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UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

EDGAR FERNANDO GUERRERO ROMO,

Petitioner,

v.

SERGIO ALBARRAN, in official capacity, Acting Field Office Director of ICE's San Francisco Field Office; DAVID J. VENTURELLA, in official capacity, Acting Director of ICE, MARKWAYNE MULLIN, in official capacity, Secretary of the U.S. Department of Homeland Security; TODD BLANCHE, in official capacity, Attorney General of the United States,

Respondents.

Case No. 26-12140

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

Immigration Habeas Case

INTRODUCTION

1. Edgar Fernando Guerrero Romo is a forty-year-old citizen of Mexico who has resided in the United States for over twenty-four years, since approximately 2002, when he arrived as a teenager.

2. Petitioner has strong family ties in the United States, including U.S. citizen extended family members. He is an active member of his local community.

3. Although he does not remember the exact year he was granted withholding of removal, upon information and belief, Petitioner was granted withholding of removal to Mexico in 2018.

4. During the pendency of removal proceedings, Petitioner was initially ordered to wear an ankle monitor; based on his recollection, once his withholding of removal was granted, he was ordered to report to the local ICE Field Office every six months in lieu of wearing the ankle monitor. Eventually, this requirement was decreased to annual reporting. To his knowledge, Petitioner has fully complied with all his reporting requirements over the past decade or longer.

5. When driving home on the morning of October 17, 2026, Petitioner noticed that he was being followed by black SUV and as he parked close to his house, multiple vehicles suddenly surrounded him. Petitioner asked if the officers had a warrant. Agents surrounded his car and claimed they had a warrant but only showed Petitioner a photo on a phone of a putative warrant— a blank document that had his name written on it. Agents broke his car window with a hammer and proceeded to attempt to pull him out of the car through the broken window. Multiple agents applied force on his arms and legs, and one used a baton on his leg, leaving Petitioner unable to walk when he arrived at the ICE processing facility at 630 Sansome Street in San Francisco. Petitioner was then taken to Zuckerberg San Francisco General Hospital, where he currently remains in ICE custody while receiving treatment for injuries caused by ICE agents' violent arrest tactics.

6. The detention of Petitioner in this case closely resembles the facts of another recent case—one involving the re-detention of a man who had received a grant of Convention Against Torture ("CAT") withholding of removal and ICE improperly revoked his order of supervision. The district judge in that case granted a temporary restraining order requiring the release of that petitioner. *See Ffriend v. Albarran*, No. 26-CV-03942-WHO, 2026 WL 1196635, at *1 (N.D. Cal. May 2, 2026).

CUSTODY

7. Petitioner is currently in ICE custody and is being provisionally held at Zuckerberg General Hospital in San Francisco, California, for injuries sustained due to ICE agents' use of force. He was arrested by ICE on October 17, 2026, and has been hospitalized since. At the time of filing, Petitioner is still in the hospital and in Respondents' custody.

JURISDICTION

8. The Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general federal question jurisdiction; 5 U.S.C. § 701, *et seq.*, All Writs Act; 28 U.S.C. § 2241, *et seq.*, habeas corpus; 28 U.S.C. § 2201, the Declaratory Judgment Act; Art. 1, § 9, Cl. 2 of the United States Constitution (Suspension Clause); Art. 3 of the United States Constitution, and the common law.

9. The Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651 to protect Petitioner's rights under the Due Process Clause of the Fifth Amendment to the United States Constitution, the Excessive Bail Clause of the Eighth Amendment, and under applicable Federal law, and to issue a writ of habeas corpus for their immediate release. *See generally INS v. St. Cyr*, 533 U.S. 289 (2001); *Zadvydas*, 533 U.S. 678 (2001).

VENUE

10. 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; Petitioner resides in this District; Petitioner is detained in this District; and a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

11. 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).

12. 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).

13. 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

14. Petitioner Edgar Fernando Guerrero Romo is a citizen of Mexico and has resided in the United States since approximately 2002. He lives in Oakland, California. Since approximately 2014, he has been subject to and fully compliant with an ICE order of supervision.

15. 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. They are sued in their official capacity.

16. 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 Venturella is a legal custodian of Petitioner. He is sued in his official capacity.

17. 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.

18. Respondent TODD BLANCHE is the 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 his 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

19. Petitioner Edgar Fernando Guerrero Romo was born in Mexico. He is forty years old. He entered the United States in approximately September 2002, when he was approximately sixteen years old.

20. Petitioner has built a stable life in the United States over the past twenty-four years and has significant family and community ties in Northern California. He has a valid work authorization, a commercial driver's license, and is gainfully employed as a truck driver. Many of Petitioner's family members also reside in the United States. When he is not working,

Petitioner assists an elderly neighbor with household chores and helps collect food for a local food bank.

21. On or about 2018, the San Francisco Immigration Court granted Petitioner's application for withholding of removal to Mexico. Throughout the pendency of removal proceedings and since he was granted withholding of removal—in total, for more than a decade—Petitioner has complied to the best of his knowledge with all ICE supervision conditions.

22. On October 17, 2026, Petitioner drove back to his residence in Oakland, California. As he neared his house, he noticed that a black SUV was following him. Petitioner then parked the car about a block from his house. Two more vehicles appeared and blocked in Petitioner's car. Suddenly, six agents surrounded his vehicle and commanded him to exit the car. Petitioner asked to see a warrant. None of these officers identified themselves to Petitioner or explained why he was being arrested. One agent went to the passenger side of the car. Another agent broke the driver's side door. Three agents then attempted to pull Petitioner out of the car through the broken window. Another agent unlocked all the car doors and then multiple officers entered the car to push Petitioner out of it. Agents pulled on Petitioner's arm and used a baton to try to pry his leg out of the car. Once they pulled him out of the vehicle, agents then slammed Petitioner onto the pavement. Petitioner was then handcuffed and placed in the black SUV, bruised and bleeding.

23. Petitioner asked to see a warrant when ICE agents arrested him. ICE agents did not produce a physical warrant but instead showed him a photo of a document on a cell phone, which they claimed was an administrative warrant. This document was seemingly blank and had only Petitioner's name typed into it.

24. Due to the force used by ICE agents to effectuate the arrest, Petitioner was briefly transported to the ICE processing area at 630 Sansome before being brought to Zuckerberg San

Francisco General Hospital. As of filing this petition, Petitioner remains hospitalized and is receiving treatment for injuries sustained due to the ICE officers' violence.

25. Petitioner's order of supervision has been improperly revoked without sufficient cause, notice or process.

LEGAL FRAMEWORK

Post-Removal Order Detention, Release, and Re-Detention

26. The Immigration and Nationality Act directs ICE to remove a noncitizen "within a period of 90 days" following a final order of removal, known as the "removal period." 8 U.S.C. § 1231(a)(1)(A).

27. ICE "shall detain" the noncitizen during the 90-day removal period. 8 U.S.C. § 1231(a)(2)(A).

28. If ICE does not effectuate removal during the removal period, the noncitizen is released "subject to supervision," 8 U.S.C. § 1231(a)(3), except that certain categories of noncitizens "may be detained" beyond the removal period, 8 U.S.C. § 1231(a)(6). In light of the due process concerns that indefinite detention would raise, the Supreme Court has construed section 1231(a)(6) to limit a noncitizen's "post-removal period detention to a period reasonably necessary to bring about that [noncitizen's] removal from the United States." *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001).

29. Two regulations, 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13, govern release and re-detention following a final order of removal.

30. Section 8 C.F.R. § 241.4 creates a system of custody reviews for noncitizens whom ICE detains beyond the 90-day removal period. ICE may grant release if the noncitizen demonstrates that "his or her release will not pose a danger to the community or to the safety of other persons or to property or a significant risk of flight pending such [noncitizen's] removal from the United States." § 241.4(d)(1).

31. The regulation provides that ICE may re-detain a noncitizen who was released under § 241.4 for specified reasons and following specified procedures. *See* § 241.4(l).

32. 8 C.F.R. § 241.13 creates "special review procedures" where the noncitizen "has provided good reason to believe there is no significant likelihood of removal . . . in the reasonably foreseeable future." § 241.13(a); *see also* § 241.13(b)(1) (providing that § 241.4 governs unless ICE "makes a determination under this section that there is no significant likelihood of removal in the reasonably foreseeable future").

33. The regulation provides that ICE may re-detain a noncitizen who was released under § 241.13 for specified reasons and following specified procedures. *See* § 241.13(i).

34. The Due Process Clause further constrains ICE's ability to re-detain a noncitizen who was previously released on an order of supervision. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

35. Substantive due process requires that a noncitizen's detention bear a reasonable relationship to the purposes of immigration detention, to prevent flight and to protect the community. *Id.* at 690-91; *see also Cty. of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998) ("[T]he touchstone of due process is protection of the individual against arbitrary action of government.") (citation omitted).

36. In addition, procedural due process requires that a noncitizen's detention be accompanied by strong "procedural protections," *Zadvydas*, 533 U.S. at 691, 692, such as a hearing before a neutral adjudicator. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) ("The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'"). Courts in this Circuit have determined that a noncitizen subject to conditional release has a liberty interest in that release such that a pre-deprivation hearing before a neutral adjudicator is required *prior* to any re-detention. *See, e.g. Yang v. Kaiser*, No. 2:25-CV-

02205-DAD-AC (HC), 2025 WL 2791778, at *8 (E.D. Cal. Aug. 20, 2025); *Guillermo M. R.*, 2025 WL 1983677, at *5 ("The fact that Petitioner is subject to discretionary conditions of release likewise does not mean he lacks a protectable liberty interest and can be re-detained without process."). That is because, generally, the Due Process Clause "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) (emphasis in original).

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION
Procedural Due Process
U.S. Const. amend. V

37. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, the allegations in all the preceding paragraphs.

38. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

39. Petitioner has a vested liberty interest in his conditional release. Due Process does not permit the government to strip him of that liberty without a hearing before this Court. *See Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972); *Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025) ("[E]ven when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody"); *Yang*, 2025 WL 2791778, at *8 (determining that seven years out of custody on "supervised release, as well as petitioner's ties to his community, strengthen petitioner's interest in his continued release").

40. The process afforded to Petitioner by the regulations is insufficient to protect his liberty interest, as the lack of access to counsel, notice and a neutral adjudicator creates a heightened risk of erroneous deprivation. *See Yang*, 2025 WL 2791778, at *9 ("The court

therefore rejects respondents' contention that the regulatory framework sufficiently mitigates the risk of an erroneous deprivation of petitioner's liberty interest."); *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006) ("A neutral judge is one of the most basic due process protections."). And on the other hand, the cost of having a hearing prior to detention before a neutral adjudicator is low. *See Phouvieng K. v. Andrews*, No. 1:25-CV-01512-KES-SAB (HC), 2025 WL 3265504, at *9 (E.D. Cal. Nov. 24, 2025).

41. For these reasons, Petitioner's re-arrest and detention without notice and a hearing violated the Constitution. The only remedy for this violation is his immediate release from immigration detention until the government provides him with a hearing before a neutral adjudicator. At the hearing, the neutral adjudicator would evaluate, *inter alia,* whether clear and convincing evidence demonstrates that his removal is reasonably foreseeable and that, taking into consideration alternatives to detention, Petitioner is a danger to the community or a flight risk, such that his re-incarceration is warranted.

SECOND CAUSE OF ACTION
Substantive Due Process
U.S. Const. amend. V

42. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, the allegations in all the preceding paragraphs.

43. The Due Process Clause of the Fifth Amendment forbids the government from depriving individuals of their right to be free from unjustified deprivations of liberty. U.S. Const. amend. V.

44. Petitioner has a vested liberty interest in his conditional release. Due Process does not permit the government to strip them of that liberty without it being tethered to one of the two constitutional bases for civil detention: either, to mitigate against the risk of flight, or, to protect the community from danger.

45. For over a decade, Petitioner has complied with the reporting requirements imposed on them by ICE, thus demonstrating that he is not a flight risk. Finally, there has been no change in circumstances that now renders his removal to Mexico reasonably foreseeable. To the contrary, ICE is legally prohibited from removing Petitioner to Mexico precisely because he was granted withholding of removal to that country in approximately 2018, and no other country has been designated for his removal. Re-arresting him now would be punitive and violate his constitutional right to be free from the unjustified deprivation of his liberty.

46. Petitioner's substantive due process right is violated by the government in these circumstances. *See Ffriend v. Albarran*, No. 26-CV-03942-WHO, 2026 WL 1196635, at *3 (N.D. Cal. May 2, 2026) ("I agree with Ffriend that he is likely to prevail on the merits of his substantive due process claim.").

47. For these reasons, Petitioner's detention violates the Constitution.

THIRD CAUSE OF ACTION
Violation of the INA and Applicable Regulations; 5 U.S.C. § 706(2)(D)

48. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, the allegations in all the preceding paragraphs.

49. The INA provides for detention during the ninety (90) day "removal period" that begins immediately after a noncitizen's order of removal becomes final. 8 U.S.C. § 1231(a)(1). After the ninety (90) day removal period, the INA and its applicable regulations provide that detaining noncitizens is generally permissible only upon notice to the noncitizen and after an individualized determination of dangerousness and flight risk. *See* 8 U.S.C. § 1231(a)(6); 8 C.F.R. § 241.4(d), (f), (h) & (k).

50. Petitioner was previously placed on terms of supervised release including an ankle monitor, which were later changed to only reporting requirements. Petitioner has fully complied with these reporting requirements to his knowledge. Respondents have authority to revoke his release only if circumstances have changed such that the government "determines

there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2); 8 U.S.C. § 1231(a)(6). Pursuant to § 241.13(i)(2), the burden is on ICE to first establish changed circumstances that make removal significantly likely in the reasonably foreseeable future. *Tran v. Noem*, No. 1:25-CV-01523-TLN-CKD, 2025 WL 3268491, at *2 (E.D. Cal. Nov. 24, 2025). The phrase "significant likelihood," as used in the regulation, requires something more than a mere possibility of removal. *Vu v. Noem*, No. 1:25-CV-01366-KES-SKO (HC), 2025 WL 3114341, at *7 (E.D. Cal. Nov. 6, 2025).

51. ICE is unable to meet its burden to show a "significant likelihood" that Petitioner may be removed in the reasonably foreseeable future. Petitioner was granted protection from being removed to Mexico in the form of withholding of removal by the San Francisco Immigration Court in or around 2018. That grant is a legally binding determination that ICE may not remove him to Mexico. Because no other country has been designated as a country of removal, there is no significant likelihood of removal in the reasonably foreseeable future. Courts across the country have ordered the release of noncitizens where ICE cannot demonstrate that removal is significantly likely. *See N.D.N. v. Bondi*, No. 1:25-CV-01587-DAD-CKD, 2025 WL 3251102, at *4 (E.D. Cal. Nov. 21, 2025) (finding that the respondents failed to show a significant likelihood of removal where the respondents provided no evidence as to why removal could not previously be effectuated nor why it was more likely to be effectuated now); *Tran*, 2025 WL 3268491, at *3; *Vu*, 2025 WL 3114341, at *7; *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025); *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 152 (D. Mass. 2025).

52. As a court in this district recently explained, these third-country removal procedures are grounds for granting a TRO. *Ffriend* v. *Albarran*, No. 26-CV-03942-WHO, 2026 WL 1196635, at *4 (N.D. Cal. May 2, 2026) ("Ffriend was only told that he was being processed for removal to Saint Kitts after being detained by ICE and transferred to San Francisco. TRO at 3. He was never provided notice or a pre-deprivation hearing—a de minimis burden to the

government. And the record does not provide any inclination that the government has any significant countervailing interest in removing him to Saint Kitts. Taken together, these facts all demonstrate that Ffriend was likely deprived of his procedural due process rights when not provided an opportunity to challenge his third country removal.").

53. As such, the revocation of Petitioner's order of supervision was also not in accordance with the INA and implementing regulations governing who may lawfully revoke an order of supervision and under what circumstances. Government agencies are required to follow their own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *Nat'l Ass'n of Home Builders v. Norton*, 340 F.3d 835, 852 (9th Cir. 2003). "Numerous district courts, including courts in the Ninth Circuit, have determined that where ICE fails to follow its own regulations in revoking release, the detention is unlawful and the petitioner's release must be ordered." *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG, 2025 WL 2898985, at *6 (S.D. Cal. Oct. 10, 2025) (citing cases). *See, e.g.*, *Phouvieng K.*, 2025 WL 3265504, at *4; *Yang v. Kaiser*, No. 2:25-CV-02205-DAD-AC (HC), 2025 WL 2791778, at *6 (E.D. Cal. Aug. 20, 2025); *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (W.D.N.Y. 2025); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387 (D. Mass. 2017).

54. Respondents' revocation of Petitioner's order of supervision violated the regulations and, accordingly, should be held unlawful and set aside because it was contrary to the agency's authority and not in accordance with the INA and implementing regulations.

FOURTH CAUSE OF ACTION
Violation of 8 U.S.C. § 1357(a)(2): Warrantless Arrests Without Probable Cause of Flight Risk

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

56. Respondents ICE arrested Petitioner without probable cause and without a proper warrant. Before 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).

57. As of the filing of this petition, Petitioner has yet to be served with a properly executed warrant for his arrest or proper notice of revocation of his order of supervision.

FIFTH CAUSE OF ACTION
Warrantless Arrest in Violation of the Fourth Amendment

58. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

59. 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).

60. Respondents ICE arrested Petitioners 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).

61. Petitioner was not presented with a signed warrant before or upon his arrest. An ICE officer only showed Petitioner a photo on his phone of a blank document that contained Petitioner's name which they claimed was an administrative warrant.

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

63. Arrest in violation of the regulation is 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).

FIFTH CAUSE OF ACTION
Fourth Amendment: Warrantless Arrest

64. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

65. The Fourth Amendment prohibits Respondents from arresting an individual for an immigration violation without probable cause.

66. Petitioner was arrested a block from his home when officers surrounded his parked car. They did not identify themselves nor state the reason for his arrest. Petitioner was not asked his identity before being arrested and detained by ICE.

67. Respondents ICE arrested Petitioner without probable cause or a properly executed arrest warrant.

SIXTH CAUSE OF ACTION
Failure to Identify Officers and Basis for Arrest in Violation of 8 C.F.R. § 287.8(c)(3))

68. Petitioners incorporate the allegations in the paragraphs above as though fully set forth here.

69. The regulations require arresting officers to identify themselves as "an immigration officer who is authorized to execute an arrest" and "state that the person is under arrest and the reason for the arrest." 8 C.F.R. § 287.8(c)(3).

70. Respondent ICE failed to identify themselves at the time of arrest and failed to inform Petitioner of the reasons for their arrest.

PRAYER FOR RELIEF

WHEREFORE, the Petitioner prays that this Court grant the following relief:

(1) Assume jurisdiction over the matter;

(2) Order the immediate release of Petitioner from DHS custody on the conditions of his prior OSUP;

(3) Enjoin ICE from re-arresting Petitioner unless and until the conditions in paragraph (4) are satisfied, including consideration of alternatives to detention as provided in paragraph (4)(a);

(4) Declare that Petitioner cannot be re-arrested unless and until he is afforded a hearing before a neutral adjudicator at which the government demonstrates

by clear and convincing evidence that their removal is reasonably foreseeable and that he is a danger or a flight risk;

a. At any such hearing, the neutral arbiter must consider whether, in lieu of incarceration, alternatives to detention exist to mitigate any risk established by the government;

(5) Order that Petitioner cannot be removed to any third country without first being provided constitutionally compliant procedures, including:

a. Written notice to Petitioner and counsel of the third country to which he may be removed, in English, provided at least twenty-one (21) days before any such removal;

b. A meaningful opportunity for Petitioner to raise eligibility for protection under the Convention Against Torture, including a reasonable fear interview before a DHS officer;

c. If Petitioner demonstrates a reasonable fear during the interview, DHS must move to reopen his underlying removal proceedings so that he may apply for relief under the Convention Against Torture;

(6) If it is found that Petitioner does not demonstrate a reasonable fear during the interview, a meaningful opportunity, and a minimum of sixty (60) days, for Petitioner to seek to move to reopen his underlying removal proceedings to challenge potential third country removal;

(7) Award reasonable costs and attorney fees; and

(8) Grant such further relief as the Court deems just and proper.

Dated: October 19, 2026

Respectfully submitted,

/s/ Meredith D. Sullivan

Meredith D. Sullivan
Pro Bono Attorney for Petitioner