pinchi.*

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

87. Assume jurisdiction over this matter.

88. Issue a writ of habeas corpus ordering Respondents to immediately release

Petitioner from custody;

89. Declare that Petitioner's arrest and ongoing detention violate the order granting preliminary relief to the Garro Pinchi class;

90. Declare that Petitioner's arrest and ongoing detention violate the Due Process Clause of the Fifth Amendment;

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

92. Enjoin Respondents from re-detaining Petitioner unless Respondents provide at least 7 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 convicting evidence, that Petitioner is a flight risk or danger to the community;

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

Pro-se Petitioner request relief.

Signature: Carlos Garcia Date: 8/13/2026