

**Instructions: Pro Se Habeas Petition for Certain People Detained by ICE in Golden State Annex, Mesa Verde, California City, or Central Valley Annex**

**I. What is the purpose of this guide?**

This guide is designed to assist people detained by Immigration and Customs Enforcement (ICE) who do not have a lawyer to complete and file a “petition for writ of habeas corpus.” “Habeas corpus” is a right protected by the Constitution and by federal statute that allows individuals to challenge their detention or imprisonment as unlawful.<sup>1</sup>

**II. Who is this guide for?**

**If you answer “Yes” to either of the following questions, this guide is designed to assist you to challenge your detention by ICE and to request release from immigration detention:**

1. Before your current detention, were you ever:
  - a. In immigration custody (even for a very short amount of time, such as near the border) and
  - b. Released on bond, parole, or on your own recognizance?

**OR**

2. If this is your first time in immigration custody, did the Department of Homeland Security (DHS) know about you while you were living in the United States because:
  - a. You submitted an immigration benefit application to United States Citizenship and Immigration Services (USCIS),
  - b. You were on a check-in schedule with ICE or Intensive Supervision Appearance Program (ISAP),
  - c. You attended an immigration court hearing, or
  - d. Something similar?

If you **cannot** answer “Yes” to **question 1 or 2** above, then you may need a different habeas petition template to challenge your detention by ICE.

**III. What does “Pro Se” mean?**

“Pro se” is Latin for “on one’s own behalf.” If you file this petition in court on your own without the assistance of a lawyer, you will be proceeding as a *pro se* petitioner. Most habeas petitions are filed *pro se* because there is no constitutional right to a lawyer in a habeas case. This guide is designed to help you file a petition for habeas corpus without the assistance of an attorney.

---

<sup>1</sup> U.S. Const. art. I, § 9, cl. 2 (“The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.”); 28 U.S.C. § 2241.

#### IV. In which court do I file?

This *pro se* guide is intended for individuals currently detained in one of the following ICE detention facilities:

- Mesa Verde (Bakersfield, CA)
- Golden State Annex (McFarland, CA)
- California City (California City, CA)
- Central Valley Annex (McFarland, CA)

If you are detained in one of these facilities, you must file your petition for habeas corpus in federal court in the United States District Court for the Eastern District of California.

#### V. How do I file a habeas petition?

- Prepare the Petition.** Fill out the attached **Petition for Writ of Habeas Corpus**. You must complete it in English. You must sign and date the petition, declarations, and any motions you submit to the court.
  - ❖ Unlike the papers you file in immigration court, habeas proceedings and decisions are **NOT** confidential. Information you put into the habeas petition may become accessible to the public.
- Prepare all other forms you will submit.**
  - If you would like to ask the Court to appoint a free lawyer for you, fill out the included **Motion for Appointment of Counsel**. The Court may or may not grant your request.
  - If you cannot afford the \$5.00 filing fee and/or want to be considered for a free lawyer, you must submit the included **Application and Declaration to Proceed *In Forma Pauperis***. “In forma pauperis” is Latin and means you are financially unable to pay the fees associated with a lawsuit. If you submit the application, **do not** pay the filing fee. The Court may or may not grant your request.
  - If you want to receive a judge’s attention on your habeas claims as quickly as possible, fill out and submit:
    - Motion for Temporary Restraining Order (TRO), including**
      - Declaration of Petitioner in Support of TRO** (included at pages iii–vii of the Motion for TRO). To correctly fill out paragraph 4, you must follow all the instructions provided within the declaration.
      - [PROPOSED] Temporary Restraining Order & Order to Show Cause**
      - TRO Checklist:** The TRO Checklist is already prepared for you. You must submit it with the rest of your TRO papers, but you do not need to write anything on the form.

- Filing fee.** Prepare the filing fee of \$5.00 in the form of a check, cashier's check, or money order made out to "Clerk, U.S. District Court." If you cannot pay, or if you want to be considered for a free lawyer, fill out and submit the included **Application and Declaration to Proceed *In Forma Pauperis***, mentioned above.
- Submit documents to the Court.** Mail at least **one copy** of your petition, all other forms you intend to submit, and the filing fee (unless you have filed an application to proceed *in forma pauperis*), to the address below.

Office of the Clerk  
United States District Court for the Eastern District of California  
2500 Tulare Street, 1st Floor, Room 1501  
Fresno, CA 93721  
ATTN: Pro Se Immigration Habeas Petition

- ❖ If you would like court-stamped copies of your petition and other forms, enclose:
  - an extra copy of each filing,
  - a self-addressed and stamped return envelope, and
  - a cover sheet asking the Court to file-stamp and return copies to you.
- ❖ Keep one extra copy of the entire filing for your records.
- ❖ **Note:** Unlike in some other legal matters, you do **not** have to mail a paper copy of your filings to opposing counsel for a habeas petition in the Eastern District of California. Instead, the court clerk will serve the government for you.
- Change of address.** If your contact information changes, you must write to the Court to let them know. This includes if ICE transfers you to another detention facility, or you are released from detention and have a new address. Informing the Court of your new address ensures all case filings will be sent to the correct mailing address.

When you inform the Clerk's Office of your new address, include your full name and case number so they know who you are. Failure to keep a current address on file with the Clerk's Office could result in dismissal of your habeas petition.

## VI. How should I fill out the habeas petition and other papers for filing?

- Provide detailed information to the best of your ability.
- On every caption (cover) page, write your full name, A#, mailing address, and the name of the facility where you are detained in the spaces indicated.

- In the provided templates for a habeas petition, TRO, and any other motions you plan to file, fill in the blanks to the best of your ability. If needed, you may use additional pages to add more facts and information you want the court to know.
- Sign and date all documents in the blanks indicated.
- ❖ **Important:** The habeas court will assign you a “case number” *after* they receive your initial filings. You do *not* need to write a case number on anything until the court tells you what your case number is.
- ❖ **After** the court assigns you a case number, you ***must write the case number on every document you file***, so the court can keep track of what filings belong to your case.

## VII. What happens next?

- ✓ **Your case will be assigned to a judge.** The judge may be a “district judge” or a “magistrate judge.” A magistrate judge has the authority to handle certain federal cases, if the parties agree. You and the government can “consent to” or “decline” the magistrate judge. If neither party “declines,” the magistrate judge will be in charge of your case.
  - If either you or the government “declines,” the magistrate judge will make a “recommendation” about your case that will be reviewed and decided by a district judge. If you or the government disagrees with the magistrate judge’s “recommendation,” both sides will have an opportunity to file arguments and ask the district judge to make a different decision.
  - The judge assigned to your case—whether that is a district judge or magistrate judge—will decide your **motion to appoint counsel** and/or **motion to proceed *in forma pauperis***, if you filed them. The judge could decide these motions early in your case, or they may not decide them for a while. Unfortunately, here is no strict timeline. If the judge grants your motion to appoint counsel, it could take 1 to 2 weeks for an attorney to be assigned. Your assigned attorney should contact you. You can also call the Clerk’s Office to ask if an attorney has been assigned to your habeas petition, and request their contact information. You can call the Clerk’s Office at **916-930-4000** or **866-884-5525**.
- ✓ **ICE will have a chance to respond** to your petition and/or motion for a temporary restraining order (TRO). After you receive the government’s opposition, you can file an optional “reply” to respond to the government’s filing.

- ✓ **If ICE moves you to a different detention facility while your habeas petition is pending,** make sure to inform the habeas court by writing to the Clerk’s Office, as described above in the “Change of address” section. The judge will keep your case, even if ICE transfers you somewhere else.
  
- ✓ **The judge may take several weeks or months to make a decision.** If the judge grants your petition or TRO, the judge may release you immediately, or they may order the government to provide you a bond hearing before an Immigration Judge within a certain period of time.
  - If the judge orders that you must receive a bond hearing, they might say that it must happen very quickly, such as within one or two weeks of their order. Therefore, it is important for you to start gathering evidence for a bond hearing while you are waiting for your habeas petition to be ruled upon. Preparing for a bond hearing is outside the scope of this guide, but, in general, you should focus on collecting evidence that you (1) are not a “flight risk” (e.g. evidence of a stable address, community or religious ties, family in the area, children in school, work history and/or plans, tax filings, etc.); and (2) are not a “danger to the community.” For a more detailed guide on how to prepare for a bond hearing, try asking a legal services provider or a loved one outside to print the following guide for you, which is from a trusted partner organization: <https://firrp.org/wp-content/uploads/2022/09/Bond-Guide-2013.pdf>.
  
  - If the judge orders that you should be released immediately, the judge might also say that, once you are home, DHS can ask an outside (non-detained) immigration court to schedule a bond hearing to decide if you can be taken back into detention. Preparing for this type of bond hearing is also outside the scope of this guide, but the partner resource linked above would also be helpful in case your habeas petition results in your release, but DHS later schedules you for a bond hearing while you are outside to try to re-detain you.
  
- ✓ **If you are released, you should consult with a trusted immigration attorney as soon as possible** for advice about your immigration court case (if any) and any potential bond hearing that could take place while you are outside.

*This Pro Se Habeas Packet was created by immigration and immigrants' rights advocates in northern and central California, including the American Civil Liberties Union Foundation of Northern California (ACLU NorCal) and the California Collaborative for Immigrant Justice (CCLJ). The guide is for informational purposes only and does not contain legal advice.*

*This habeas packet was last updated in **June 2026**.*

**Instrucciones: Petición de hábeas corpus presentada por derecho propio para determinadas personas detenidas por ICE en Golden State Annex, Mesa Verde, California City o Central Valley Annex**

**I. ¿Cuál es el propósito de esta guía?**

Esta guía está diseñada para ayudar a las personas detenidas por el Servicio de Inmigración y Control de Aduanas (ICE, por sus siglas en inglés) que no tienen a un abogado para completar y presentar una “petición de auto de habeas corpus”. El “habeas corpus” es un derecho protegido por la Constitución y las leyes federales que permite que los individuos impugnen su detención o encarcelamiento por considerarlo ilícito.<sup>1</sup>

**II. ¿Para quién es esta guía?**

**Si usted responde “Sí” a cualquiera de las siguientes preguntas, esta guía ha sido diseñada para ayudarle a impugnar su detención por ICE y solicitar liberación de la detención migratoria:**

1. Antes de su detención actual, alguna vez:
  - a. ¿Estuvo bajo custodia migratoria (aunque haya sido por un período muy breve, por ejemplo, cerca de la frontera), y
  - b. Fue puesto(a) en libertad bajo fianza, libertad condicional (parole) o libertad bajo caución?

**Q**

2. Si esta es la primera vez que usted se encuentra bajo custodia migratoria, ¿el Departamento de Seguridad Nacional (DHS) supo de usted mientras vivía en los Estados Unidos porque:
  - a. Presentó una solicitud de beneficio migratorio al Servicio de Ciudadanía e Inmigración de EE. UU. (USCIS),
  - b. Estaba sujeto a un programa de presentaciones periódicas ante ICE o al Programa de Supervisión Intensiva de Comparecencias (ISAP),
  - c. Asistió a una audiencia ante un tribunal de inmigración, o
  - d. ¿Algo similar?

Si **no puede** responder “Sí” a la **pregunta 1 o 2** anterior, es posible que necesite un modelo diferente de petición de habeas corpus para impugnar su detención de ICE.

---

<sup>1</sup> Artículo I, párrafo 9 cláusula 2 de la Constitución de EE. UU. (“El privilegio del auto de habeas corpus no se suspenderá, excepto en los casos en los que la seguridad pública lo requiera por una rebelión o invasión”.); artículo 2241, Título 28 del Código de EE. UU.

### III. ¿Qué significa “pro se”?

Las palabras “pro se” están en latín y significan “en nombre propio”. Si presenta esta petición ante el tribunal por su cuenta y sin la asistencia de un abogado, actuará como peticionario *pro se* (en representación propia). La mayoría de las peticiones de habeas se presentan *pro se* porque no existe el derecho constitucional de contar con un abogado en un caso de habeas. Esta guía está diseñada para ayudarle a presentar una petición de habeas corpus sin la asistencia de un abogado.

### IV. ¿En qué tribunal debo presentar la petición?

Esta guía pro se está dirigida a las personas que actualmente se encuentran detenidas en uno de los siguientes centros de detención de ICE:

- Mesa Verde (Bakersfield, CA)
- Golden State Annex (McFarland, CA)
- California City (California City, CA)
- Central Valley Annex (McFarland, CA)

Si usted está detenido en uno de estos centros, debe presentar su petición de habeas corpus en el tribunal federal del Tribunal de Distrito de EE. UU. del Distrito Este de California.

### V. ¿Cómo presento una petición de habeas?

- Prepare la petición.** Complete la **petición de auto de habeas corpus**. Debe completarla en inglés. Debe firmar y fechar la petición, las declaraciones y cualquier moción que presente ante el tribunal.
  - ❖ A diferencia de los documentos que presenta ante el tribunal de inmigración, los procedimientos y las decisiones relacionados con el habeas corpus **NO** son confidenciales. La información que incluya en la petición de habeas corpus puede ser accesible al público.
- Prepare todos los demás formularios que presentará.**
  - Si desea pedirle al tribunal que nombre a un abogado gratuito para usted, complete la **moción para el nombramiento de un abogado (Motion for Appointment of Counsel)** incluida. El tribunal puede otorgar o denegar su solicitud.
  - Si no puede pagar la cuota de presentación de \$5.00 y/o desea que se considere la posibilidad de asignarle un abogado gratuito, debe presentar la **solicitud y declaración de proceder in forma pauperis** que se incluye. “In forma pauperis” es una expresión latina que significa que usted carece de los recursos económicos para pagar las cuotas y los costos asociados con una demanda judicial. Si presenta la solicitud, **no pague** la cuota de presentación. El tribunal puede otorgar o denegar su solicitud.
  - Si desea que un juez examine sus reclamaciones de habeas corpus lo más pronto posible, complete y presente los siguientes documentos:

- Moción de orden de restricción temporal (Temporary Restraining Order o TRO)**, que incluye:
  - Declaración del peticionario en apoyo de la TRO** (incluida en las páginas iii–vii de la moción de TRO). Para completar correctamente el párrafo 4, debe seguir todas las instrucciones incluidas en la declaración.
  - Orden de restricción temporal [PROPUESTA] y orden de fundamentar la causa (Order to Show Cause)**
  - Lista de verificación de la TRO:** La lista de Verificación de la TRO ya ha sido preparada para usted. Debe presentarla junto con los demás documentos de la TRO, pero no necesita escribir nada en el formulario.
  
- Cuota de presentación:** Prepare la cuota de presentación de \$5.00 con un cheque personal, cheque de caja (cashier’s check) o giro postal, pagadero a nombre de “Clerk, U.S. District Court”. Si no puede pagarla, o si desea que se considere la posibilidad de asignarle un abogado gratuito, complete y presente la **solicitud y declaración de proceder *in forma pauperis*** mencionada anteriormente.
  
- Presente los documentos al tribunal.** Envíe por correo al menos **una copia** de su petición, todos los demás formularios que tenga previsto presentar y la cuota de presentación (a menos que haya presentado una solicitud para proceder *in forma pauperis*) a la dirección indicada a continuación.

Office of the Clerk (Oficina del secretario del tribunal)

United States District Court for the Eastern District of California

2500 Tulare Street, 1st Floor, Room 1501

Fresno, CA 93721

ATTN: Pro Se Immigration Habeas Petition (Petición de habeas corpus migratorio presentada por derecho propio)

- ❖ Si desea copias selladas por el tribunal de su petición y otros formularios, adjunte:
  - una copia adicional de cada presentación,
  - un sobre con su dirección y franqueo (estampillas) pagado, y
  - una hoja de presentación solicitando al tribunal que selle las copias con la fecha de presentación y se las devuelva.
  
- ❖ Guarde una copia adicional de todo el paquete para sus propios registros.
  
- ❖ **Nota:** A diferencia de lo que ocurre en algunos otros asuntos legales, para una petición de habeas corpus en el Distrito Este de California usted **no tiene** que enviar por correo una copia impresa de sus escritos a la parte contraria. En su lugar, el secretario del tribunal le enviará los documentos al gobierno en nombre de usted.
  
- Cambio de dirección.** Si su información de contacto cambia, debe escribir al tribunal para avisarle. Esto incluye situaciones en las que ICE lo traslada a otro centro de detención, o cuando es puesto en libertad y tiene una nueva dirección. Informar al tribunal de su nueva

dirección garantiza que todos los documentos presentados en el caso se envíen a la dirección postal correcta.

Cuando informe a la oficina del secretario del tribunal sobre su nueva dirección, incluya su nombre completo y el número de caso para que puedan identificarlo. No mantener la dirección actualizada en los registros de la oficina del secretario del tribunal puede causar la desestimación de su petición de habeas corpus.

## VI. ¿Cómo debo completar la petición de habeas corpus y los otros documentos para presentar?

- Provea la información más detallada que tenga disponible.
- En cada página de carátula, escriba su nombre completo, número A#, dirección postal y el nombre del centro donde se encuentra detenido(a) en los espacios indicados.
- En los modelos proporcionados para la petición de habeas corpus, la TRO y cualquier otra moción que tenga previsto presentar, complete los espacios en blanco lo mejor que pueda. Si es necesario, puede utilizar páginas adicionales para incluir más hechos e información que desee que el tribunal conozca.
- Firme y feche todos los documentos en los espacios en blanco indicados.
- ❖ **Importante:** El tribunal de habeas le asignará un “número de caso” *después* de recibir la presentación inicial. *No es necesario* que escriba un número de caso en ningún documento hasta que el tribunal le diga cuál es su número de caso.
- ❖ **Después** de que el tribunal le asigne un número de caso, ***debe escribir ese número de caso en todos los documentos que presente***, para que el tribunal pueda hacer un seguimiento de las presentaciones que corresponden a su caso.

## VII. ¿Qué pasará después?

- ✓ **Su caso le será asignado a un juez.** El juez puede ser un “juez de distrito” o un “magistrado”. Un juez magistrado tiene la autoridad necesaria para manejar ciertos casos federales, si las partes están de acuerdo. Usted y el gobierno pueden “aceptar” o “rechazar” al juez magistrado. Si ninguna de las partes “rechaza” al juez magistrado, este quedará a cargo de su caso.
  - Si usted o el gobierno “rechazan” al juez magistrado, este hará una “recomendación” sobre su caso que será revisada y decidida por un juez de distrito. Si usted o el gobierno no están de acuerdo con la “recomendación” del juez magistrado, ambas partes tendrán

oportunidad de presentar argumentos y solicitar al juez de distrito que tome una decisión diferente.

- El juez asignado a su caso, ya sea un juez de distrito o un juez magistrado, decidirá su **moción para el nombramiento de un abogado y/o su moción para proceder *in forma pauperis***, si usted las presentó. El juez puede decidir estas mociones en una etapa temprana de su caso, o no decidir las durante algún tiempo. Lamentablemente, no existe un plazo fijo para ello. Si el juez concede su moción para el nombramiento de un abogado, podría tomar entre una y dos semanas que se le asigne un abogado. El abogado que se le asigne deberá comunicarse con usted. También puede llamar a la oficina del secretario del tribunal para preguntar si se ha asignado un abogado a su petición de habeas corpus y solicitar su información de contacto. Puede llamar a la oficina del secretario del tribunal al **916-930-4000** o al **866-884-5525**.
- ✓ **ICE tendrá una oportunidad de responder** a su petición y/o a su moción de orden de restricción temporal (TRO). Después de recibir la oposición presentada por el gobierno, usted puede presentar una “respuesta” opcional para responder al escrito del gobierno.
- ✓ **Si ICE lo traslada a otro centro de detención mientras su petición de habeas corpus está pendiente**, asegúrese de informar al tribunal que está tramitando su petición de habeas corpus escribiendo a la oficina del secretario del tribunal, tal como se describe anteriormente en la sección “Cambio de dirección”. El juez conservará su caso, incluso aunque ICE lo traslade a otro lugar.
- ✓ **El juez puede tardar varias semanas o varios meses en emitir una decisión.** Si el juez concede su petición o su TRO, puede ordenar su liberación inmediata o disponer que el gobierno le proporcione una audiencia de fianza ante un juez migratorio dentro de un plazo determinado.
  - Si el juez ordena que se le conceda una audiencia de fianza, puede establecer que esta se lleve a cabo muy rápidamente, por ejemplo, dentro de una o dos semanas a partir de la fecha de la orden. Por lo tanto, es importante que comience a reunir pruebas para una audiencia de fianza mientras espera que se resuelva su petición de habeas corpus. La preparación para una audiencia de fianza queda fuera del alcance de esta guía; sin embargo, en términos generales, debe concentrarse en reunir pruebas de que (1) usted no representa un “riesgo de fuga” (por ejemplo, pruebas de una dirección estable, vínculos comunitarios o religiosos, familiares en la zona, hijos matriculados en la escuela, historial laboral y/o planes de empleo, declaraciones de impuestos, etc.); y (2) no representa un “peligro para la comunidad”. Para obtener una guía más detallada sobre cómo prepararse para una audiencia de fianza, solicite a un proveedor de servicios legales o a un ser querido que se encuentre fuera del centro de detención que imprima para usted la siguiente guía, elaborada por una organización asociada de confianza: <https://firrp.org/wp-content/uploads/2022/09/Bond-Guide-2013.pdf>.

- Si el juez ordena que usted sea puesto(a) en libertad de inmediato, también puede indicar que, una vez que se encuentre en su domicilio, el DHS puede solicitar a un tribunal migratorio externo (es decir, un tribunal donde las personas no están detenidas) que programe una audiencia de fianza para decidir si usted puede volver a ser detenido. La preparación para este tipo de audiencia de fianza también queda fuera del alcance de esta guía; sin embargo, el recurso asociado mencionado anteriormente también sería útil en caso de que su petición de habeas corpus resulte en su liberación, pero el DHS programe posteriormente una audiencia de fianza mientras usted se encuentra fuera del centro de detención para tratar de volver a detenerlo.
- ✓ **Si es puesto(a) en libertad, debe consultar con un abogado de inmigración de confianza lo antes posible** para recibir asesoramiento sobre su caso ante el tribunal migratorio (si lo hay) y sobre cualquier posible audiencia de fianza que pudiera llevarse a cabo mientras usted se encuentre fuera del centro de detención.

*Este paquete pro se de habeas corpus fue elaborado por defensores de inmigración y de los derechos de los inmigrantes del norte y centro de California, incluyendo la American Civil Liberties Union Foundation of Northern California (ACLU NorCal) y la California Collaborative for Immigrant Justice (CCIJ). Esta guía es solo para propósitos informativos y no contiene asesoramiento legal.*

*Este paquete de habeas fue actualizado por última vez en **junio de 2026**.*

1 Name / Nombre: \_\_\_\_\_

2 A Number / Número A: \_\_\_\_\_

3 Address / Dirección: \_\_\_\_\_

4 \_\_\_\_\_

6 ***PRO SE***

7 **UNITED STATES DISTRICT COURT**  
8 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

10 \_\_\_\_\_

11 [Full Name / Nombre Completo]

13 Petitioner,

14 v.

15 Current or Acting Warden of \_\_\_\_\_

16 ICE Detention Facility [*write/escrība Mesa*  
17 *Verde, Golden State Annex, California City,*  
18 *or Central Valley Annex*], Current or Acting  
19 Field Office Director, San Francisco Field  
20 Office, United States Immigration and  
21 Customs Enforcement; Current or Acting  
22 Director, United States Immigration and  
23 Customs Enforcement; Current or Acting  
24 Secretary, United States Department of  
25 Homeland Security; and Current or Acting  
26 United States Attorney General,

23 Respondents.

Case No. \_\_\_\_\_

**Petition for Writ of Habeas Corpus  
(Immigration Detention)**

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

2 **INTRODUCTION**

3 1. Petitioner is currently detained by Immigration and Customs Enforcement (“ICE”)  
4 at \_\_\_\_\_ [write the name of the detention center where you  
5 are detained // *escriba el nombre del centro de detención donde está detenido*] Detention Center.  
6 ICE alleges Petitioner is a citizen of the country (or countries) \_\_\_\_\_  
7 [write the country or countries where ICE alleges you have citizenship // *escriba el país o los*  
8 *países donde ICE alega que tiene ciudadanía*].

9 2. Petitioner has been detained in immigration custody since approximately  
10 \_\_\_\_\_ [write the approximate date when ICE  
11 arrested and detained you for your current detention // *escriba la fecha aproximada en que ICE lo*  
12 *arrestó y detuvo para esta detención actual*].

13 3. Prior to Petitioner’s current, ongoing detention, Petitioner lived in  
14 \_\_\_\_\_ [city, state // *ciudad, estado donde*  
15 *vivía antes de su detención actual*]. Respondents Department of Homeland Security (DHS) and/or  
16 its component agencies, including ICE, Customs and Border Patrol (CBP), and/or U.S. Citizenship  
17 and Immigration Services (USCIS) knew about Petitioner. Respondents had previously  
18 encountered Petitioner and had chosen to release Petitioner and/or allow them to remain non-  
19 detained, upon a determination that Petitioner was neither dangerous nor a flight risk.

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

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

26 6. Immigration detention is civil. It is permissible for only two reasons: to ensure a  
27 noncitizen’s appearance at immigration hearings and to prevent danger to the community.  
28 Petitioner’s arrest cannot be explained by either justification: Respondents previously determined

1 that Petitioner is neither dangerous nor a flight risk, and Petitioner’s conduct while free confirmed  
2 Respondents’ determination was correct.

3 7. The Constitution protects Petitioner, like all noncitizens, from arbitrary  
4 deprivations of liberty. The Constitution also guarantees Petitioner due process of law. The  
5 government’s power over immigration is broad, but it “is subject to important constitutional  
6 limitations.” *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). “Freedom from bodily restraint has  
7 always been at the core of the liberty protected by the Due Process Clause from arbitrary  
8 governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

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

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

16 10. Furthermore, Petitioner may be a member of the certified class in *Garro Pinchi v.*  
17 *Noem*, 813 F. Supp. 3d 973 (N.D. Cal. 2025). That litigation challenges DHS’s new policy of re-  
18 detaining class members despite no change in their individual circumstances as to their  
19 dangerousness or flight. *Garro Pinchi* found that DHS adopted that new re-detention policy in or  
20 around May 2025, and held the policy is likely unlawful under the Administrative Procedure Act  
21 (APA). *Id.* at 995–96, 1036. The court granted “Plaintiffs’ motion to stay DHS’s re-detention  
22 policy pending final resolution of their APA claims,” and “postpone[d] the effective date of the  
23 re-detention policy within ICE’s San Francisco Area of Responsibility until the entry of a final  
24 judgment in this action.” *Id.* at 1040.

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

28 12. Petitioner’s arrest and detention have caused them ongoing, irreparable harm.

1 Every additional day Petitioner spends unlawfully detained subjects them to compounding harm.

2 13. Petitioner is entitled to immediate release.

3 14. Petitioner respectfully requests a writ of habeas corpus ordering the government to  
4 immediately release them from their unlawful detention. To preserve this Court’s jurisdiction,  
5 Petitioner further requests an order prohibiting Respondents from transferring them outside the  
6 District or deporting them for the duration of this habeas proceeding.

7 **JURISDICTION**

8 15. Petitioner is detained by Respondents at \_\_\_\_\_  
9 [*escriba el nombre del centro de detención donde está detenido*] Detention Center.

10 16. This action arises under the Due Process Clause of the Fifth Amendment to the U.S.  
11 Constitution. Jurisdiction is proper under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651  
12 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), 28 U.S.C. § 2241 (habeas  
13 corpus), Article I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause), and the Due Process  
14 Clause of the Fifth Amendment.

15 **VENUE**

16 17. Venue is proper in this district and division pursuant to 28 U.S.C. §§ 2241(a) and  
17 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district, Petitioner’s  
18 immediate physical custodian is in this district, at least one Respondent is in this district, and a  
19 substantial part of the events giving rise to the claims in this action took place in this district.

20 **REQUIREMENTS OF 28 U.S.C. § 2243**

21 18. The Court should grant the petition for writ of habeas corpus “forthwith,” as  
22 Petitioner’s unlawful detention constitutes compounding and irreparable harm. 8 U.S.C. § 2243.

23 19. Furthermore, to the extent Petitioner is a member of the *Garro Pinchi* class, the  
24 legal issues have already been resolved for *Garro Pinchi* class members.

25 20. Habeas corpus is “perhaps the most important writ known to the constitutional law  
26 . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or  
27 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). “The application for the writ usurps the  
28

1 attention and displaces the calendar of the judge or justice who entertains it and receives prompt  
2 action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120  
3 (9th Cir. 2000) (citation modified).

4 **PARTIES**

5 21. Petitioner is a noncitizen currently civilly detained by Respondents.

6 22. Respondent Warden or Acting Warden of \_\_\_\_\_  
7 [*escriba el nombre del centro de detención donde está detenido*] Detention Facility is the Facility  
8 Administrator of the detention center where Petitioner is detained, a private, for-profit detention  
9 facility that contracts with ICE to detain individuals suspected of civil immigration violations.  
10 Respondent Warden or Acting Warden is Petitioner’s immediate physical custodian and is sued in  
11 their official capacity.

12 23. Respondent Acting or Current Field Office Director of the San Francisco ICE Field  
13 Office is responsible for the administration of immigration laws and the execution of immigration  
14 enforcement and detention policy within ICE’s San Francisco Area of Responsibility, including  
15 Petitioner’s detention. Respondent maintains an office and regularly conducts business in this  
16 District. Respondent Acting or Current Field Office Director is a legal custodian of Petitioner and  
17 is sued in their official capacity.

18 24. Respondent Acting or Current Director of ICE is responsible for the administration  
19 and enforcement of the immigration laws of the United States; routinely transacts business in this  
20 District; and is legally responsible for any effort to detain and/or remove Petitioner. ICE’s policies,  
21 practices, and procedures, including those relating to the detention of immigrants. Respondent  
22 Acting or Current ICE Director is a legal custodian of Petitioner and is sued in their official  
23 capacity.

24 25. Respondent Acting or Current Secretary of DHS has ultimate authority over DHS.  
25 In that capacity and through their agents, Respondent has broad authority over and responsibility  
26 for the operation of the immigration laws; routinely transacts business in this District; and is legally  
27 responsible for pursuing any effort to detain and/or remove Petitioner. Respondent Acting or  
28 Current DHS Secretary is a legal custodian of Petitioner and is sued in their official capacity.



1 (re-detention after release on probation requires pre-deprivation hearing); *Morrissey v. Brewer*,  
2 408 U.S. 471 (1972) (same, for parole); *see also Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir.  
3 1982) (returning to prison a person even *mistakenly* released on parole would violate due process).

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

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

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

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

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

1 non-punitive purposes for immigration detention: ensuring a noncitizen’s appearance at  
2 immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–  
3 92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

4 36. *Finally*, the Fourth Amendment prohibits law enforcement, including immigration  
5 officers, from re-arresting people who have been previously arrested absent a new intervening  
6 cause. *Saravia*, 280 F. Supp. at 1196. Immigration authorities may not conduct re-arrests without  
7 new probable cause so as to avoid “harassment by continual rearrests.” *United States v. Holmes*,  
8 452 F.2d 249, 261 (7th Cir. 1971) (Stevens, J.) (prohibiting re-arrest without change in  
9 circumstances in criminal context); *see also U.S. v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975)  
10 (applying Fourth Amendment principles from criminal context to “limit” scope of immigration  
11 agents’ seizure authority); *Gonzalez v. ICE*, 975 F.3d 788, 817 (9th Cir. 2020) (Fourth Amendment  
12 limits apply equally to seizures in criminal and civil immigration context).

### 13 STATEMENT OF FACTS

#### 14 **A. *ICE Begins Arresting and Detaining Noncitizens Previously Released or Previously*** 15 ***Permitted To Live in the Community, Without Any Materially Changed Circumstances***

16 37. The Immigration and Nationality Act and implementing regulations govern  
17 Respondents’ authority to detain or release noncitizens pending removal proceedings. Release is  
18 available only after an immigration agent or immigration judge (IJ) first determines that a  
19 noncitizen is neither a flight risk nor a danger to the community. *See, e.g.*, 8 C.F.R. §§ 212.5(b),  
20 236.1(c)(8), 1236.1(c)(8); 8 U.S.C. § 1226(c)(4); *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA  
21 1981); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub nom. Saravia*  
22 *for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

23 38. Moreover, the authority to arrest is always subject to the Fourth Amendment’s  
24 requirement of probable cause.

25 39. For more than 40 years, Respondents’ practice was to arrest and detain noncitizens  
26 who had been released or whom Respondents had previously allowed to live in the community,  
27 only *after* making an individualized determination that the noncitizen’s circumstances had  
28 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.

1           40.     In the second Trump administration, that changed. Respondents began arresting and  
2     detaining noncitizens who had been previously released or whom Respondents had previously  
3     permitted to live in the community, without first making any individualized determination of  
4     changed circumstances. Many of these arrests occurred without notice, after noncitizens appeared  
5     for removal proceedings at immigration courthouses, check-ins with ICE or ICE’s Intensive  
6     Supervision Appearance Program (ISAP), or scheduled immigration-related interviews. *See*  
7     *generally Garro Pinchi*, 813 F. Supp. 3d at 996.

8           41.     Dozens, if not hundreds, of federal courts in California have found these arrests and  
9     detentions are, or likely are, unconstitutional. *See, e.g., R.A.N.O. v. Wofford*, 820 F. Supp. 3d 1094,  
10    1105 (E.D. Cal. 2026) (E.D. Cal. Jan. 6, 2026); *Huang v. Albarran*, 818 F. Supp. 3d 1154, 1166  
11    (E.D. Cal. 2026); *Meneses v. Santacruz*, 811 F. Supp. 3d 1158, 1163 (C.D. Cal. 2025);  
12    *Kharitonova v. Albarran*, No. 3:26-CV-01362-JSC, 2026 WL 531441, at \*4 (N.D. Cal. Feb. 25,  
13    2026); *E.E.O.H. v. Noem*, No. 1:26-CV-01266-JLT-SAB, 2026 WL 850363, at \*5 (E.D. Cal. Mar.  
14    26, 2026), *report and recommendation adopted*, No. 1:26-CV-01266 JLT SAB, 2026 WL 967670  
15    (E.D. Cal. Apr. 9, 2026). This district has been flooded with such challenges, and judges have  
16    overwhelmingly concluded that Respondents’ new practice of arresting and detaining individuals  
17    without an individualized determination of materially changed circumstances violates the  
18    Constitution and the law.

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

21           42.     Petitioner last entered the United States on/around \_\_\_\_\_  
22    [*write the month and year when you most recently entered the United States. //escriba el mes y el*  
23    *año en que ingresó a los Estados Unidos más recientemente.*].

24           43.     [*Check the box that applies to you. // Marque la casilla que corresponda a su caso.*]:

25            Petitioner entered the United States without inspection by immigration agents.  
26           [*El/La peticionario/a ingresó a los Estados Unidos sin ser inspeccionado por*  
27           *agentes de inmigración antes de ingresar.*]

28            Petitioner entered the United States at a port of entry, such as an airport or a border

1 checkpoint, and an immigration agent permitted Petitioner to physically enter the  
2 country. [El/La *petionario/a* ingresó a los Estados Unidos por un puerto de  
3 entrada, tal como un aeropuerto o un puesto de control fronterizo, y un agente de  
4 inmigración le permitió ingresar físicamente al país.]

5 44. Petitioner settled into life in the United States. [El/La *petionario/a* se instaló en  
6 la vida en los Estados Unidos.]

7 Check **all** boxes that apply to you // Marque **todas** las casillas que correspondan a usted:

8  Petitioner rented or owned a home. [El/La *petionario/a* alquilaba o era  
9 propietario/a de una vivienda.]

10  Petitioner lived with their family or other loved ones. [El/La *petionario/a* vivía  
11 con su familia u otros seres queridos.]

12  Petitioner joined a religious community, such as a church, temple, or mosque.  
13 [El/La *petionario/a* se unió a una comunidad religiosa, tal como una iglesia, un  
14 templo o una mezquita.]

15  Petitioner worked regularly to provide for themselves. [El/La *petionario/a*  
16 trabajaba regularmente para mantenerse a sí mismo.]

17 Describe any work history while living in the U.S. // Describa cualquier  
18 historia laboral mientras residía en los EE. UU. \_\_\_\_\_

19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_

24  Petitioner bought or leased a car. [El/La *petionario/a* compró o arrendó un  
25 automóvil.]

26  Petitioner lived with and cared for their child (under 18 years old and/or adult child  
27 with a disability). [El/La *petionario/a* convivió con su hijo (menor de 18 años y/o  
28 hijo adulto con discapacidad) y lo/la cuidaba.]

- 1  Petitioner enrolled their child (under 18 years old) in daycare or school. [*El/La*  
2 *petionario/a inscribió a su hijo/a (menor de 18 años) en una guardería o escuela.*]
- 3  Petitioner enrolled themselves in school or other classes. [*El/La petionario/a se*  
4 *inscribió en la escuela u otras clases.*]
- 5  Petitioner volunteered regularly in the community. [*El/La petionario/a se ofrecía*  
6 *regularmente como voluntario/a en la comunidad.*]
- 7  Petitioner applied for immigration benefits, such as (circle all that apply) [*El/La*  
8 *petionario/a solicitó beneficios de inmigración, tales como (encierre en un*  
9 *círculo todos los que correspondan)*]: asylum, withholding, protection under the  
10 Convention Against Torture (CAT), Special Immigrant Juvenile Status (SIJS),  
11 Temporary Protected Status (TPS), U-visa, T-visa, family-based petition.

12 *Add any other immigration benefits you applied for. // Agregue cualquier*  
13 *otro beneficio migratorio que haya solicitado.]: \_\_\_\_\_*  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_

- 17  *Explain any other ways you and/or your loved ones settled into life in the United*  
18 *States that you want the Court to know. // Explique cualquier otra forma en que*  
19 *usted y/o sus seres queridos se adaptaron a la vida en los EE. UU. que desee poner*  
20 *en conocimiento del Tribunal.:* \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_

1           45. Respondents knew Petitioner was present in the United States and allowed  
2 Petitioner to remain at liberty. [*Los demandados sabían que el/la Peticionario/a se encontraba*  
3 *presente en los Estados Unidos y permitieron que permaneciera en libertad.*]

4           Check **all** boxes below that apply to you, and fill in any additional information. [*Marque*  
5 ***todas** las casillas siguientes que correspondan a su caso y complete cualquier información*  
6 *adicional.*]

7            Petitioner was previously arrested and detained by immigration agents (whether for  
8 a short or long time) and then released (for example: on bond, parole, own  
9 recognizance, etc.). [*El/La peticionario/a fue arrestado y detenido previamente por*  
10 *agentes de inmigración (ya sea por un periodo corto o largo) y posteriormente*  
11 *puesto en libertad (por ejemplo: bajo fianza, libertad condicional, bajo su propia*  
12 *palabra, etc.).*]

13                   Explain any further details you can provide, such as when you were  
14 previously arrested/detained and released, under what law/authority you were  
15 released, and any other details you know or can remember. [*Explique cualquier*  
16 *detalle adicional que pueda proporcionar, tales como cuándo fue*  
17 *arrestado/detenido y puesto en libertad anteriormente, bajo qué ley o autoridad fue*  
18 *puesto en libertad, y cualquier otro detalle que conozca o pueda recordar.*]: \_\_\_\_\_

---

---

---

---

---

24            Petitioner was required to check-in with ICE and/or ISAP, and attended *all* ICE  
25 and/or ISAP check-ins scheduled for them. [*Se requirió que el/la peticionario/a se*  
26 *presentara ante ICE y/o ISAP, y asistió a todas las presentaciones ante ICE y/o*  
27 *ISAP programadas para él/ella.*]

28                   Explain any further details you can provide, such as when you attended

1 check-ins, who you spoke to, and what happened at the check-ins. [*Explique*  
2 *cualquier detalle adicional que pueda proporcionar, tales como cuándo asistió a*  
3 *los controles, con quién habló y qué sucedió durante los mismos.*]: \_\_\_\_\_

4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10  Petitioner attended *most* ICE and/or ISAP check-ins scheduled for them. [*El/La*  
11 *petionario/a asistió a la mayoría de las presentaciones ante ICE y/o ISAP*  
12 *programadas para él/ella.*]

13 Explain any check-ins you missed, why, and anything you did to try and fix  
14 the mistake. [*Explica cualquier registro de entrada que hayas omitido, el motivo y*  
15 *cualquier medida que hayas tomado para intentar corregir el error.*]: \_\_\_\_\_

16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_  
23  Petitioner attended at least one ICE and/or ISAP check-ins scheduled for them.  
24 [*El/La petionario/a asistió a al menos una de las citas de registro programadas*  
25 *con ICE y/o ISAP.*]

26 Explain any check-ins you missed, why, and anything you did to try and fix  
27 the mistake. [*Explica cualquier registro de entrada que hayas omitido, el motivo y*  
28 *cualquier medida que hayas tomado para intentar corregir el error.*]: \_\_\_\_\_

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Petitioner attended every immigration court hearing scheduled for them. [*El/La petionario/a asistió a todas las audiencias ante el tribunal de inmigración programadas para él/ella.*]

Petitioner attended *most* immigration court hearings scheduled for them. [*El/La petionario/a asistió a la mayoría de las audiencias ante el tribunal de inmigración programadas para él/ella.*]

Explain any immigration court hearings you missed, why, and anything you did to try and fix the mistake. [*Explique cualquier audiencia ante el tribunal de inmigración a la que no asistió, el motivo y cualquier medida que haya tomado para intentar subsanar el error.*]: \_\_\_\_\_

Petitioner attended at least one immigration court date. [*El/La petionario/a asistió al menos a una fecha en el tribunal de inmigración.*]

Explain any further details you can provide, such as when you attended immigration court, what happened, and what you expected would happen next.

1 [Explique cualquier detalle adicional que pueda proporcionar, tales como cuándo  
2 asistió al tribunal de inmigración, qué sucedió y qué esperaba que ocurriera a  
3 continuación.]: \_\_\_\_\_

4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10  Petitioner submitted applications related to their immigration case to U.S.  
11 Citizenship and Immigration Services (USCIS) and/or the immigration court.  
12 [El/La petionario/a presentó solicitudes relacionadas con su caso de inmigración  
13 ante el Servicio de Ciudadanía e Inmigración de los Estados Unidos (USCIS) y/o  
14 el tribunal de inmigración.]

15 Explain any further details you can provide, such as what the applications  
16 were for, when you submitted them, what happened after you submitted them,  
17 whether you attended any interviews for them, and what you expected would  
18 happen next. [Explique cualquier detalle adicional que pueda proporcionar, tales  
19 como el propósito de las solicitudes, cuándo las presentó, qué sucedió después de  
20 enviarlas, si asistió a alguna entrevista relacionada con ellas y qué esperaba que  
21 ocurriera a continuación.]: \_\_\_\_\_

1  Petitioner provided immigration authorities with Petitioner’s home and/or mailing  
2 address. [*El/La peticionario/a proporcionó a las autoridades de inmigración su*  
3 *domicilio y/o dirección postal.*]

4  If Petitioner moved to a new home, Petitioner informed immigration authorities of  
5 every new home and/or mailing address. [*Si el/la Peticionario/a se mudó a un nuevo*  
6 *domicilio, informó a las autoridades de inmigración sobre cada nuevo domicilio*  
7 *y/o dirección postal.*]

8  If Petitioner moved to a new home, Petitioner informed immigration authorities of  
9 most of the new home and/or mailing addresses. [*Si el/la Peticionario/a se mudó a*  
10 *un nuevo domicilio, informó a las autoridades de inmigración sobre la mayoría de*  
11 *los nuevos domicilios y/o direcciones postales.*]

12 Explain any new home and/or mailing addresses you did not inform  
13 immigration authorities about, why, and anything you did to try and fix the mistake.  
14 [*Explique cualquier nuevo domicilio y/o dirección postal sobre el cual no haya*  
15 *informado a las autoridades de inmigración, el motivo de ello y cualquier medida*  
16 *que haya tomado para intentar subsanar el error.*]: \_\_\_\_\_

17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_

24  Petitioner was previously required to wear an ankle monitor and/or pay a bond to  
25 DHS. [*Anteriormente, se le exigió al/a la peticionario/a portar un monitor de*  
26 *tobillo y/o pagar una fianza al DHS.*]

27 Explain any further details you can provide, such as when you wore an ankle  
28 monitor and/or paid a bond. [*Explique cualquier detalle adicional que pueda*

1 *proporcionar, tal como cuándo llevó un monitor de tobillo y/o pagó una fianza.]:*

2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9  *Explain any other ways you know that DHS, ICE, CBP, and/or USCIS was aware*  
10 *of your presence in the United States prior to your current detention, that you want*  
11 *the Court to know. // Explique cualquier otra forma que usted conozca por la cual*  
12 *el DHS, el ICE, el CBP y/o el USCIS tuvieran conocimiento de su presencia en los*  
13 *EE. UU. con anterioridad a su actual detención, y que usted desee que el Tribunal*  
14 *conozca.: \_\_\_\_\_*  
15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_

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

25 47. In releasing Petitioner and/or allowing Petitioner to remain at liberty, Respondents  
26 necessarily determined that Petitioner was not a danger to the community. [*Check **all** boxes that*  
27 *apply to you. // Marque **todas** las casillas que correspondan a usted.]:*

28  Petitioner has no criminal record (no convictions) in the United States. [*El/La*

1            *petionario/a no tiene antecedentes penales (sin condenas) en los Estados*  
2            *Unidos.]*

3             Petitioner has not been convicted of any crimes since their most recent release from  
4            immigration custody. [*El/La petionario/a no ha sido condenado/a por ningún*  
5            *delito desde su liberación más reciente de la custodia de inmigración.]*

6             Petitioner has only a minimal criminal record (one or more convictions, but they are  
7            not serious) in the United States. [*El/La petionario/a tiene únicamente*  
8            *antecedentes penales mínimos (una o más condenas, pero estas no son graves) en*  
9            *los Estados Unidos.]*

10            Explain, including why your conviction(s) is/are not serious. [*Explique,*  
11            *incluyendo por qué su(s) condena(s) no es/son grave(s).]: \_\_\_\_\_*

---

---

---

---

---

---

---

---

19             Petitioner has one or more criminal conviction(s), which Respondents DHS, ICE,  
20            and/or CBP knew about. Even though Respondents knew about Petitioner's  
21            criminal record, they chose *not* to detain Petitioner. [*El/La Petionario/a cuenta*  
22            *con una o más condenas penales, de las cuales los Demandados DHS, ICE y/o CBP*  
23            *tenían conocimiento. A pesar de que los Demandados conocían los antecedentes*  
24            *penales del Petionario, optaron por no detenerlo.]*

25            Explain further. For example, perhaps you had a check-in, interview, or  
26            immigration court at some point after your conviction(s), but ICE allowed you to  
27            remain out of custody. Also explain how much time passed between ICE knowing  
28            about your conviction and your current detention. [*Explique con mayor detalle. Por*

1           ejemplo, tal vez haya tenido una presentación de control, una entrevista o una  
2           audiencia ante un tribunal de inmigración en algún momento posterior a su(s)  
3           condena(s), pero ICE le permitió permanecer fuera de custodia. Explique también  
4           cuánto tiempo transcurrió entre el momento en que ICE tuvo conocimiento de su  
5           condena y su detención actual.]: \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_

13           48. To the extent Petitioner has any *new* criminal arrests, charges, or convictions since  
14 their most recent release from immigration custody and/or interaction with immigration authorities  
15 prior to Petitioner’s current detention, those new arrests, charges, or convictions do not indicate  
16 Petitioner is dangerous. *See, e.g., Moises V. A. v. Wofford*, No. 1:25-cv-01419-SKO, 2026 WL  
17 252237, at \*4 (E.D. Cal. Jan. 30, 2026) (“Although Respondents assert that Petitioner has been  
18 charged with several crimes, the charges remain pending, and Petitioner remains innocent until  
19 proven guilty. No neutral arbiter has determined that Petitioner is a flight risk or danger to the  
20 community. No neutral arbiter has determined that circumstances had materially changed  
21 sufficiently to justify revocation of parole.”); *Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO,  
22 2025 WL 2617256, at \*6 (E.D. Cal. Sept. 9, 2025) (to comply with due process, a person who  
23 sustains a conviction while released on conditional liberty is still “entitled to a determination as to  
24 whether that violation warrants modification of [their prior] release order”); *Tinoco v. Noem*, No.  
25 1:25-cv-01762-DC-JDP (HC), 2025 WL 3567862, at \*6 (E.D. Cal. Dec. 14, 2025) (misdemeanor  
26 DUI conviction did not justify re-detention of noncitizen where “no neutral arbiter . . . has  
27 determined whether those facts show that Petitioner is a flight risk or danger to the community”).

28            Check this box if you believe you have any **new** arrests, charges, or convictions

1           since your most recent release from immigration custody and/or interaction with  
2 immigration authorities, but before your current detention, that you want to explain  
3 to the court. If you checked this box, explain further, and explain why you are not  
4 dangerous despite the new arrest, charge, or conviction. [*Marque esta casilla si*  
5 *considera que tiene nuevos arrestos, cargos o condenas desde su liberación más*  
6 *reciente de la custodia de inmigración y/o desde su interacción con las autoridades*  
7 *de inmigración, pero antes de su detención actual, y que usted desea explicar ante*  
8 *el tribunal. Si ha marcado esta casilla, proporcione una explicación detallada y*  
9 *explique por qué no representa un peligro a pesar de la nueva detención, cargo o*  
10 *condena.*]: \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_

18           49. To the extent Petitioner has any alleged technical violations of Petitioner’s ISAP or  
19 supervision conditions since their most recent release from immigration custody and/or interaction  
20 with immigration authorities prior to Petitioner’s current detention, “[c]ourts have repeatedly  
21 rejected the argument that ICE can re-detain a noncitizen for technical violations ‘without regard  
22 to whether that technical violation means that one is a flight risk or danger.’” *A.F.A.M. v. Albarran*,  
23 No. 25-cv-10492-AMO, 2025 WL 3752190, at \*4 (N.D. Cal. Dec. 22, 2025) (collecting cases);  
24 *Tinoco v. Noem*, 818 F. Supp. 3d 1141, 1152 (E.D. Cal. 2025) (alleged violations of supervision  
25 conditions did not justify re-detention of noncitizen where “no neutral arbiter . . . has determined  
26 whether those facts show that Petitioner is a flight risk or danger to the community”).

27            Check this box if you believe you have any technical violations of ISAP or other  
28 supervision conditions that you want to explain to the court. If you checked this

1            box, explain further. [*Marque esta casilla si considera que ha incurrido en alguna*  
2            *violación técnica del ISAP u otras condiciones de supervisión que desee explicar*  
3            *ante el tribunal. Si ha marcado esta casilla, explique con mayor detalle.]: \_\_\_\_\_*

4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12            50. For the reasons explained above, Petitioner was neither a flight risk nor danger  
13 while Respondents allowed Petitioner to live in the community.

14            51. Despite Petitioner’s constitutionally protected interest in their liberty and lack of  
15 materially changed circumstances as to dangerousness or flight risk, Respondents arrested and  
16 detained Petitioner arrested on (date) \_\_\_\_\_ [*escriba la*  
17 *fecha aproximada en que ICE lo arrestó y lo volvió a detener*], in (city, state) \_\_\_\_\_  
18 \_\_\_\_\_ [*escriba la ciudad y el estado donde fue arrestado*].

19            52. The facts surrounding Petitioner’s arrest and detention are as follows. [*Describe*  
20 *where you were arrested for your current detention, anything the arresting agents said to you*  
21 *about why you were being arrested, and any other details you want the Court to know. If you were*  
22 *arrested while appearing at court, a check-in, or appointment with immigration authorities, state*  
23 *that. // Describa el lugar donde fue arrestado en relación con su detención actual, cualquier cosa*  
24 *que los agentes que efectuaron el arresto le hayan dicho sobre el motivo de su detención, y*  
25 *cualquier otro detalle que desee poner en conocimiento del Tribunal. Si fue arrestado mientras*  
26 *comparecía ante un tribunal, acudía a una presentación periódica o asistía a una cita con las*  
27 *autoridades de inmigración, indíquelo.]: \_\_\_\_\_*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

---

---

---

---

---

---

---

---

---

---

53. Medical conditions, including any mental health conditions [*Afecciones médicas, incluidas las afecciones de salud mental*]*—Check **all** boxes that apply to you. [Marque **todas** las casillas que correspondan a usted.]:*

Petitioner has no medical conditions or mental health conditions requiring ongoing care at this time. [*El/La peticionario/a no tiene, en este momento, afecciones médicas ni de salud mental que requieran atención continua.*]

Petitioner has medical conditions and/or mental health conditions requiring ongoing care at this time. [*El/La peticionario/a tiene afecciones médicas y/o de salud mental que requieren atención continua en este momento.*]

These include [*Estas incluyen*]: \_\_\_\_\_

---

---

---

Petitioner’s detention is making their medical conditions worse. [*La detención del/de la peticionario/a está agravando sus condiciones médicas.*]

Explain how. For example, any difficulty accessing medication or medical equipment, difficulty seeing a doctor when needed, how being detained has made your medical conditions worse, etc. [*Explique cómo. Por ejemplo, cualquier dificultad para acceder a medicamentos o equipos médicos, dificultad para ver a*

1                    *un médico cuando es necesario, cómo el haber estado detenido ha empeorado sus*  
2                    *afecciones médicas, etc.]:* \_\_\_\_\_

3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_  
6 \_\_\_\_\_  
7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13            54.    Petitioner is being deprived of liberty without permissible justification.  
14 Respondents previously released Petitioner, and/or previously encountered Petitioner and allowed  
15 them to live in the community, upon a determination that Petitioner was neither a flight risk nor  
16 danger to the community to warrant detention. Nothing material has changed to justify altering  
17 that initial determination. Therefore, Petitioner’s ongoing detention is not related to either of the  
18 permissible justifications for civil immigration litigation: danger or flight risk. Petitioner’s ongoing  
19 detention furthers no legitimate government interest.

20            55.    To the extent Respondents *re*-arrested Petitioner without any material change in  
21 circumstances, the re-arrest was without new probable cause, in violation of Petitioner’s Fourth  
22 Amendment right against unreasonable seizures.

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

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

26            57.    In October 2025, three plaintiffs filed a complaint under the Administrative  
27 Procedure Act (APA) challenging DHS’s new policy of re-detaining previously released  
28 noncitizens without materially changed circumstances as to dangerousness or flight risk. *Garro*

1 *Pinchi*, No. 5:25-cv-05632-PCP, Dkt. No. 38 (Class Action Complaint and Amended Petition for  
2 Writ of Habeas Corpus) (N.D. Cal. filed Oct. 10, 2025). The plaintiffs filed a motion to “stay” the  
3 challenged policy pending final judgment on their claims and a motion for provisional class  
4 certification. *Id.* at Dkt. No. 48 (Notice of Motion and Motion to Stay Effective Date of Agency  
5 Action or Preserve Status or Rights) (N.D. Cal. filed Oct. 16, 2025).

6 58. On December 19, 2025, the *Garro Pinchi* court issued an order granting the  
7 plaintiffs’ motions to provisionally grant class certification and stay agency action. *Garro Pinchi*,  
8 813 F. Supp. 3d at 1039–40.

9 59. *Garro Pinchi* certified the following class: “All noncitizens in the jurisdiction of  
10 the San Francisco ICE Field Office who (1) entered or will enter the United States without  
11 inspection; (2) have been or will be charged with inadmissibility under 8 U.S.C. § 1182 and have  
12 been or will be released from DHS custody; and who (3) are in removal proceedings under 8 U.S.C.  
13 § 1229a, including any § 1229a proceedings that have been dismissed where the dismissal is not  
14 administratively final; and (4) are not subject to detention under 8 U.S.C. § 1226(c).” *Garro*  
15 *Pinchi*, 813 F. Supp. 3d at 1010–11.

16 60. Relevant to the class definition, the jurisdiction of the San Francisco ICE Field  
17 Office covers California from the Oregon border to (and including) Kern County; Hawaii; Guam;  
18 and the Northern Mariana Islands. Within California, the Sacramento, Stockton, San Jose/Morgan  
19 Hill, Fresno, and Bakersfield sub-field ICE offices are all within the San Francisco Area of  
20 Responsibility. A map depicting the geographic the jurisdiction of the San Francisco ICE Field  
21 Office is available at <https://www.ice.gov/doclib/about/offices/ero/pdf/eroFieldOffices.pdf>.

22 61. *Garro Pinchi* certified one subclass: “All members of the Class whose release from  
23 DHS custody was or will be on bond, conditional parole, or their own recognizance under 8 U.S.C.  
24 § 1226(a) and/or 8 C.F.R. § 236.1(c)(8).” *Garro Pinchi*, 813 F. Supp. 3d at 1010–11.

25 62. On the merits, *Garro Pinchi* held that the new re-detention policy is likely arbitrary  
26 and capricious because, based on the preliminary record: Respondents failed to provide a reasoned  
27 explanation for their new policy at the time of its implementation; any post hoc rationalization  
28 Respondents provided for the new policy was based on legal error; Respondents failed to consider

1 released noncitizens’ serious reliance interests when implementing the new policy; and  
2 Respondents failed to adequately consider noncitizens’ protected liberty interests when  
3 implementing the new policy. *Garro Pinchi*, 813 F. Supp. 3d at 1027.

4 63. *Garro Pinchi* held that DHS’s new interpretation of 8 U.S.C. § 1225(b)(2) did not  
5 justify the agency’s adoption of the new policy. *Garro Pinchi*, 813 F. Supp. 3d at 1028–33. The  
6 court held that the new policy was likely unlawful regardless of whether the underlying statutory  
7 authority for re-detention was 8 U.S.C. § 1225(b)(2) or § 1226(a), and stayed the policy from  
8 applying to any class member detained under color of either statute. *Id.* at 1037.

9 64. *Garro Pinchi* further concluded that class members would suffer irreparable harm  
10 without preliminary relief, and that the balance of equities and public interest favored such relief.  
11 *Garro Pinchi*, 813 F. Supp. 3d at 1018.

12 65. Accordingly, *Garro Pinchi* granted preliminary relief and stayed Respondents’ new  
13 re-detention policy, effective immediately. *Garro Pinchi*, 813 F. Supp. 3d at 1040. The order has  
14 the effect of requiring Respondents to revert to their longstanding prior policy of *not* re-arresting  
15 and re-detaining class members without an individualized determination that there are materially  
16 changed circumstances as to the class member’s dangerousness or flight risk. *See Paulsen v.*  
17 *Daniels*, 413 F.3d 999, 1008 (9th Cir. 2005) (“The effect of invalidating an agency rule is to  
18 reinstate the rule previously in force.”).

19 **D. *Petitioner is Experiencing Irreparable Harm***

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

25 67. Due to Petitioner’s ongoing detention, they are suffering irreparable harm, and  
26 every additional day Petitioner spends in unlawful detention subjects them to further irreparable  
27 harm. [*Debido a la detención continua del/de la Peticionario/a, este está sufriendo un daño*  
28 *irreparable, y cada día adicional que el/la Peticionario/a permanece en detención ilícita lo somete*

1 a un daño irreparable aún mayor.].

2 68. Petitioner is being irreparably harmed in the following ways: (Describe specifically  
3 how your detention is harming you. Examples could include separation from family, isolation from  
4 your community, inability to work, difficulty practicing your religion, medical conditions that are  
5 worsening, harms to your children or other family members, difficulty communicating with your  
6 lawyer, etc.) [*El/La Peticionario/a está sufriendo un daño irreparable de las siguientes maneras:*  
7 *(Describe específicamente de qué manera su detención le está causando perjuicios. Los ejemplos*  
8 *podrían incluir la separación de su familia, el aislamiento de su comunidad, la imposibilidad de*  
9 *trabajar, la dificultad para practicar su religión, el agravamiento de condiciones médicas,*  
10 *perjuicios a sus hijos u otros familiares, la dificultad para comunicarse con su abogado, etc.)*]:

11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 \_\_\_\_\_  
14 \_\_\_\_\_  
15 \_\_\_\_\_  
16 \_\_\_\_\_  
17 \_\_\_\_\_  
18 \_\_\_\_\_  
19 \_\_\_\_\_  
20 \_\_\_\_\_  
21 \_\_\_\_\_  
22 \_\_\_\_\_  
23 \_\_\_\_\_  
24 \_\_\_\_\_  
25 \_\_\_\_\_  
26 \_\_\_\_\_  
27 \_\_\_\_\_  
28 \_\_\_\_\_

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**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).



**(Substantive Due Process—Detention)**

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

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

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

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

13          79.     Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation”  
14 to any legitimate government purpose. *Id.* (immigration detention is civil and thus ostensibly  
15 “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s detention appears to be  
16 “not to facilitate deportation, or to protect against risk of flight or dangerousness, but to  
17 incarcerate for other reasons,” *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring)—namely,  
18 to effectuate Respondents’ unlawful new policy of detaining individuals previously released  
19 and/or encountered and permitted to live in the community, without any materially changed  
20 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)**

21  
22  
23          80.     Only to the extent that Petitioner was re-arrested, Petitioner re-alleges and  
24 incorporates by reference the paragraphs above and brings this Claim.

25  
26          81.     The Fourth Amendment protects the right of all persons present in the United  
27 States to be free from unreasonable seizures by government officials. Petitioner therefore has  
28 the right to be free from unreasonable seizures.



1 to Petitioner’s current detention;

2 3) Declare that Petitioner’s arrest and ongoing detention violate the Due Process  
3 Clause of the Fifth Amendment;

4 4) **Only to the extent that Petitioner was re-arrested**, declare that Petitioner’s re-  
5 arrest violates the Fourth Amendment;

6 5) **Only to the extent that Petitioner is a Garro Pinchi class member**, declare  
7 that Petitioner’s arrest and ongoing detention violate the order granting  
8 preliminary relief to the *Garro Pinchi* class;

9 6) Enjoin Respondents from re-detaining Petitioner absent further order of this  
10 Court; *or, in the alternative*, unless Respondents provide at least 14 days’ notice  
11 to Petitioner that they will seek a pre-deprivation bond hearing before a neutral  
12 arbiter at which the government bears the burden of proving, by clear and  
13 convincing evidence, that Petitioner is a flight risk or danger to the community;

14 7) Order Respondents to return all of Petitioner’s property confiscated during their  
15 arrest and processing into detention, including but not limited to personal  
16 identification, employment authorization document, medical insurance cards,  
17 money, documents related to any legal proceedings, and personal effects;

18 8) Enjoin Respondents from transferring Petitioner outside this District or deporting  
19 Petitioner pending these proceedings; and

20 9) Grant such further relief as the Court deems just and proper.

21  
22 Respectfully submitted,

23  
24 \_\_\_\_\_  
Date [*Fecha*]

24 \_\_\_\_\_  
Printed Name [*Nombre Impreso*]

25  
26 \_\_\_\_\_  
Signature [*Firma*]

27  
28 *Pro se Petitioner*

**Declaration Under Penalty of Perjury**

1  
2 1. I am in detention, and I placed this petition in the detention center’s mail system on

3 [*Estoy detenido/a y coloqué esta petición en el sistema de correo del centro de detención el*]: [*write*  
4 *the date/escriba la fecha*] \_\_\_\_\_.

5 2. I declare under penalty of perjury that I am the petitioner, I have read this petition or  
6 had it read and/or interpreted to me, and the information in this petition is true and correct to the best  
7 of my knowledge. I understand that a false statement of a material fact may serve as the basis for a  
8 prosecution for perjury. [*Declaro, bajo pena de perjurio, que soy el/la peticionario/a; que he leído*  
9 *esta petición—o que me ha sido leída y/o interpretada—y que la información contenida en la misma*  
10 *es verdadera y correcta, a mi leal saber y entender. Comprendo que una declaración falsa sobre un*  
11 *hecho sustancial puede servir de base para un procesamiento por perjurio.*]

13 3. I was able to complete this declaration because [*Pude completar esta declaración*  
14 *porque*]:

16  I am able to read English and/or Spanish, and I could follow the directions in this  
17 declaration to fill it out myself. [*Soy capaz de leer inglés y/o español, y pude seguir*  
18 *las instrucciones de esta declaración para completarla por mí mismo.*]

19  I am not able to complete this declaration independently, due to language barriers  
20 or other accessibility issues. Therefore, one or more persons assisted me. Their full  
21 name(s) is/are [*No puedo completar esta declaración de forma independiente*  
22 *debido a barreras lingüísticas u otros problemas de accesibilidad. Por lo tanto,*  
23 *una o más personas me han asistido. Su(s) nombre(s) completo(s) es/son*]:

24 \_\_\_\_\_

26 //  
27 //  
28 //

1 I am executing this declaration at: [*check one / marque uno*]:

- 2  **Mesa Verde Detention Facility**, 425 Golden State Ave, Bakersfield, CA 93301
- 3  **Golden State Annex**, 611 Frontage Road, McFarland, CA 93250
- 4  **California City Detention Facility**, 22844 Virginia Blvd., California City, CA 93505
- 5  **Central Valley Annex**, 254 Taylor Avenue, McFarland, CA 93250

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Respectfully submitted,

\_\_\_\_\_  
Date [*Fecha*]

\_\_\_\_\_  
Printed Name [*Nombre Impreso*]

\_\_\_\_\_  
Signature [*Firma*]

*Pro se Petitioner*

1 Name / Nombre: \_\_\_\_\_

2 A Number / Número A: \_\_\_\_\_

3 Address / Dirección: \_\_\_\_\_

4 \_\_\_\_\_

6 ***PRO SE***

8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

10 \_\_\_\_\_

11 \_\_\_\_\_  
12 [Full Name / Nombre Completo]

13  
14 Petitioner,

15 v.

16 Case No. \_\_\_\_\_

17 Current or Acting Warden of

**Motion for Appointment of Counsel  
Pursuant to 18 U.S.C. § 3006A**

18 ICE Detention Facility [*write/escriba Mesa*  
19 *Verde, Golden State Annex, California City,*  
20 *or Central Valley Annex*], Current or Acting  
21 Field Office Director, San Francisco Field  
22 Office, United States Immigration and  
23 Customs Enforcement; Current or Acting  
24 Director, United States Immigration and  
25 Customs Enforcement; Current or Acting  
26 Secretary, United States Department of  
27 Homeland Security; and Current or Acting  
28 United States Attorney General,

Respondents.

1 Petitioner [your name / *su nombre*] \_\_\_\_\_ has  
2 filed a petition for writ of habeas corpus under 28 U.S.C. § 2241 challenging Petitioner’s indefinite  
3 detention by Respondents. Petitioner was detained by Immigration and Customs Enforcement  
4 (ICE) on or about [date / *el mes y año en que comenzó su detención por ICE*]  
5 \_\_\_\_\_ . Petitioner has remained in ICE custody since that date.  
6 Petitioner’s removal proceedings remain pending.

7 The concurrently filed petition for writ of habeas corpus sets forth Petitioner’s eligibility  
8 for a writ of habeas corpus ordering Petitioner’s release.

9 Petitioner moves the Court to appoint counsel to represent Petitioner in this case. The Court  
10 may appoint counsel in a habeas action when the “interests of justices so require.” 18 U.S.C.  
11 § 3006A(a)(2)(B). Here, Petitioner has a strong chance of success on the merits as explained in the  
12 concurrently filed petition for writ of habeas corpus. However, given the complexity of the law on  
13 immigration detention and Petitioner’s status as a detained immigrant, Petitioner would have great  
14 difficulty presenting the case without the assistance of counsel. For these reasons, Petitioner  
15 respectfully requests that the Court appoint counsel.

16  
17  
18 \_\_\_\_\_  
Date [*Fecha*]

\_\_\_\_\_

19  
20 \_\_\_\_\_  
21 Signature [*Firma*]  
22  
23  
24  
25  
26  
27  
28

1 Name / Nombre: \_\_\_\_\_

2 A Number / Número A: \_\_\_\_\_

3  
4 Address / Dirección: \_\_\_\_\_

5 \_\_\_\_\_

6 ***PRO SE***

7  
8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

10  
11 \_\_\_\_\_  
12 \_\_\_\_\_  
13 [Full Name / Nombre Completo]

14  
15 Petitioner,

16 v.

17 Case No. \_\_\_\_\_

18 Current or Acting Warden of

**Detainee's Application and Declaration  
to Proceed *In Forma Pauperis***

19 ICE Detention Facility [*write/escriba Mesa Verde, Golden State Annex, California City, or Central Valley Annex*], Current or Acting  
20 Field Office Director, San Francisco Field  
21 Office, United States Immigration and  
22 Customs Enforcement; Current or Acting  
23 Director, United States Immigration and  
24 Customs Enforcement; Current or Acting  
25 Secretary, United States Department of  
26 Homeland Security; and Current or Acting  
27 United States Attorney General,

28 Respondents.

1 I, [name / *su nombre*] \_\_\_\_\_, declare that I am  
2 the petitioner in this case; I believe I am entitled to relief; and I am unable to pay the costs of this  
3 proceeding. In support of this application, I answer the following questions under penalty of  
4 perjury [*Declaro que soy el/la peticionario/a en este caso; considero que tengo derecho a la*  
5 *reparación solicitada; y no puedo sufragar los costos de este procedimiento. En apoyo de esta*  
6 *solicitud, respondo las siguientes preguntas bajo pena de perjurio*]:  
7

8 1. I am detained by Immigration and Customs Enforcement at \_\_\_\_\_  
9 \_\_\_\_\_ [write the name of the detention center where you are  
10 detained // *escriba el nombre del centro de detención donde está detenido*] Detention Center.  
11

12 2. Are you presently employed in detention?  YES  NO

13 (*¿Está empleado actualmente en detención?*)

14 If your answer is “yes”:

15 (*Si tu respuesta es “sí”*)

16 Number of hours you work per week: \_\_\_\_\_ Hourly rate of pay: \_\_\_\_\_

17 (*Número de horas que trabaja por semana*)

(*Tarifa de pago por hora*)

18  
19 3. For the last twelve (12) months, list the amount of money you have received from  
20 any of the following sources (*Durante los últimos doce (12) meses, indique la cantidad de dinero*  
21 *que ha recibido de cualquiera de las siguientes fuentes*):

22 a. Business, profession, or self-employment \$ \_\_\_\_\_

23 (*Negocio, profesión, o trabajo por cuenta propia*)

24 b. Income from rent, interest, or dividends \$ \_\_\_\_\_

25 (*Ingresos por alquiler, intereses, o dividendos*)

26 c. Pensions, annuities, or life insurance payments \$ \_\_\_\_\_

27 (*Pensiones, anualidades, o pagos de seguros de vida*)  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

d. Disability, Social Security, or other government source \$ \_\_\_\_\_

*(Incapacidad, Seguro Social, u otra fuente gubernamental)*

e. Gifts or inheritances \$ \_\_\_\_\_

*(Regalos o herencias)*

f. Describe any other source of income *(Describa cualquier otra fuente de ingresos):*

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

**4.** Amount of money that I have in cash or in a checking or savings account *(Cantidad de dinero que tengo en efectivo o en una cuenta corriente o de ahorros):* \$ \_\_\_\_\_.

**5.** Do you own or have any interest in real estate, stocks, bonds, notes, retirement plans, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? *(¿Es usted propietario o tiene algún interés en bienes raíces, acciones, bonos, pagarés, planes de jubilación, automóviles u otras propiedades valiosas (excluyendo ropa y muebles comunes para el hogar)?)*

YES  NO

If the answer is “yes,” describe the property and state its approximate value *(Si la respuesta es “sí”, describa la propiedad e indique el valor aproximado):*

\_\_\_\_\_ Approx. value: \_\_\_\_\_

\_\_\_\_\_ Approx. value: \_\_\_\_\_

\_\_\_\_\_ Approx. value: \_\_\_\_\_

\_\_\_\_\_ Approx. value: \_\_\_\_\_

**6.** Do you have any other assets? *(¿Tiene algún otro activo?)*  YES  NO

If the answer is “yes,” list the asset(s) and the approximate value *(Si la respuesta es “sí”, indique los activos y el valor aproximado):*

1 \_\_\_\_\_ Approx. value: \_\_\_\_\_

2 \_\_\_\_\_ Approx. value: \_\_\_\_\_

3 \_\_\_\_\_ Approx. value: \_\_\_\_\_

4 \_\_\_\_\_ Approx. value: \_\_\_\_\_

5

6 7. Does anyone depend on you for financial support? (*¿Alguien depende de usted para*  
7 *su apoyo financiero?*)  YES  NO

8 If the answer is “yes,” state their name, relationship to you, and indicate how much you  
9 contribute toward their support each month. Use initials (not names) to refer to minor children.

10 (*Si la respuesta es “sí”, indique su relación con usted e indique cuánto contribuye a su*  
11 *apoyo cada mes. Utilice iniciales (no nombres) para referirse a niños menores de edad.*)

12 \_\_\_\_\_ Amount per month: \$ \_\_\_\_\_

13 \_\_\_\_\_ Amount per month: \$ \_\_\_\_\_

14 \_\_\_\_\_ Amount per month: \$ \_\_\_\_\_

15 \_\_\_\_\_ Amount per month: \$ \_\_\_\_\_

16

17 *Declaration:* I declare under penalty of perjury that the above information is true and  
18 understand that a false statement may result in a dismissal of my claims.

19 (*Declaración:* Declaro, bajo pena de perjurio, que la información anterior es verídica y  
20 comprendo que una declaración falsa podría resultar en la desestimación de mis reclamaciones.)

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28

1 I am executing this declaration at: [*check one / marque uno*]:

- 2  **Mesa Verde Detention Facility**, 425 Golden State Ave, Bakersfield, CA 93301
- 3  **Golden State Annex**, 611 Frontage Road, McFarland, CA 93250
- 4  **California City Detention Facility**, 22844 Virginia Blvd., California City, CA 93505
- 5  **Central Valley Annex**, 254 Taylor Avenue, McFarland, CA 93250

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Respectfully submitted,

\_\_\_\_\_  
Date [*Fecha*]

\_\_\_\_\_  
Printed Name [*Nombre Impreso*]

\_\_\_\_\_  
Signature [*Firma*]

*Pro se Petitioner*

1 Name / Nombre: \_\_\_\_\_

2  
3 A Number / Número A: \_\_\_\_\_

4 Address / Dirección: \_\_\_\_\_

5 \_\_\_\_\_

6 \_\_\_\_\_

7 **PRO SE**

8  
9 **UNITED STATES DISTRICT COURT**

10 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

11 \_\_\_\_\_

12 [Full Name / Nombre Completo]

13  
14 Petitioner,

15 v.

16 Current or Acting Warden of

17 \_\_\_\_\_  
18 ICE Detention Facility [*write/escriba Mesa Verde, Golden State Annex, California City, or Central Valley Annex*], Current or Acting  
19 Field Office Director, San Francisco Field  
20 Office, United States Immigration and  
21 Customs Enforcement; Current or Acting  
22 Director, United States Immigration and  
23 Customs Enforcement; Current or Acting  
24 Secretary, United States Department of  
25 Homeland Security; and Current or Acting  
26 United States Attorney General,

27 Respondents.  
28

Case No. \_\_\_\_\_

**Notice of Motion, Motion, and  
Memorandum of Points and  
Authorities in Support of Petitioner's  
Ex Parte Motion for Temporary  
Restraining Order**

1 **NOTICE OF MOTION AND MOTION**

2 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

3 **PLEASE TAKE NOTICE** that as soon as it may be heard in the United States District  
4 Court for Eastern District of California, Petitioner in the above-captioned matter will and hereby  
5 does move for a temporary restraining order pursuant to Federal Rule of Civil Procedure 65(b) and  
6 Civil Local Rule 231. Because Petitioner’s ongoing immigration detention in Respondents’  
7 custody violates the Due Process Clause of the Fifth Amendment to the United States Constitution,  
8 and to the extent Petitioner is a *Garro Pinchi* class member, violates the binding order in *Garro*  
9 *Pinchi v. Noem*, 813 F. Supp. 3d 973 (N.D. Cal. 2025), Petitioner respectfully requests that this  
10 Court (1) immediately release Petitioner from Respondents’ custody and enjoin Respondents from  
11 re-detaining Petitioner absent further order of this Court; (2) in the alternative, immediately release  
12 Petitioner from Respondents’ custody and enjoin Respondents from re-detaining Petitioner unless  
13 Respondents demonstrate at a pre-deprivation bond hearing, by clear and convincing evidence,  
14 that Petitioner is a flight risk or danger to the community such that taking Petitioner into physical  
15 custody is required; (3) require Respondents to return Petitioner to conditions of release no stricter  
16 than those Petitioner was subject to prior to their re-detention; and (4) require Respondents to  
17 return all property confiscated from Petitioner during their arrest, processing, and/or detention,  
18 including but not limited to personal identification, employment authorization document, medical  
19 insurance cards, money, documents related to any legal proceedings, and personal effects. To  
20 preserve this Court’s jurisdiction, Petitioner further seeks an order (5) prohibiting the government  
21 from transferring Petitioner out of this District and/or removing Petitioner from the country until  
22 these habeas proceedings have concluded.

23 This motion is based on this Notice of Motion and Motion, the accompanying  
24 Memorandum of Points and Authorities, Petitioner’s affidavit detailing notice, Petitioner’s  
25 affidavit in support of existence of irreparable harm, Proposed Order, and TRO Checklist filed  
26 herewith; the papers, evidence, and records on file in this action; and any other evidence or  
27 argument Petitioner may present to the Court by the time this motion is taken under submission  
28 by the Court. This motion is also supported by the Pro Se Petition for Writ of Habeas Corpus.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Consistent with Civil Local Rule 231(b), Petitioner seeks relief at the earliest possible opportunity. Taking due account of Petitioner’s *pro se*, detained status, Petitioner is filing this motion as soon as soon as feasible after filing their Petition for Writ of Habeas Corpus.

Pursuant to Civil Local Rules 142 and 231(c)(5), and as detailed in Petitioner’s supporting declaration below, Petitioner provided, or attempted to provide, counsel for Respondents with notice of this Motion and of the emergency reasons requiring Petitioner to seek an *ex parte* application for a temporary restraining order.



1 nombre completo es \_\_\_\_\_. Me encuentro detenido por ICE en el Centro de  
2 Detención de \_\_\_\_\_. Llamo para informarles que estoy presentando, pro se,  
3 una petición de habeas corpus y una moción de orden de restricción temporal, dado  
4 que mi detención es ilegal. Tengo la intención de solicitar mi liberación en virtud  
5 de la Quinta Enmienda y —en la medida en que sea miembro de la clase Garro  
6 Pinchi— en virtud de la orden Garro Pinchi del 19 de diciembre de 2025.  
7 ¿Aceptaré el gobierno concederme la libertad para que pueda evitar la  
8 presentación de la orden de restricción temporal?».]

- 9 ○ Listen carefully for any answer, and check the appropriate boxes in **paragraph 4**  
10 (below) to tell the Court what happened. [Escuche atentamente cualquier respuesta  
11 y marque las casillas correspondientes en el párrafo 4 (a continuación) para  
12 informar al Tribunal de lo sucedido.]

13 4. Pursuant to Local Rule 231 and Fed. R. Civ. P. 65(b), I made the following efforts  
14 to provide attorneys for the government with notice of my habeas petition and motion for a  
15 temporary restraining order. [De conformidad con la Regla Local 231 y la Regla Federal de  
16 Procedimiento Civil 65(b), realicé las siguientes gestiones para notificar a los abogados del  
17 Gobierno sobre mi petición de habeas corpus y mi moción de orden de restricción temporal.]

18 Check **all** boxes that apply to you [Marque **todas** las casillas que correspondan a usted]:

- 19  I dialed the following phone number from a telephone available to me in the  
20 detention facility for legal calls: **(916) 554-2700**. I understand this is the phone  
21 number for the E.D. Cal. U.S. Attorney’s Office, based in Sacramento. [Marqué el  
22 siguiente número de teléfono desde un teléfono disponible para mí en el centro de  
23 detención para realizar llamadas legales: **(916) 554-2700**. Entiendo que este es el  
24 número de teléfono de la Oficina del Fiscal de los EE. UU. para el Distrito Este de  
25 California (E.D. Cal.), con sede en Sacramento.]
- 26  No one picked up the phone. [Nadie contestó el teléfono.]
- 27  I was not able to leave a voicemail. [No pude dejar un mensaje de voz.]
- 28

1            I left a voicemail explaining I planned to file a habeas petition and motion for  
2           temporary restraining order, but I could not leave a call-back number because I  
3           cannot directly receive incoming calls while in detention. [*Dejé un mensaje de*  
4           *voz explicando que tenía previsto presentar una petición de habeas corpus y*  
5           *una moción de orden de restricción temporal, pero no pude dejar un número*  
6           *de contacto, ya que no puedo recibir llamadas entrantes directamente mientras*  
7           *me encuentro detenido.*]

8            A person answered the phone but did not agree to speak to me about my case or  
9           transfer me to someone who could talk to me about my case. I was not able to  
10          speak to anyone about my case. [*Una persona contestó el teléfono, pero no*  
11          *accedió a hablar conmigo sobre mi caso ni a transferirme con alguien que*  
12          *podiera hacerlo. No logré hablar con nadie sobre mi caso.*]

13           A person answered the phone and agreed to speak with me. I told them I was  
14          filing a pro se habeas petition and a motion for temporary restraining order  
15          because I believe my detention is unlawful. I explained I would seek release  
16          under the Fifth Amendment and—to the extent I am a *Garro Pinchi* class  
17          member—under the December 19, 2025 *Garro Pinchi* order. I asked whether  
18          the government would agree to release me so I could avoid filing a TRO. The  
19          person I spoke to said “no” or that they could not provide me an answer. [*Una*  
20          *persona contestó el teléfono y accedió a hablar conmigo. Le informé que estaba*  
21          *presentando una petición de habeas corpus por derecho propio y una moción*  
22          *de orden de restricción temporal, dado que considero que mi detención es*  
23          *ilegal. Le expliqué que solicitaría mi liberación en virtud de la Quinta*  
24          *Enmienda y —en la medida en que soy miembro de la clase Garro Pinchi— en*  
25          *virtud de la orden Garro Pinchi del 19 de diciembre de 2025. Pregunté si el*  
26          *gobierno accedería a liberarme para así evitar la presentación de la orden de*  
27          *restricción temporal. La persona con la que hablé respondió que «no», o bien*  
28          *que no podía ofrecerme una respuesta.*]

1                     Other (explain) [*Otro (explicar)*]: \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_  
5 \_\_\_\_\_

6            5.        I am detained in Respondents’ custody and do not have access to email while  
7 detained. Therefore, I cannot provide email notice to attorneys for the government. I also cannot  
8 email them the documents I intend to file. [*Me encuentro detenido bajo la custodia de los*  
9 *Demandados y no tengo acceso al correo electrónico mientras permanezco detenido. Por*  
10 *consiguiente, no puedo notificar por correo electrónico a los abogados del gobierno. Tampoco*  
11 *puedo enviarles por correo electrónico los documentos que tengo la intención de presentar.*]

12            6.        There has not been undue delay in bringing this TRO. I have prepared my habeas  
13 petition and motion for TRO as quickly as reasonably possible, given the fact that I am detained,  
14 have no or limited access to the Internet and legal resources, and do not have an attorney to assist  
15 me. [*No ha habido una demora indebida en la presentación de esta TRO. He preparado mi petición*  
16 *de habeas corpus y mi moción para la TRO tan rápidamente como ha sido razonablemente posible,*  
17 *dado el hecho de que me encuentro detenido, carezco de acceso a Internet y a recursos legales—*  
18 *o este es limitado—y no cuento con un abogado que me asista.*]

19            7.        The irreparable harms I am experiencing from my ongoing detention are explained  
20 in my habeas petition. [*Los daños irreparables que estoy sufriendo a consecuencia de mi detención*  
21 *continuada se explican en mi petición de habeas corpus.*] See Petition for Writ of Habeas Corpus  
22 ¶¶ 53, 66–68.

23            8.        I was able to complete this declaration because [*Pude completar esta declaración*  
24 *porque*]:

25                     I am able to read English and/or Spanish, and I could follow the directions in this  
26 declaration to fill it out myself. [*Soy capaz de leer inglés y/o español, y pude seguir*  
27 *las instrucciones de esta declaración para completarla por mí mismo.*]  
28



**TABLE OF CONTENTS**

1

2 NOTICE OF MOTION AND MOTION ..... i

3 DECLARATION OF PETITIONER IN SUPPORT OF TRO ..... iii

4 TABLE OF CONTENTS..... viii

5 TABLE OF AUTHORITIES ..... ix

6 INTRODUCTION ..... 1

7 BACKGROUND ..... 2

8 STANDARD OF REVIEW ..... 3

9 ARGUMENT ..... 3

10 I. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS..... 3

11 A. Petitioner’s Detention Violates the Fifth Amendment’s Due Process Clause..... 3

12 B. Petitioner’s Detention May Violate the Binding *Garro Pinchi* Order Prohibiting

13 Their Re-Detention Without a Material Change in Circumstances. .... 8

14 II. PETITIONER WILL CONTINUE TO SUFFER SERIOUS AND IRREPARABLE

15 INJURY ABSENT A TRO..... 10

16 III. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST WEIGH

17 STRONGLY IN PETITIONER’S FAVOR..... 11

18 SECURITY ..... 12

19 CONCLUSION..... 12

20

21

22

23

24

25

26

27

28

**TABLE OF AUTHORITIES**

**Cases**

*A.A.H. v. Chestnut*,  
No. 1:25-CV-01758-DJC-EFB, 2025 WL 3640677 (E.D. Cal. Dec. 16, 2025)..... 7

*A.F.A.M. v. Albarran*,  
No. 25-CV-10492-AMO, 2025 WL 3752190 (N.D. Cal. Dec. 22, 2025) ..... 6, 7

*All. for the Wild Rockies v. Cottrell*,  
632 F.3d 1127 (9th Cir. 2011) ..... 3, 10

*Baca v. Moreno Valley Unified Sch. Dist.*,  
936 F. Supp. 719 (C.D. Cal. 1996) ..... 12

*Castellon v. Kaiser*,  
No. 1:25-CV-00968 JLT EPG, 2025 WL 2373425 (E.D. Cal. Aug. 14, 2025)..... 5

*Claros v. Albarran*, 811 F. Supp. 3d 1062 (N.D. Cal. 2025)..... 4

*Cnty. of Sacramento v. Lewis*,  
523 U.S. 833 (1998)..... 3

*D.A.M. v. Barr*,  
486 F. Supp. 3d 404 (D.D.C. 2020) ..... 10

*Demore v. Kim*,  
538 U.S. 510 (2003)..... 4

*Doe v. Becerra*,  
No. 2:25-CV-00647-DJC-DMC, 2025 WL 691664 (E.D. Cal. Mar. 3, 2025)..... 6

*Elrod v. Burns*, 427 U.S. 347 (1976) ..... 11

*Env’t Prot. Info. Ctr. v. Carlson*,  
968 F.3d 985 (9th Cir. 2020) ..... 11

*Foucha v. Louisiana*,  
504 U.S. 71 (1992)..... 1

*Gagnon v. Scarpelli*,  
411 U.S. 778 (1973)..... 4

*Galvez v. Jaddou*,  
52 F.4th 821 (9th Cir. 2022) ..... 12

*Garro Pinchi v. Noem*,  
792 F. Supp. 3d 1025 (N.D. Cal. 2025) ..... 7

*Garro Pinchi v. Noem*, 813 F. Supp. 3d 973 (N.D. Cal. 2025)..... 1, 2, 8, 9

1 *Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025) ..... 6

2

3 *Hernandez v. Sessions*,

4 872 F.3d 976 (9th Cir. 2017) ..... 7, 10, 11

5 *Index Newspapers LLC v. U.S. Marshals Serv.*,

6 977 F.3d 817 (9th Cir. 2020) ..... 12

7 *Jackson v. Indiana*,

8 406 U.S. 715 (1972)..... 7

9 *Jones v. Blanas*,

10 393 F.3d 918 (9th Cir. 2004) ..... 5

11 *Jorgensen v. Cassidy*,

12 320 F.3d 906 (9th Cir. 2003) ..... 12

13 *Martinez v. Clark*,

14 124 F.4th 775 (9th Cir. 2024) ..... 6

15 *Mathews v. Eldridge*,

16 424 U.S. 319 (1976)..... 4, 5

17 *Matter of Sugay*, 17 I. & N. Dec. 637 (BIA 1981) ..... 8

18 *Melendres v. Arpaio*,

19 695 F.3d 990 (9th Cir. 2012) ..... 10

20 *Moises V. A. v. Wofford*, No. 1:25-cv-01419-SKO, 2026 WL 252237 (E.D. Cal. Jan. 30, 2026).. 5

21 *Morrissey v. Brewer*,

22 408 U.S. 471 (1972)..... 4, 5

23 *Nielsen v. Preap*,

24 586 U.S. 392 (2019)..... 4

25 *Nken v. Holder*,

26 556 U.S. 418 (2009)..... 3

27 *Nozzi v. Hous. Auth. of City of Los Angeles*,

28 806 F.3d 1178 (9th Cir. 2015) ..... 5

*Ortega v. Bonnar*,

415 F. Supp. 3d 963 (N.D. Cal. 2019) ..... 4, 5, 7

*Padilla v. U.S. Immigr. and Customs Enf't*,

704 F. Supp. 3d 1163 (W.D. Wash. 2023)..... 8

*People of State of Cal. ex rel. Van De Kamp v. Tahoe Reg'l Plan. Agency*,

766 F.2d 1319 (9th Cir.), *amended*, 775 F.2d 998 (9th Cir. 1985)..... 12

1 *Perez v. Albarran*,  
 No. 1:25-CV-01540-DAD-CSK, 2025 WL 3187578 (E.D. Cal. Nov. 14, 2025)..... 7

2

3 *Rodriguez Diaz v. Garland*,  
 83 F.4th 1177 (9th Cir. 2023) ..... 6

4 *Rodriguez Diaz v. Garland*,  
 53 F.4th 1189 (9th Cir. 2022) ..... 5

5

6 *Rosales-Mireles v. United States*,  
 585 U.S. 129 (2018)..... 10

7

8 *Saravia v. Sessions*,  
 280 F. Supp. 3d 1168 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d  
 1137 (9th Cir. 2018)..... 8

9

10 *Singh v. Andrews*, 803 F. Supp. 3d 1035 (E.D. Cal. 2025)..... 4, 5, 7

11 *Singh v. Holder*,  
 638 F.3d 1196 (9th Cir. 2011) ..... 6

12 *Singh*, 803 F. Supp. 3d at 1047 ..... 5

13 *Tinoco v. Noem*, No. 1:25-cv-01762-DC-JDP, 2025 WL 3567862 (E.D. Cal. Dec. 14, 2025)..... 6

14

15 *W.C. v. Bowen*,  
 807 F.2d 1502 (9th Cir.), *as amended on denial of reh'g*, 819 F.2d 237 (9th Cir. 1987)..... 9, 10

16 *Warsoldier v. Woodford*,  
 418 F.3d 989 (9th Cir. 2005) ..... 10

17

18 *Weldemichael v. Warden of Golden State Annex*,  
 No. 1:25-CV-01553-EFB, 2026 WL 84080 (E.D. Cal. Jan. 12, 2026)..... 7

19

20 *Winter v. Nat. Res. Def. Council, Inc.*,  
 555 U.S. 7 (2008)..... 3

21 *Wolff v. McDonnell*,  
 418 U.S. 539 (1974)..... 3

22

23 *Zadydas v. Davis*,  
 533 U.S. 678 (2001)..... 1, 3, 4, 7

24

25 *Zinermon v. Burch*,  
 494 U.S. 113 (1990)..... 4

26 **Statutes**

27 8 U.S.C. § 1182..... 2, 9

28 8 U.S.C. § 1226(c) ..... 2, 8, 9

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

8 U.S.C. § 1229a..... 2, 9

**Regulations**

8 C.F.R. § 1236.1 ..... 8

8 C.F.R. § 212.5 ..... 8

8 C.F.R. § 236.1 ..... 8

1 **INTRODUCTION**

2 Petitioner \_\_\_\_\_ [your full name /  
3 *su nombre completo*] files this motion for a temporary restraining order (TRO) ordering their  
4 immediate release.

5 Petitioner’s re-detention is unconstitutional under the Fifth Amendment. *Zadvydas v.*  
6 *Davis*, 533 U.S. 678, 693 (2001) (“[T]he Due Process Clause applies to all ‘persons’ within the  
7 United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary,  
8 or permanent.”); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (“Freedom from bodily restraint has  
9 always been at the core of the liberty protected by the Due Process Clause from arbitrary  
10 governmental action.”).

11 In addition, Petitioner may be a member of the certified class in *Garro Pinchi v. Noem*,  
12 813 F. Supp. 3d 973, 1010–11 (N.D. Cal. 2025). On December 19, 2025, the *Garro Pinchi* court  
13 held that the Department of Homeland Security’s (DHS) new policy of re-arresting and re-  
14 detaining class members despite no change in their individual circumstances as to their  
15 dangerousness or flight risk likely violates the Administrative Procedure Act (APA). *Id.* at 1027.  
16 The *Garro Pinchi* court “stay[ed] DHS’s re-detention policy pending final resolution of [the  
17 plaintiffs’] APA claims,” and “postpone[d] the effective date of the re-detention policy within  
18 ICE’s San Francisco area of responsibility until the entry of a final judgment in this action.” *Id.* at  
19 1039–40. Thus, Respondents may not implement their policy of re-arresting and re-detaining  
20 noncitizens within ICE’s San Francisco Area of Responsibility absent a material change in  
21 circumstances as to flight risk or dangerousness. To the extent Petitioner is a *Garro Pinchi* class  
22 member, Respondents appear to have re-detained Petitioner in violation of the December 19, 2025  
23 *Garro Pinchi* order, which remains in effect.

24 Because Petitioner is likely to succeed on the merits of their claims and their ongoing  
25 detention imposes irreparable harms, Petitioner respectfully requests that this Court order their  
26 immediate release. To maintain this Court’s jurisdiction, the Court should also prohibit the  
27 government from transferring Petitioner out of this District or removing them from the country  
28 until these habeas proceedings have concluded.

**BACKGROUND**

Petitioner is a noncitizen civilly detained by Respondents at \_\_\_\_\_  
\_\_\_\_\_ [name of the detention center where you are detained  
// *escriba el nombre del centro de detención donde está detenido*] ICE Detention Center. Petition  
for Writ of Habeas Corpus (“Pet.”) ¶ 1.

Petitioner last entered the United States on/around \_\_\_\_\_  
[write the month and year when you entered the U.S. most recently // *escriba el mes y el año en  
que ingresó a los Estados Unidos.*] *Id.* ¶ 42. Petitioner settled into life in the United States. *Id.*  
¶¶ 3, 44. Respondents knew Petitioner was living in the United States and allowed Petitioner to  
remain at liberty. *Id.* ¶ 45. In releasing Petitioner from initial custody and/or allowing Petitioner to  
remain at liberty, Respondents necessarily determined that Petitioner was neither dangerous nor a  
flight risk. *Id.* ¶ 46–47.

Yet, despite no material change in circumstances as to Petitioner’s flight risk or  
dangerousness, Respondents arrested Petitioner on or around \_\_\_\_\_  
\_\_\_\_\_ [date of arrest // *escriba la fecha aproximada en que ICE lo arrestó y  
lo volvió a detener*], in \_\_\_\_\_ [city,  
state // *escriba la ciudad y el estado donde fue arrestado*]. Pet. ¶¶ 51–52.

On December 19, 2025, the *Garro Pinchi* court 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. The *Garro Pinchi* court held that the Re-  
Detention Policy is likely unlawful because it is arbitrary and capricious in violation of the APA.  
*Id.* at 1027. After finding that the rest of the factors favoring preliminary relief were satisfied, the  
court issued an order staying Respondents’ Re-Detention Policy, effective immediately. *Id.* at  
1040. Under that order, Respondents may not implement their policy of re-arresting and re-

1 detaining class members, unless Respondents first make an individualized determination that there  
2 are materially changed circumstances as to the class member’s dangerousness or flight risk.  
3 Petitioner may be a *Garro Pinchi* class member whose arrest violated the binding *Garro Pinchi*  
4 order.

5 Petitioner suffers ongoing irreparable harm every day they remain in detention. Pet. ¶¶ 12,  
6 53, 66–68. Prior to their current detention, Petitioner established ties in the United States that are  
7 disrupted by their ongoing detention. *Id.* ¶ 44.

### 8 STANDARD OF REVIEW

9 To warrant an ex parte TRO, a movant must show that: (1) they are “likely to succeed on  
10 the merits;” (2) they are “likely to suffer irreparable harm in the absence of preliminary relief;”  
11 (3) “the balance of equities tips in [their] favor;” and (4) “an injunction is in the public interest.”  
12 *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011) (quoting *Winter v. Nat.*  
13 *Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). Where the government is the opposing party, the  
14 third and fourth factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). In this Circuit, even if  
15 the movant raises only “serious questions” as to the merits of their claims, the court can grant relief  
16 if the balance of hardships tips “sharply” in their favor. *All. for the Wild Rockies*, 632 F.3d at 1135.  
17 All factors here weigh decisively in Petitioner’s favor.

### 18 ARGUMENT

#### 19 **I. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS.**

##### 20 **A. Petitioner’s Detention Violates the Fifth Amendment’s Due Process Clause.**

21 Petitioner has established a likelihood of success on their procedural and substantive due  
22 process claims. The Due Process Clause applies to “all ‘persons’ within the United States,  
23 including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.”  
24 *Zadvydas*, 533 U.S. at 693. “The touchstone of due process is protection of the individual against  
25 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the  
26 exercise of power without any reasonable justification in the service of a legitimate government  
27 objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998). “Freedom from  
28 imprisonment—from government custody, detention, or other forms of physical restraint—lies at

1 the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at 690. Due process constrains  
2 even “mandatory” immigration detention. *See Nielsen v. Preap*, 586 U.S. 392, 420 (2019) (“Our  
3 decision today on the meaning of [§ 1226(c)] does not foreclose as-applied challenges—that is,  
4 constitutional challenges to applications of the statute as we have now read it.”); *Demore v. Kim*,  
5 538 U.S. 510, 532–33 (2003) (Kennedy, J., concurring).

6 **1. Petitioner is likely to succeed on their procedural due process claim.**

7 Petitioner’s procedural due process claim is likely to succeed. A noncitizen who has lived  
8 freely in society and has developed ties to their community has “a protected liberty interest” under  
9 the Due Process Clause in remaining out of custody. *Singh v. Andrews*, 803 F. Supp. 3d 1035,  
10 1046 (E.D. Cal. 2025); *see also, e.g., Claros v. Albarran*, 811 F. Supp. 3d 1062, 1066 (N.D. Cal.  
11 2025); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019). This is because “[t]he parolee  
12 has relied on at least an implicit promise that parole will be revoked only if he fails to live up to  
13 [release] conditions.” *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). The Constitution “usually  
14 . . . requires some kind of a hearing *before* the State deprives a person of liberty or property.”  
15 *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even when that freedom is lawfully  
16 revocable. *See Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (re-detention after release on  
17 probation requires pre-deprivation hearing); *Morrissey*, 408 U.S. at 482 (same, for parole).

18 Respondents permitted Petitioner to live out of custody in the United States and develop  
19 ties to their community. Pet. ¶¶ 44–45. Respondents’ decision constituted a determination that  
20 Petitioner was neither a danger nor flight risk requiring physical custody. *See id.* ¶¶ 46–47. To the  
21 extent Respondents allege Petitioner has any new criminal arrests, charges, or convictions; or any  
22 new violations of ICE’s Intensive Supervision Appearance Program (ISAP) or supervision  
23 conditions since Petitioner’s last encounter with Respondents, those new facts do not justify taking  
24 Petitioner into custody without any process. *Id.* ¶¶ 48–49. Accordingly, Petitioner has a protected  
25 interest in their liberty, and they have a right to due process before they can be deprived of that  
26 interest.

27 To determine what process is due, courts in this Circuit apply the three-part test from  
28 *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). *See Rodriguez Diaz v. Garland*, 53 F.4th 1189,

1 1206-08 (9th Cir. 2022) (“assum[ing] without deciding” that *Mathews* applies in the immigration  
2 detention context, and applying it). Under that test, the court weighs: (1) the private interest  
3 affected; (2) the risk of erroneous deprivation and probable value of procedural safeguards; and  
4 (3) the government’s interest. *Mathews*, 424 U.S. at 335. Here, the factors weigh heavily in favor  
5 of releasing Petitioner and prohibiting their re-detention, absent a custody hearing at which the  
6 government bears a clear-and-convincing burden of proof.

7 *First*, the private interest affected in this case is great, for “the degree of potential  
8 deprivation” that Petitioner’s loss of liberty represents is profound. *Nozzi v. Hous. Auth. of City of*  
9 *Los Angeles*, 806 F.3d 1178, 1193 (9th Cir. 2015) (citing *Mathews*, 424 U.S. at 341). Petitioner  
10 has established ties in the United States and contributed to their family and/or community. *See* Pet.  
11 ¶ 44. Petitioner’s detention has ripped from them the “free[dom] to be with family and friends and  
12 to form the . . . enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482. Petitioner may  
13 also have medical conditions that are unaddressed in detention. *See e.g.*, Pet. ¶ 53; *see Castellon*  
14 *v. Kaiser*, No. 1:25-CV-00968 JLT EPG, 2025 WL 2373425, at \*9 (E.D. Cal. Aug. 14, 2025)  
15 (finding petitioner “has a substantial private interest in being out of custody, which would allow  
16 her to continue” obtaining necessary medical care). Respondents have deprived Petitioner of the  
17 “core values of unqualified liberty,” inflicting “a ‘grievous loss’” on Petitioner. *Morrissey*, at 482.  
18 Moreover, because Petitioner faces *civil detention*, “[their] liberty interest is arguably greater than  
19 the interest of the parolees in *Morrissey*.” *See Ortega*, 415 F. Supp. 3d at 970; *Jones v. Blanas*,  
20 393 F.3d 918, 932 (9th Cir. 2004).

21 *Second*, “the risk of an erroneous deprivation of liberty is high where, as here, the petitioner  
22 has not received any bond or custody redetermination hearing.” *Singh*, 803 F. Supp. 3d at 1047  
23 (citation modified). As Respondents have provided Petitioner with *no* procedural safeguards, “the  
24 probable value of additional procedural safeguards, i.e., a bond hearing, is high.” *Id.* (citation  
25 modified). This is so even if Petitioner allegedly has any new arrests, charges, or convictions since  
26 their last encounter with Respondents. *See, e.g., Moises V. A. v. Wofford*, No. 1:25-cv-01419-SKO,  
27 2026 WL 252237, at \*4 (E.D. Cal. Jan. 30, 2026) (“Although Respondents assert that Petitioner  
28 has been charged with several crimes, the charges remain pending, and Petitioner remains innocent

1 until proven guilty. No neutral arbiter has determined that Petitioner is a flight risk or danger to  
2 the community. No neutral arbiter has determined that circumstances had materially changed  
3 sufficiently to justify revocation of parole.”); *Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO,  
4 2025 WL 2617256, at \*6 (E.D. Cal. Sept. 9, 2025) (to comply with due process, a person who  
5 sustains a conviction while released on conditional liberty is still “entitled to a determination as to  
6 whether that violation warrants modification of [their prior] release order”); *Tinoco v. Noem*, No.  
7 1:25-cv-01762-DC-JDP, 2025 WL 3567862, at \*6 (E.D. Cal. Dec. 14, 2025) (misdemeanor DUI  
8 conviction did not justify re-detention of noncitizen where “no neutral arbiter . . . has determined  
9 whether those facts show that Petitioner is a flight risk or danger to the community”). And this is  
10 so even if Petitioner allegedly technically violated any ISAP or supervision conditions since their  
11 last encounter with Respondents. *See, e.g., A.F.A.M. v. Albarran*, No. 25-cv-10492-AMO, 2025  
12 WL 3752190, at \*4 (N.D. Cal. Dec. 22, 2025) (“Courts have repeatedly rejected the argument that  
13 ICE can re-detain a noncitizen for technical violations ‘without regard to whether that technical  
14 violation means that one is a flight risk or danger,’” and collecting cases); *Tinoco*, 2025 WL  
15 3567862, at \*1, \*6 (alleged violations of supervision conditions did not justify re-detention of  
16 noncitizen where “no neutral arbiter . . . has determined whether those facts show that Petitioner  
17 is a flight risk or danger to the community”).

18 Because the private interest in freedom from immigration detention is so great, due process  
19 also requires that, in the event a bond hearing takes place, the government bears the burden of  
20 proving “by clear and convincing evidence that the [noncitizen] is a flight risk or danger to the  
21 community.” *Singh v. Holder*, 638 F.3d 1196, 1203-04 (9th Cir. 2011). “*Singh*’s constitutional  
22 holding . . . remains binding law of our court.” *Rodriguez Diaz v. Garland*, 83 F.4th 1177, 1179  
23 (9th Cir. 2023) (Paez, J., respecting the denial of rehearing en banc); *see Martinez v. Clark*, 124  
24 F.4th 775, 784–86 (9th Cir. 2024) (confirming that the government bears the “clear-and-  
25 convincing burden of proof” at an immigration bond hearing ordered pursuant to the Due Process  
26 Clause); *Doe v. Becerra*, 787 F. Supp. 3d 1083, 1096 (E.D. Cal. 2025) (ordering a pre-deprivation  
27 bond hearing in which the government bears the burden of proof by clear and convincing  
28 evidence).

1           *Third*, the government’s interest in detaining Petitioner without first providing notice and  
2 an opportunity to be heard at a custody hearing is low. “In immigration court, custody hearings are  
3 routine and impose a ‘minimal’ cost.” *Singh*, 803 F. Supp. 3d at 1048. Nor would a hearing delay  
4 Respondents’ efforts to remove Petitioner: “Any such delay would be minimal . . . . And detention  
5 for its own sake is not a legitimate governmental interest.” *Cordero Pelico v. Kaiser*, No. 25-CV-  
6 07286-EMC, 2025 WL 2822876, at \*15 (N.D. Cal. Oct. 3, 2025); *see also Ortega*, 415 F. Supp.  
7 3d at 970 (the government may have an interest in re-arresting the petitioner, “but its interest in  
8 doing so without a hearing is low”).

9           “Petitioner’s immediate release is required to return him to the status quo ante—‘the last  
10 uncontested status which preceded the pending controversy.’” *Singh*, 803 F. Supp. 3d at 1050. In  
11 cases raising similar claims as Petitioner, courts in this Circuit have repeatedly granted emergency  
12 relief in the form of petitioners’ immediate release, and prohibited ICE from re-detaining the  
13 petitioners without a pre-deprivation hearing at which the government bears a clear and convincing  
14 burden of proof that physical custody is required. *See, e.g., id.* (collecting cases); *Garro Pinchi v.*  
15 *Noem*, 792 F. Supp. 3d 1025, 1038 (N.D. Cal. 2025); *Perez v. Albarran*, No. 1:25-CV-01540-  
16 DAD-CSK, 2025 WL 3187578, at \*5 (E.D. Cal. Nov. 14, 2025); *A.A.H. v. Chestnut*, No. 1:25-  
17 CV-01758-DJC-EFB, 2025 WL 3640677, at \*3 (E.D. Cal. Dec. 16, 2025); *Weldemichael v.*  
18 *Warden of Golden State Annex*, No. 1:25-CV-01553-EFB, 2026 WL 84080, at \*7 (E.D. Cal. Jan.  
19 12, 2026). The same result is warranted here.

20           **2. Petitioner is likely to succeed on their substantive due process claim.**

21           Petitioner’s substantive due process claim is also likely to succeed. “Substantive due  
22 process requires that all forms of civil detention, including immigration detention, bear a  
23 ‘reasonable relation’ to a non-punitive purpose.” *A.F.A.M.*, 2025 WL 3752190, at \*4 (citing  
24 *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). “The Supreme Court has recognized only two  
25 permissible non-punitive purposes for immigration detention: ensuring a noncitizen’s appearance  
26 at immigration proceedings and preventing danger to the community.” *Id.* (citing *Zadvydas*, 533  
27 U.S. at 690–92); *see Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017). When Respondents  
28 released Petitioner from custody (or, to the extent Petitioner was never detained, allowed them to

1 remain free), Respondents determined Petitioner was neither a flight risk nor danger. *See* 8 U.S.C.  
2 § 1226(c)(4); 8 C.F.R. §§ 212.5(b), 236.1(c)(8), 1236.1(c)(8); *Matter of Sugay*, 17 I. & N. Dec.  
3 637, 640 (BIA 1981); *Garro Pinchi*, 813 F. Supp. 3d at 993 (“No matter which [detention]  
4 provision[] applies to a given noncitizen, . . . release is available only where a DHS officer or  
5 immigration judge has first determined that a noncitizen neither poses a threat to the public nor is  
6 likely to abscond.”); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d sub*  
7 *nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (“Release reflects a determination  
8 by the government that the noncitizen is not a danger to the community or a flight risk.”).

9 The facts since Petitioner’s release show that Petitioner continues *not* to pose any such risk.  
10 Petitioner is not a danger to the community. *See* Pet. ¶¶ 47–48, 54. Nor is Petitioner a flight risk.  
11 *See id.* ¶¶ 44–45, 49. Additionally, Petitioner may have pending applications for immigration relief  
12 and a record of appearing for immigration court and supervision appointments, further mitigating  
13 any risk of flight. *See* Pet. ¶ 44–45; *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1173 (W.D. Wash. 2023)  
14 (no legitimate concern of flight risk where plaintiffs have bona fide asylum claims and desire to  
15 remain in the United States).

16 Because Respondents deprived Petitioner of their liberty despite the lack of materially  
17 changed circumstances to justify doing so, Petitioner’s detention “lack[s] a valid basis and  
18 violate[s] Petitioner[’s] right to be free from impermissible government custody.” *Valencia Zapata*  
19 *v. Kaiser*, 801 F. Supp. 3d 919, 939 (N.D. Cal. 2025) (finding habeas petitioners have demonstrated  
20 “at least a serious question” as to whether their detention violates their substantive due process  
21 rights “by failing to serve any valid purpose”).

22 **B. To the Extent Petitioner is a *Garro Pinchi* Class Member, Their Detention**  
23 **Likely Violates the Binding Order Prohibiting Their Re-Detention Without a**  
24 **Material Change in Circumstances.**

25 To the extent Petitioner is a member of the *Garro Pinchi* class, Respondents appear to have  
26 re-detained Petitioner in violation of the *Garro Pinchi* order. Petitioner is a *Garro Pinchi* class  
27 member if Petitioner: (a) is in the jurisdiction of the San Francisco ICE Field Office, (b) entered  
28 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,

1 including any § 1229a proceedings that have been dismissed where the dismissal is not  
2 administratively final; and (e) is not subject to detention under 8 U.S.C. § 1226(c). *Garro Pinchi*,  
3 813 F. Supp. 3d at 1010–11.

4 *Garro Pinchi* held that Respondents’ Re-Detention Policy is a final agency action and  
5 therefore is reviewable under the APA. *Garro Pinchi*, 813 F. Supp. 3d at 1019–24. The court  
6 concluded that no other bars precluded it from reaching the merits of Plaintiffs’ APA challenge *Id.*  
7 at 1024–26. On the merits, the court concluded that: Respondents failed to provide a reasoned  
8 explanation for its new policy at the time of its implementation; any post hoc rationalization  
9 Respondents provided for the Re-Detention Policy was based on legal error; Respondents failed  
10 to consider released noncitizens’ serious reliance interests when implementing the new policy; and  
11 Respondents failed to adequately consider noncitizens’ protected liberty interests when  
12 implementing the new policy. *Id.* at 1026–36. Concluding that preliminary relief was warranted,  
13 the court stayed Respondents’ implementation of the Re-Detention Policy within ICE’s San  
14 Francisco Area of Responsibility pending final judgment. *Id.* at 1037–40.<sup>1</sup> Under the *Garro Pinchi*  
15 order now in effect, Respondents within ICE’s San Francisco Area of Responsibility must revert  
16 to their longstanding prior policy of *not* re-arresting and re-detaining class members unless they  
17 first make an individualized determination that there are materially changed circumstances as to  
18 the class member’s dangerousness or flight risk.

19 Yet, to the extent Petitioner is a *Garro Pinchi* class member, Respondents re-arrested  
20 Petitioner and now continue to detain them despite no materially changed circumstances as to their  
21 dangerousness or flight risk. Pet. ¶¶ 46–51. To the extent Respondents arrested Petitioner within  
22 ICE’s San Francisco Area of Responsibility, the arrest violated the *Garro Pinchi* order. *Garro*  
23 *Pinchi*, 813 F. Supp. 3d at 1039–40. This renders Petitioner’s arrest and ongoing detention  
24 unlawful. “Agency action taken under a void rule has no legal effect.” *W.C. v. Bowen*, 807 F.2d  
25 1502, 1505 (9th Cir.), *as amended on denial of reh’g*, 819 F.2d 237 (9th Cir. 1987). Accordingly,  
26 “when a court with jurisdiction finds that the plaintiffs before it were harmed by an agency decision  
27

28 <sup>1</sup> 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>.

1 issued under an illegal rule, the court should vacate that wrongful decision as a remedy.” *D.A.M.*  
2 *v. Barr*, 486 F. Supp. 3d 404, 416 (D.D.C. 2020) (applying *W.C. v. Bowen*).

3 The *Garro Pinchi* order was entered on December 19, 2025 at 3:43 p.m. If Respondents  
4 arrested Petitioner *before* then, Respondents’ *ongoing* detention of Petitioner since the order’s  
5 issuance is unlawful. If Respondents arrested Petitioner *after* the December 19, 2025 *Garro Pinchi*  
6 order, Petitioner’s arrest and subsequent re-detention are unlawful. Regardless of the precise  
7 sequence of events, Respondents violate the binding *Garro Pinchi* order every day that Petitioner  
8 continues to be detained. Petitioner should be immediately released.

9 \* \* \* \* \*

10 For the foregoing reasons, Petitioner is likely to succeed on the merits of their claims.  
11 Alternatively, at a minimum, Petitioner presents at least “serious question[s] going to the merits”  
12 of their claims, alongside a “balance of hardships” tipping decidedly in their favor. *All. for the*  
13 *Wild Rockies*, 632 F.3d at 1135. This Court should enter the requested TRO.

14 **II. PETITIONER WILL CONTINUE TO SUFFER SERIOUS AND IRREPARABLE**  
15 **INJURY ABSENT A TRO.**

16 Every day Petitioner is unlawfully detained in violation of the Fifth Amendment’s Due  
17 Process Clause inflicts an irreparable injury upon them.

18 “It is well established that the deprivation of constitutional rights ‘unquestionably  
19 constitutes irreparable injury.’” *Hernandez*, 872 F.3d at 994–95 (citing *Melendres v. Arpaio*, 695  
20 F.3d 990, 1002 (9th Cir. 2012)). “When an alleged deprivation of a constitutional right is involved,  
21 most courts hold that no further showing of irreparable injury is necessary.” *Warsoldier v.*  
22 *Woodford*, 418 F.3d 989, 1001-02 (9th Cir. 2005) (citation modified).

23 Moreover, the unlawful deprivation of physical liberty is a quintessential irreparable harm.  
24 *See Hernandez*, at 994 (holding that plaintiffs were irreparably harmed “by virtue of the fact that  
25 they [we]re likely to be unconstitutionally detained for an indeterminate period of time”); *see also*,  
26 *e.g., Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing that “[a]ny amount  
27 of actual jail time is significant, and has exceptionally severe consequences for the incarcerated  
28 individual” (citation modified)).

1 In addition to their loss of liberty, Petitioner is also suffering additional ongoing irreparable  
2 harms. Pet. ¶¶ 53, 66–68. To the extent Petitioner has experienced difficulty practicing their  
3 religion, “the loss of First Amendment freedoms, for even minimal periods of time, unquestionably  
4 constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976); see Pet. ¶¶ 44, 66–68.  
5 Petitioner’s continued detention may also inflict irreparable harm on their family, community, and  
6 well-being. See Pet. ¶ 67–68.

7 Finally, Petitioner could not reasonably have filed their habeas petition and motion for  
8 TRO sooner. When Respondents detained Petitioner, Petitioner had no access to counsel willing  
9 to file a habeas petition on their behalf. Petitioner worked diligently to file a habeas petition from  
10 detention with limited or no access to the Internet or other legal resources. Petitioner may have  
11 ongoing medical problems that are not being adequately addressed in detention and have delayed  
12 preparation and filing of their *pro se* habeas petition and motion for TRO. Pet. ¶ 53. Petitioner may  
13 also have language barriers or other accessibility issues that caused yet more delays. See Decl. of  
14 Petitioner in Support of TRO ¶ 8. Accordingly, any perceived delay was not due to a lack of  
15 diligence; it was due instead to Petitioner’s lack of access to habeas counsel and the daunting  
16 challenges of filing for *pro se* relief, particularly while detained. Meanwhile, every day that  
17 Petitioner is unlawfully detained only compounds Petitioner’s irreparable harm. Under these  
18 circumstances, Petitioner’s unconstitutional, unlawful, and unnecessary continued detention  
19 constitutes irreparable harm justifying this emergency relief.

20 **III. THE BALANCE OF THE EQUITIES AND THE PUBLIC INTEREST WEIGH**  
21 **STRONGLY IN PETITIONER’S FAVOR.**

22 When the government is the party opposing the request for emergency relief, the balance  
23 of the equities and the public interest merge. *Env’t Prot. Info. Ctr. v. Carlson*, 968 F.3d 985, 991  
24 (9th Cir. 2020). Here, the balance of equities overwhelmingly favors Petitioner, who faces  
25 irreparable injury in the form of ongoing legal violations and additional suffering if the TRO is not  
26 granted. See Section II, *supra*; *Hernandez*, 872 F.3d at 996 (when “[f]aced with . . . preventable  
27 human suffering, . . . the balance of hardships tips decidedly in plaintiffs’ favor”) (citation  
28 modified).



1 personal identification, employment authorization document, medical insurance card, money,  
2 legal documents, and other personal effects; (4) Respondents are enjoined from imposing upon  
3 Petitioner additional or more restrictive conditions of release or supervision, absent notice and an  
4 opportunity to be heard; (5) To preserve this Court's jurisdiction, Respondents are enjoined from  
5 transferring Petitioner out of this District or removing Petitioner from the country until these  
6 proceedings have concluded; and (6) No security shall be required.

7  
8 Respectfully submitted,

9  
10 \_\_\_\_\_  
11 Date [*Fecha*]

10 \_\_\_\_\_  
11 Printed Name [*Nombre Impreso*]

12 \_\_\_\_\_  
13 Signature [*Firma*]

14 *Pro se Petitioner*  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 Name / Nombre: \_\_\_\_\_

2  
3 A Number / Número A: \_\_\_\_\_

4 Address / Dirección: \_\_\_\_\_

5 \_\_\_\_\_

6 \_\_\_\_\_

7 **PRO SE**

8 **UNITED STATES DISTRICT COURT**

9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

10 \_\_\_\_\_

11 \_\_\_\_\_  
12 [Full Name / Nombre Completo]

13  
14 Petitioner,

15 v.

16 Current or Acting Warden of

17 ICE Detention Facility [*write/escrība Mesa*  
18 *Verde, Golden State Annex, California City,*  
19 *or Central Valley Annex*], Current or Acting  
20 Field Office Director, San Francisco Field  
21 Office, United States Immigration and  
22 Customs Enforcement; Current or Acting  
23 Director, United States Immigration and  
24 Customs Enforcement; Current or Acting  
25 Secretary, United States Department of  
26 Homeland Security; and Current or Acting  
27 United States Attorney General,

28 Respondents.

Case No. \_\_\_\_\_

**[PROPOSED] Temporary Restraining  
Order and Order to Show Cause**

1 **[PROPOSED] ORDER**

2 Upon review of Petitioner’s Ex Parte Motion for Temporary Restraining Order, and any  
3 response filed by Respondents, the application is **GRANTED**. Pursuant to Rule 65 of the Federal  
4 Rules of Civil Procedure and Civil Local Rule 231, the Court orders as follows:

5 **TEMPORARY RESTRAINING ORDER**

6 Petitioner has carried their burden of showing: (1) Petitioner’s detention likely violates the  
7 Fifth Amendment’s procedural due process guarantee; (2) Petitioner’s detention likely violates the  
8 Fifth Amendment’s substantive due process guarantee; (3) to the extent Petitioner is a *Garro*  
9 *Pinchi* class member, their detention likely violates the binding preliminary relief order in that  
10 case, which prohibits their re-detention without a material change in circumstances; (4) Petitioner  
11 is irreparably harmed by their unlawful detention in Respondents’ custody; (5) the balance of  
12 equities weigh in Petitioner’s favor; and (6) the public interest favors granting the application.  
13 Accordingly, a temporary restraining order pursuant to Federal Rule of Civil Procedure 65 and the  
14 inherent equitable powers of this Court is warranted.

15 It is ORDERED that, to restore the *status quo ante* pending these proceedings, Respondents  
16 are ENJOINED as follows:

- 17 1. Respondents must immediately release Petitioner from custody on the same conditions  
18 that governed their liberty prior to Petitioner’s current detention;
- 19 2. Respondents are enjoined from re-detaining Petitioner absent further order of this  
20 Court; *or, in the alternative*, are enjoined from re-detaining Petitioner unless  
21 Respondents provide Petitioner at least 14 days’ notice that they will seek a pre-  
22 deprivation bond hearing before a neutral arbiter where Respondents must prove, by  
23 clear and convincing evidence, that Petitioner is a flight risk or danger to the  
24 community such that Petitioner’s physical custody is required;
- 25 3. Respondents must return to Petitioner all property confiscated from Petitioner during  
26 Petitioner’s arrest, processing, and/or detention, including but not limited to any  
27 personal identification, employment authorization document, medical insurance card,  
28 money, legal documents, and other personal effects;

- 1 4. Respondents are enjoined from imposing upon Petitioner additional or more restrictive  
2 conditions of release or supervision, absent notice and an opportunity to be heard;  
3 5. To preserve this Court's jurisdiction, Respondents are enjoined from transferring  
4 Petitioner out of this District or removing Petitioner from the country until these  
5 proceedings have concluded;  
6 6. No security shall be required.

7  
8 **ORDER TO SHOW CAUSE**

9 *Instructions to Petitioner: Do not fill in any of the blanks below. They are for the judge to fill in.*  
10 *Instrucciones al/a la Peticionario/a: No complete ninguno de los espacios en blanco a*  
11 *continuación. Son para que los complete el juez.*

12 Respondents are ordered to show cause before this Court why a preliminary injunction  
13 should not issue requiring Respondents to abide by the injunctions ordered herein. If the Court  
14 determines a hearing on the order to show cause is warranted, a hearing will be held on  
15 \_\_\_\_\_ at \_\_\_\_\_. Respondents shall file responsive papers on  
16 \_\_\_\_\_.

17 The Clerk of this Court is ordered to serve the Temporary Restraining Order and Order to  
18 Show Cause and all supporting pleadings and papers on Respondents by \_\_\_\_\_.

19 Respondents are hereby notified of their right to apply to the Court for modification or  
20 dissolution of the Temporary Restraining Order on two (2) days' notice or such shorter notice as  
21 the Court may allow. Fed. R. Civ. P. 65(b).

22  
23 **IT IS SO ORDERED.**

24  
25 Date & Time: \_\_\_\_\_  
26 \_\_\_\_\_  
27 United States District Judge  
28

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TEMPORARY RESTRAINING ORDER  
(TRO)  
CHECKLIST

**NOTE:** When filing a Motion for a TRO with the court, you must choose Motion for TRO. You must complete this document and attach it to your motion as an attachment in CM/ECF. If you have questions, please call the CM/ECF Help Desk at 1-866-884-5525 (Sacramento) or 1-866-884-5444 (Fresno).

- (A) *Check one.* Filing party is represented by counsel   
Filing party is acting in pro se

- (B) Has there been actual notice, or a sufficient showing of efforts to provide notice to the affected party?  
*See Local Rule 231 and FRCP 65(b).*

Did applicant discuss alternatives to a TRO hearing?

Did applicant ask opponent to stipulate to a TRO?

Opposing Party:

Telephone No.:

- (C) Has there been undue delay in bringing a TRO?

Could this have been brought earlier?

Yes:  No:

(D) What is the irreparable injury?

Why the need for an expedited hearing?

(E) Documents to be filed and (unless impossible) served on affected parties/counsel:

- (1) Complaint
- (2) Motion for TRO
- (3) Brief on all legal issues presented by the motion
- (4) Affidavit detailing notice, or efforts to effect notice, or showing why it should not be given
- (5) Affidavit in support of existence of irreparable harm
- (6) Proposed order with provision for bond
- (7) Proposed order with blanks for fixing:
  - Time and date of hearing for motion for preliminary injunction
  - Date for filing responsive papers
  - Amount of bond, if any
  - Date and hour of issuance
- (8) For TROs requested *ex parte*, proposed order shall notify affected parties they can apply to the court for modification/dissolution on 2 days notice or such shorter notice as the court may allow. See *Local Rule 231 and FRCP 65(b)*