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UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ISRAEL ILARIOS MORALES

Petitioners,

v.

SERGIO ALBARRAN, ACTING FIELD OFFICE DIRECTOR OF THE SAN FRANCISCO IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICE; DAVID J. VENTURELLA, ACTING DIRECTOR OF UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT; MARKWAYNE MULLIN, SECRETARY OF THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY, TODD BLANCHE, ACTING ATTORNEY GENERAL OF THE UNITED STATES, ACTING IN THEIR OFFICIAL CAPACITIES,

Respondents.

Case No. 3:26-cv-10973

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Immigration Habeas Case

INTRODUCTION

1. Petitioner Israel Ilarios Morales was arrested and detained by U.S. Immigration and Customs Enforcement ("ICE") on September 25, 2026. He is currently being detained at the ICE office located at 630 Sansome, San Francisco, California. His detention infringes on his constitutionally protected liberty interest in his physical freedom and is unlawful pursuant to the agency's own regulations. Because of the unlawful, warrantless arrest, Petitioner seeks immediate release from immigration detention and an order barring his re-detention without a hearing before a neutral decisionmaker.

2. Petitioner was arrested and detained without a properly executed arrest warrant in violation of immigration regulations and due process. Petitioner was in a vehicle that was stopped by ICE officials in San Mateo, California on September 25, 2026. The driver and Petitioner were both arrested and brought to the ICE office in San Francisco, California.

3. Petitioner was previously removed from the United States under a removal order in approximately 2010. Over ten years later, when Petitioner re-entered the United States without inspection, he was not encountered by immigration officials at or near the border. Petitioner has lived at liberty in the United States since approximately 2023.

4. Petitioner faces transfer outside this judicial district and away from his community and legal representation. He also faces unlawful removal from the United States without due process.

5. Petitioner seeks an order from this Court that they be released from Respondents' custody, and, in the interim, an order from the Court that they are not to be removed from this judicial district or removed from the United States, pending final resolution of their petition for writ of habeas corpus.

6. Alternatively, Petitioner seeks an order from this Court that Respondents must provide Petitioner with an individualized bond hearing before an Immigration Judge that complies with

the requirements set forth in *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011). *See Revuelta Torres v. Albarran*, No. 3:26-cv-05242 (N.D. Cal. filed June 2, 2026).

JURISDICTION

7. This Court has jurisdiction under 28 U.S.C. § 2241 (federal habeas statute); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2201-2 (declaratory judgment); United States Constitution Article I, Section 9 (Suspension Clause) and under the Fourth and Fifth Amendments to the United States Constitution. *See generally INS v. St. Cyr*, 533 U.S. 289 (2001); *Zadvydas*, 533 U.S. 678.

VENUE

8. Venue is proper in the Northern District of California under 28 U.S.C. § 1391(e) because Respondents are federal officers or employees sued in their official capacities; one or more Respondents reside in this District; Petitioners reside in this District; Petitioners are detained in this District; and a substantial part of the events or omissions giving rise to Petitioners' claims occurred in this District.

INTRADISTRICT ASSIGNMENT

9. The decision to arrest and detain Petitioner was made by the San Francisco Field Office of ICE. Therefore, the assignment to the San Francisco Division of this Court is proper under N.D. Local Rule 3-2(d).

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to 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.* (emphasis added).

11. 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) (emphasis added).

12. Habeas corpus must remain a swift remedy. Importantly, "the statute itself directs courts to give petitions for habeas corpus 'special, preferential consideration to insure expeditious hearing and determination.'" *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted). The Ninth Circuit warned against any action creating the perception "that courts are more concerned with efficient trial management than with the vindication of constitutional rights." *Id.*

PARTIES

13. Petitioner Israel Ilarios Morales is a citizen of Guatemala and has resided in the United States since approximately 2023. He lives, attends church and is engaged with his community in San Mateo, California. Petitioner is currently detained by immigration at the ICE San Francisco Field Office.

14. Respondent Sergio Albarran is the Acting Field Office Director responsible for the San Francisco Field Office of ICE Enforcement and Removal Operations, which has immediate physical custody of Petitioner. He is sued in his official capacity.

15. Respondent David J. Venturella is the Acting Director of ICE. As the head of ICE, an agency within the U.S. Department of Homeland Security that detains and removes certain noncitizens, Respondent Lyons is a legal custodian of Petitioner. He is sued in his official capacity.

16. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security. He is responsible for the administration of the federal immigration laws. 8 U.S.C. § 1103(a). Secretary Mullin is a legal custodian of Petitioner. He is sued in his official capacity.

17. Respondent Todd Blanche is the Acting Attorney General of the United States. He is responsible for overseeing the implementation and enforcement of the federal immigration laws. He has the authority to interpret immigration law and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the Board of Immigration Appeals ("BIA"). In his official capacity, Attorney General Blanche is the ultimate legal custodian of Petitioner.

FACTUAL ALLEGATIONS

18. Petitioner was born in Guatemala in 1980. Petitioner was removed from the United States in approximately 2010. He last entered the United States in approximately 2023. Petitioner was not encountered by immigration officials at or near the border when he re-entered the United States in 2023.

19. Petitioner was a passenger in a vehicle that was stopped by ICE on September 25, 2026. The driver of the car was immediately ordered removed from the vehicle while Petitioner remained in the passenger seat. After a few moments, one of the ICE officers asked Petitioner for his name. After replying, he was told to step out of the vehicle. Petitioner was handcuffed and transported in an ICE vehicle to a parking lot approximately eight minutes away from where he was arrested.

20. While with ICE officers in the parking lot, Petitioner presented his identification. He presented his Guatemalan ID. Petitioner's feet were restrained and he was transported to San Francisco.

21. Respondents did not present a properly executed warrant for Petitioner's arrest before their arrest and detention of Petitioner on September 25, 2026. Respondents did not inform Petitioner of the basis for his arrest. Additionally, Respondents did not present any evidence to Petitioner that a reinstatement order had been entered in his name. Petitioner was arrested as the result of a collateral arrest, and the specific facts and circumstances of his case and immigration history were not considered before arresting him.

22. Petitioner has yet to be served with a warrant for his arrest.

CAUSES OF ACTION

COUNT ONE

Violation of 8 U.S.C. § 1357(a)(2):
Warrantless Arrest Without Probable Cause of Flight Risk

23. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

24. Respondents ICE arrested Petitioner without probable cause and without a proper warrant. Before the arrest, Respondents failed to make an individualized finding of flight risk. The failure to meet these requirements is a violation of 8 U.S.C. § 1357(a)(2).

25. Petitioner's arrest and current detention is unlawful because it was made without a warrant and no exceptions under § 1357(a)(2) applied. See *Landa Zaragoza v. Chestnut*, 2026 WL 2049841, (E.D.Cal., 2026) (Petitioners ordered released and habeas granted after warrantless arrests when the Respondents did not dispute nor provide any argument that Petitioners' arrests fell into one of the enumerated statutory exceptions.) See also *Djiwaje v. Bondi*, No. 2:26-CV-00344-RFB-MDC, 2026 WL 926753, (D. Nev. Apr. 6, 2026) (warrantless arrest of noncitizen was unlawful) and *Romero-Perez v. Blanche*, No. 2:26-CV-01708-RFB-BNW, 2026 WL 1724752, at *3 (D. Nev. June 15, 2026) ("Respondents failed to follow the procedures

authorizing detention under § 1226(a), Petitioners' current detentions are "divorced from a finding of probable cause," and release is warranted.)

26. As of the filing of this petition, Petitioner has yet to be served with a properly executed warrant for his arrest.

COUNT TWO

Warrantless Arrest in Violation of the Fourth Amendment

27. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

28. Under the Fourth Amendment, "[a]n arrest, of course, qualifies as a 'seizure' of a'person' . . . and so must be reasonable under the circumstances." *Ashcroft v. al-Kidd*, 563 U.S.731, 735–36 (2011). Furthermore, the warrantless arrest of Petitioner violated 8 U.S.C. §1357(a)(2) and 8 C.F.R. § 287.3(a). Section 1357(a)(2) provides that a warrantless arrest may take place only if an officer "has reason to believe that the alien so arrested is in the United States in violation of any law or regulation and is likely to escape before a warrant can be obtained for his arrest." 8 U.S.C. § 1357(a)(2) (emphasis added).

29. Respondents ICE arrested Petitioner without a warrant and without "reason to believe" that they were "likely to escape before a warrant can be obtained" in violation of 8 C.F.R. § 287.8(c)(2)(ii). The reason to believe standard meets the probable cause standard of the Fourth Amendment. *Perez Cruz v. Barr*, 926 F.3d 1128, 1137 (9th Cir. 2019).

30. Petitioner was not presented with a signed warrant before or upon his arrest.

31. As of the filing of this petition, Petitioner has yet to be served with a properly executed warrant for his arrest.

32. Arrests in violation of the regulation are unlawful. See *Sanchez v. Sessions*, 904 F.3d 643, 650 (9th Cir. 2018); *Perez Cruz v. Barr*, 926 F.3d 1128, 1137 (9th Cir. 2019).

COUNT THREE

Fourth Amendment: Arrests Without Probable Cause

33. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

34. The Fourth Amendment prohibits Respondents from arresting individuals for an immigration violation without probable cause. Petitioner was a passenger in a vehicle that was stopped by ICE agents. No reason was given for the stop. Agents demanded that Petitioner produce ID without articulating any basis for the stop, and without reasonable suspicion that Petitioner had committed or was about to commit any offense. Petitioner was a collateral ICE arrest.

35. Reasonable suspicion must be based on the totality of circumstances and must be particularized to the individual being stopped- not based on generalizations that would cast suspicion on large segments of the law-abiding population. *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000); *United States v. Manzo-Jurado*, 457 F.3d 928, 935 (9th Cir. 2006).

36. Here, no articulable facts have been identified giving rise to individualized suspicion specific to Petitioner. A stop initiated without any stated basis and without particularized suspicion cannot satisfy the Fourth Amendment's minimum requirements. *Vasquez Perdomo v. Noem*, 790 F. Supp. 3d 850, 890-91 (C.D. Cal. 2025).

COUNT FOUR

Violation of Due Process

37. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

38. The government may not deprive a person of life, liberty, or property 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 Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

39. The government's detention of Petitioner violates his right to due process because he has been detained without lawful authority, infringing on Petitioners' fundamental right to liberty. He has been living in the United States at liberty for over three years. Petitioner has a right to due process before being deprived of his liberty under the Fifth Amendment of the United States Constitution.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Declare that Petitioner is detained in violation of law;

(3) Enjoin Respondents from transferring Petitioner outside of this judicial district during the pendency of these proceedings;

(4) Enjoin Respondents from removing Petitioner from the United States without the procedures for removal identified in the Immigration and Nationality Act;

(5) Order the immediate release of Petitioner pending these proceedings;

(6) In the alternative of immediate release, order Respondent to provide Petitioners with individualized bond hearings before an Immigration Judge that complies with the requirements set forth in *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011).

(7) Award costs and reasonable attorney fees incurred under this action under 28 U.S.C. § 2412, et. seq. (Equal Access to Justice Act); and (7) Grant any further relief that this Court may deem fit and proper.

Dated: September 25, 2026

Respectfully submitted,

/s/Nicole A. Gorney

Nicole A. Gorney
Pro Bono Attorney for Petitioner