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

YONNATAN SOTO GARCIA,
Plaintiff,

vs.

TONYA ANDREWS, in official capacity,
Facility Administrator of Golden State Annex;
ORESTES CRUZ, in official capacity, Field
Office Director of ICE's San Francisco Field
Office; TODD M. LYONS, in official capacity,
Acting Director of ICE, KRISTI NOEM, in
official capacity, Secretary of the U.S.
Department of Homeland Security; PAM
BONDI, in official capacity, Attorney General
of the United States;

Respondents.

Case No.: _____

PETITION FOR WRIT OF HABEAS
CORPUS

Immigration Habeas Case

PETITION FOR WRIT OF HABEAS CORPUS

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INTRODUCTION

1. Petitioner Yonnatan Soto Garcia (“Mr. Soto Garcia”),¹ by and through undersigned counsel, hereby files this petition for writ of habeas corpus to compel his immediate release from the immigration jail where he has been held by the Department of Homeland Security (“DHS”) since being unlawfully re-detained on May 28, 2025, without first being provided a due process hearing to determine whether his incarceration is justified. Mr. Soto Garcia must be released from custody unless and until DHS proves to a neutral adjudicator, by clear and convincing evidence, that he presents a current danger and unmitigable flight risk. DHS will be unable to do so.

2. On September 14, 2022, DHS detained Mr. Soto Garcia, alleging that he had an aggravated felony conviction that subjected him to an administrative order of removal. Mr. Soto Garcia claimed a fear of removal, was found to have a reasonable fear of removal by an asylum officer and was placed in withholding-only proceedings. While his withholding-only proceedings were pending, Mr. Soto Garcia had a bond hearing pursuant to *Gonzalez v. Sessions*, 325 F.R.D. 616 (N.D. Cal. 2018). On May 25, 2023, an Immigration Judge (“IJ”) concluded that the government was unable to justify, by clear and convincing evidence, the necessity of Mr. Soto Garcia’s detention and ordered his release on a low bond of \$3,000 and participation in

¹ Mr. Soto Garcia respectfully requests that the Court use his initials, rather than his full last name, in any opinion in his case, as suggested by the Committee on Court Administration and Case Management of the Judicial Conference of the United States. *See Memorandum Re: Privacy Concern Regarding Social Security & Immigration Opinions*, May 1, 2018, *available at*: https://www.uscourts.gov/sites/default/files/18-cv-l-suggestion_cacm_0.pdf. *See also Walter A.T. v. Facility Administrator*, No. 1:24-CV-01513-EPG-HC, 2025 WL 1744133, at *10 (E.D. Cal. June 24, 2025).

alternatives to detention (“ATD”). DHS did not appeal the IJ’s bond determination.

3. That same day, Mr. Soto Garcia was released from immigration custody. In the two years following his release, Mr. Soto Garcia has been living with his family, started a relationship with his current girlfriend and has been diligently working in food service and event production. He has complied with and was successfully discharged from parole in April 2024.

4. On May 27, 2025, Mr. Soto Garcia received a call from his Intensive Supervision Appearance Program (“ISAP”) agent telling him to come into the office. On May 28, 2025, Mr. Soto Garcia reported as instructed to the ISAP office in Stockton, California, and was unexpectedly taken into the custody of Immigration and Customs Enforcement (“ICE”). When he asked for a warrant, an ICE officer told him he did not have to give him one.

5. The next day, during a phone call with Mr. Soto Garcia’s immigration attorney, an ICE officer stated that ICE had decided to re-incarcerate Mr. Soto Garcia due to over 30 alleged ATD program violations and his pending criminal charge—driving on a suspended license following a DUI and operating a vehicle not equipped with a functioning ignition interlock device, misdemeanor charges that the agency has known about for over a year. During that time, Mr. Soto Garcia had twice attended in person check-ins with ICE, in November 2024 and in March 2025, and participated in his monitoring requirements with ISAP.

6. It is well-established that individuals released from incarceration have a liberty interest in their freedom. *See, e.g., Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972); *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 WL 691664, at *4 (E.D. Cal. Mar. 3, 2025). In turn, to protect that interest on the particular facts of Mr. Soto Garcia’s case, due process required notice and a hearing, *prior* to any redetention, at which he would be afforded the opportunity to advance his arguments as to why his bond should not be revoked.

1 7. That basic principle—that individuals placed at liberty are entitled to process before the
2 government imprisons them—has particular force here, where Mr. Soto Garcia’s detention was
3 *already* found to be unnecessary to serve its purpose. An IJ previously found that he does not
4 need to be incarcerated to prevent flight or to protect the community. Moreover, ICE did not seek
5 to redetain him until May 2025, over a year after his arrest—lacking urgency and indicative of
6 the needlessness to protect the public on this basis. In fact, ICE detained Mr. Soto Garcia only
7 seven days after a meeting between ICE leaders and members of the Trump administration
8 announcing an increased goal of 3,000 daily ICE arrests.² This suggests that his detention was
9 more about meeting quotas than about any concerns about Mr. Soto Garcia himself.
10

11
12 8. Due process requires that any redetention of Mr. Soto Garcia happen only *after* a neutral
13 adjudicator has determined that he poses a present danger and unmitigable flight risk. Therefore,
14 the Court should order Mr. Soto Garcia’s immediate release until a neutral decisionmaker
15 determines that DHS has justified Mr. Soto Garcia’s incarceration by clear and convincing
16 evidence. During any custody redetermination hearing that occurs, the neutral adjudicator must
17 consider alternatives to detention and Mr. Soto Garcia’s ability to pay. Further, to comply with
18 due process, the Court should order that DHS must provide Mr. Soto Garcia with details
19 regarding the date, time, place, and substance of any conduct being used by ICE to justify his
20 redetention.
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23 //

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27 ² See Brittany Gibson & Stef W. Kight, “Scoop: Stephen Miller, Noem tell ICE to supercharge
28 immigrant arrests,” Axios (May 28, 2025) at <https://www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller>.

CUSTODY

9. Mr. Soto Garcia is currently detained by DHS at the Golden State Annex ICE Detention Center in McFarland, California, where he was transferred after being arrested by ICE officers at the ISAP Stockton office. Since being arrested by ICE in Stockton, Mr. Soto Garcia has not been provided with a constitutionally compliant hearing to determine whether his redetention is justified.

JURISDICTION

10. This action arises under the Constitution of the United States, the INA, 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (“APA”), 5 U.S.C. § 500 et seq.

11. Jurisdiction is proper under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2241, Article I, Section 9, Clause 2 of the United States Constitution (habeas corpus), 28 U.S.C. § 2201-2202 (Declaratory Judgement Act), and the Suspension Clause of Article 1 of the U.S. Constitution. The United States has waived its sovereign immunity pursuant to 5 U.S.C. § 702.

12. This Court may grant declaratory and injunctive relief pursuant to 28 U.S.C. § 2241, 1651, 2201-02, and 5 U.S.C. § 702. This Court also has broad equitable powers to grant relief to remedy a constitutional violation. *See Roman v. Wolf*, 977 F.3d 935, 941 (9th Cir. 2020).

REQUIREMENTS OF 28 U.S.C. § 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” *Id.* (emphasis added).

14. Courts have long recognized the significance of the habeas statute in protecting

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1 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
2 important writ known to the constitutional law of England, affording as it does a *swift* and
3 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391,
4 400 (1963) (emphasis added).

5
6 15. Habeas corpus must remain a swift remedy. Importantly, “the statute itself directs courts
7 to give petitions for habeas corpus ‘special, preferential consideration to insure expeditious
8 hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations
9 omitted). The Ninth Circuit warned against any action creating the perception “that courts are
10 more concerned with efficient trial management than with the vindication of constitutional
11 rights.” *Id.*

12 VENUE

13
14 16. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because the
15 Respondents are employees or officers of the United States, acting in their official capacity;
16 because a substantial part of the events or omissions giving rise to the claim occurred in the
17 Eastern District of California; because Petitioner was arrested in Stockton, which is in the
18 jurisdiction of the Eastern District of California; because Petitioner is currently detained in the
19 Eastern District of California; and because there is no real property involved in this action.

20 INTRADISTRICT ASSIGNMENT

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22 17. Mr. Soto Garcia was detained at the Stockton ISAP office and subsequently transferred to
23 the Stockton ICE Field Office. Therefore, the assignment to the Sacramento Division of this
24 Court is proper under E.D. Local Rule 120(d).

25 PARTIES

26
27 18. Petitioner Yonnatan SOTO GARCIA was born in Mexico and came to the United States

1 when he was approximately four years old. He was imprisoned in immigration custody from
2 September 2022 until May 2023. On May 25, 2023, an Immigration Judge determined that the
3 Department of Homeland Security was unable to justify Mr. Soto Garcia's ongoing detention by
4 clear and convincing evidence and ordered that he be released on a \$3,000 bond. On May 28,
5 2025, ICE, without prior notice or hearing, took Mr. Soto Garcia into custody when he appeared
6 at an ISAP office visit in Stockton, California. Mr. Soto Garcia has yet to receive a
7 constitutionally compliant hearing before a neutral adjudicator as to whether his redetention is
8 necessary or proper.
9

10
11 19. Respondent TONYA ANDREWS is the facility administrator of Golden State Annex, a
12 detention center located in McFarland, California run by GEO Group Inc., a private, for-profit
13 company. Pursuant to the Ninth Circuit's recent decision in *Doe v. Garland*, 109 F.4th 1188,
14 1197 (9th Cir. 2024), Tonya Andrews is the proper respondent because she is the *de facto*
15 warden of the facility at which Mr. Soto Garcia is detained. The mandate has yet to issue in that
16 case, however, so the other respondents are named herein to ensure effective relief and continued
17 jurisdiction in this case.
18

19 20. Respondent ORESTES CRUZ is the Field Office Director of ICE for San Francisco. In
20 his official capacity, he is the federal official most directly responsible for overseeing Golden
21 State Annex. Accordingly, he has legal custody over Mr. Soto Garcia.
22

23 21. Respondent TODD M. LYONS ("Acting Director Lyons") is the current Acting Director
24 of ICE. As the head of ICE, an agency within the DHS that detains and removes certain
25 noncitizens, Acting Director Lyons is a legal custodian of Mr. Soto Garcia, and is named in his
26 official capacity.
27
28

22. Respondent, KRISTI NOEM (“Secretary Noem”), is the Secretary of the Department of Homeland Security. She has authority over the detention and departure of noncitizens, like Petitioner, because she administers and enforces immigration laws pursuant to section 402 of the Homeland Security Act of 2002. 107 Pub L. 296 (November 25, 2003). Given this authority, Secretary Noem is the legal custodian over Mr. Soto Garcia and is empowered to carry out any administrative order issued against him.

23. Respondent, PAMELA BONDI (“Attorney General Bondi”), is the Attorney General of the United States, and as such, she is responsible for overseeing the implementation and enforcement of the federal immigration laws. She has the authority to interpret immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the EOIR, which administers the immigration courts and the Board of Immigration Appeals (“BIA”). In her official capacity, Attorney General Bondi is the ultimate legal custodian of Mr. Soto Garcia.

STATEMENT OF FACTS

24. Petitioner Yonnatan Soto Garcia (“Mr. Soto Garcia”) is currently detained at Golden State Annex in McFarland, California. He is thirty-two years old. *See* Declaration of Lydia Sinkus (hereinafter “Sinkus Decl.”) at Exhibit (“Exh.”) A, Declaration of Mr. Soto Garcia (hereinafter “Soto Garcia Decl.”) at ¶ 1.

25. Mr. Soto Garcia arrived in the United States when he was around four years old, and since that time has lived in Patterson, California, with his mother and stepfather. *See* Soto Garcia Decl. at ¶ 3. Mr. Soto Garcia was raised alongside his two younger brothers, both of whom are U.S. citizens. *Id.* He has many aunts, uncles, and cousins who live nearby. *Id.* Mr. Soto Garcia graduated from Patterson High School, and he attended community colleges in Hayward, Livermore, and Modesto. *Id.* He took courses ranging from automotive technology to art to

1 criminal justice. *Id.*

2 26. In 2008, Mr. Soto Garcia was assaulted by a high school classmate who claimed to be a
3 gang member, and he had to go to the hospital to treat his injuries. *Id.* at ¶ 4. In 2022, he applied
4 on his own for a U visa based on being the victim of this crime. *Id.* His application remains
5 pending with U.S. Citizenship and Immigration Services (“USCIS”). *Id.* In 2012, USCIS granted
6 Mr. Soto Garcia’s application for Deferred Action for Childhood Arrivals (“DACA”). *Id.* He was
7 able to renew his DACA in 2015 and again in 2018. *Id.*

9 **Mr. Soto Garcia’s Detention by Immigration Authorities in 2022**

10 27. ICE detained Mr. Soto Garcia on September 14, 2022, outside of his home. *Id.* at ¶ 5.
11 That day, ICE issued him a Notice of Intent to Issue a Final Administrative Removal Order
12 (“FARO”). *See* 8 U.S.C. § 1228(b); Exh. L, Notice. In that Notice, DHS alleged that (1) Mr. Soto
13 Garcia was not a citizen of the United States, (2) that he was not admitted or paroled into the
14 United States, and (3) that on June 9, 2020, he was convicted of Cal. Penal Code section
15 664/288(A) before the Superior Court of California for the County of San Joaquin, for which he
16 received an 18-month sentence. Exh. L. DHS charged him as removable for having been
17 convicted of an aggravated felony based on this conviction and issued the Notice of Intent on this
18 basis. *See id.*; *see also* 8 U.S.C. § 1227(a)(2)(A)(iii); 8 U.S.C. § 1101(a)(43)(U/A).

19 28. Even though the Notice of Intent indicated that Mr. Soto Garcia had ten (10) calendar
20 days to respond to the charges against him, DHS issued a Final Administrative Removal Order
21 (“FARO”) against Mr. Soto Garcia on the same day, without providing time or opportunity for a
22 response. *See* Exh. K, FARO; 8 C.F.R. §§ 238.1(b)(2)(i), (c)(1). Based on this order, Mr. Soto
23 Garcia is subject to detention under 8 U.S.C. § 1231.

24 29. FAROs severely restrict noncitizens’ access to immigration relief, with two exceptions:
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1 noncitizens who express a fear of persecution or torture in their home country may apply for
2 withholding of removal or CAT protection. *See* 8 C.F.R. §§ 238.1(f)(3), 208.31; *see also* *Zuniga*
3 *v. Barr*, 946 F.3d 464, 467 (9th Cir. 2019). DHS refers noncitizens who express a fear of return
4 to an asylum officer to conduct a non-adversarial interview. *Id.* If an asylum officer finds the
5 noncitizen has a reasonable fear of persecution or torture, the officer shall refer the noncitizen to
6 the Immigration Judge (“IJ”) for full consideration of his claim for protection. 8 C.F.R. §
7 208.31(e). If the asylum officer finds that the noncitizen does not have a reasonable fear, a
8 noncitizen can seek *de novo* review of that determination before an IJ. *Id.* at (f)-(g).

10
11 30. Mr. Soto Garcia claimed a fear of removal to Mexico. Sinkus Decl. at ¶ 7. He had an
12 interview with an asylum officer, who found that Mr. Soto Garcia had a reasonable fear of
13 removal to Mexico. *Id.*

14 31. He was subsequently placed in withholding-only proceedings so that he could present a
15 full claim for withholding of removal and protection under the Convention Against Torture
16 (“CAT”). *See id.*; *see also* Soto Garcia Decl. at ¶ 5. Mr. Soto Garcia presented his case on his
17 own, as he did not have counsel at the time. *Id.* The IJ denied Mr. Soto Garcia’s applications for
18 protection on March 15, 2023. *Id.* Mr. Soto Garcia obtained counsel in April 2023 and filed an
19 appeal of the IJ’s decision with the assistance of counsel on April 10, 2023. *Id.* at ¶ 8. *See also*
20 Exh. J, BIA Receipt Notice. He also filed a motion to remand on May 2, 2024. Sinkus Decl. at 8.
21 His appeal and motion to remand are currently pending before the Board of Immigration
22 Appeals. *Id.*

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25 32. On May 25, 2023, Mr. Soto Garcia appeared for an *Aleman* bond hearing with the
26 assistance of counsel. *Id.* at ¶ 9. At that bond hearing, the IJ held that the government had been
27 unable to establish that Mr. Soto Garcia posed a risk of danger or flight risk by clear and
28

1 convincing evidence and ordered his release on a \$3,000 bond and placement on release
2 conditions (i.e. “alternatives to detention,” known as ATD). *Id. See also* Exh. D, IJ’s Bond
3 Order.

4 33. Mr. Soto Garcia was released from immigration custody that same day under an Order of
5 Supervision (“OSUP”). His OSUP imposed release conditions, including that he wear an
6 electronic ankle monitor, check-in regularly with ICE, and participate in the Intensive
7 Supervision Appearance Program (“ISAP”), a form of ATD. Sinkus Decl. at ¶ 10.

8
9 **Mr. Soto Garcia’s Release from Immigration Custody, from May 2023 to May 2025**

10 34. Since his release, Mr. Soto Garcia has lived with his mother and stepfather in Patterson.
11 Soto Garcia Decl. at ¶ 7. He obtained a work permit and focused on his career. Exh. E, Copy of
12 Work Permit. Mr. Soto Garcia began working with six different employers in event production
13 and food service. Soto Garcia Decl. at ¶ 8. Through his work, Mr. Soto Garcia plays a vital role
14 in hosting corporate and community events. *Id.* at ¶¶ 8-11. His employers describe him as hard-
15 working and reliable. *See* Exh. I, Letters of Support. He reports that, because of his good work,
16 he is due to be promoted to a management position soon. Soto Garcia Decl. at ¶ 11.

17 35. Mr. Soto Garcia maintained close relationships with his mother, stepfather, and two
18 younger brothers. *Id.* at ¶ 7. Mr. Soto Garcia also started dating his girlfriend in August 2024 and
19 adopted a puppy around the same time. *See id.* at ¶¶ 7, 35. He also rejoined his Catholic Church
20 and reconnected with his mentor there. *Id.* at ¶ 7.

21 36. In April 2024, Mr. Soto Garcia successfully completed parole for his 2020 conviction. *Id.*
22 at ¶ 12. He finished his required courses and was discharged from CDCR supervision. *See id.*;
23 *see also* Exh. F, Proof of discharge from state parole.

24 37. In May 2024, Mr. Soto Garcia was arrested in Stanislaus County at a gas station. He was
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1 charged with Cal. Vehicle Code § 14601.2(a), driving on a suspended license, and Cal. Vehicle
2 Code § 23247(e), operating a vehicle not equipped with a functioning ignition interlock device.
3 *See Soto Garcia Decl. at ¶ 12; Exh. N, Copy of Complaint.* Both charges are misdemeanors. His
4 next hearing date is July 17, 2025. Sinkus Decl. at ¶ 17. He is represented by the Stanislaus
5 County Public Defender's Office. *Id.*

7 38. Mr. Soto Garcia's ankle monitor was removed as part of the arrest process. Soto Garcia
8 Decl. at ¶ 13. He reported to the ISAP office following his release from police custody. *Id.* ISAP
9 put another ankle monitor on him. *Id.*

10 39. He completed regular check-ins with ISAP, both in person and virtually. *See Soto Garcia*
11 *Decl. at ¶¶ 15-19.* He shared his location with ISAP through the SmartLINK application on his
12 phone. *Id.* at ¶ 15. He also submitted a photo to ISAP every day through the SmartLINK
13 application. *Id.* He was deescalated from an ankle monitor to a smartwatch in March 2025. *Id.* at
14 ¶ 16. It was at this time that he began experiencing regular issues with ISAP due to technological
15 issues with the smartwatch, despite his best efforts. *Id.* For example, his smartwatch often lost
16 internet connection and he would have to ask his officer to upload his daily photo through the
17 application rather than the watch. *Id.* Several times he was asked to attend a virtual check-in by
18 sending a photo while he was driving. *Id.* Mr. Soto Garcia also received calls in the middle of the
19 night asking him to charge his watch, even though his watch was fully charged. *Id.* at ¶ 16. He
20 called the ISAP office on four separate occasions to have his watch checked – ISAP cleaned the
21 sensor and even shaved his wrist once to improve detection accuracy. *Id.* In light of all these
22 issues, Mr. Soto Garcia asked to be switched back to the ankle monitor because “at least the
23 technology was more predictable.” *Id.*

27 40. In addition to ISAP requirements, Mr. Soto Garcia must attend in person check-ins with
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PETITION FOR WRIT OF HABEAS CORPUS

1 ICE. Mr. Soto Garcia last attended an ICE check-in at the Stockton office on March 20, 2025.

2 See Exh. B, Copy of Mr. Soto Garcia's order of supervision ("OSUP") documents. This was his
3 fifth time reporting to ICE in person. *Id.* ICE scheduled his next check-in for June 20, 2025.

4 41. Meanwhile, soon after taking office, the Trump administration directed ICE officials to
5 increase their daily arrests to between 1,200 and 1,500.³ To reach this quota, each ICE field
6 office was expected to make at least 75 arrests per day.⁴ In February, 2025, border czar Tom
7 Homan expressed the administration's dissatisfaction with the number of ICE arrests thus far.⁵
8 Arrests continued to surge in the months that followed,⁶ but the numbers still fell short of the
9 administration's benchmarks, totaling a rough average of 650 daily arrests in the first five
10 months of Trump's second term.⁷ In a May 21, 2025, meeting with ICE leaders, White House
11 Deputy Chief of Staff Stephen Miller announced DHS's increased goal of 3,000 daily ICE
12 arrests to reach the target of one million deportations per year.⁸
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18 ³ Nick Miroff and Maria Sacchetti, "Trump officials issue quotas to ICE officers to ramp up
19 arrests," The Washington Post (Jan. 26, 2025) at
20 <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/>.

21 ⁴ *Id.*

22 ⁵ Luis Pablo Beauregard, "Trump's border czar says deportations and arrests are not happening
23 fast enough," El Pais (Feb. 12, 2025) at [https://english.elpais.com/usa/2025-02-12/trumps-
24 border-czar-says-deportations-and-arrests-are-not-happening-fast-enough.html](https://english.elpais.com/usa/2025-02-12/trumps-border-czar-says-deportations-and-arrests-are-not-happening-fast-enough.html).

25 ⁶ See TRAC Immigration at
26 https://tracreports.org/immigration/detentionstats/pop_agen_table.html (last visited on July 1,
27 2025).

28 ⁷ CBS News, "Trump directs immigration authorities to prioritize deportations in Democratic-run
cities," (June 16, 2025) at [https://www.cbsnews.com/news/trump-directs-ice-deportations-
democratic-run-cities/](https://www.cbsnews.com/news/trump-directs-ice-deportations-democratic-run-cities/).

⁸ See *supra* n. 2; Jose Oliveras, "Trump administration sets quota to arrest 3,000 people a day in
anti-immigration agenda," The Guardian (May 29, 2025) at [https://www.theguardian.com/us-
news/2025/may/29/trump-ice-arrest-quota](https://www.theguardian.com/us-news/2025/may/29/trump-ice-arrest-quota); Rebecca Beitsch, "Trump administration seeking to
triple immigrant arrests: Stephen Miller," The Hill (May 29, 2025) at

42. Six days later, on May 27, 2025, ICE called and asked Mr. Soto Garcia to report to the ISAP office in Stockton to have his watch checked. Soto Garcia Decl. at ¶ 21. Mr. Soto Garcia asked if he could go in the next day, as he was tired from a work event and sick, and ISAP agreed. *Id.*

Mr. Soto Garcia's Redetention by ICE on May 28, 2025

43. When Mr. Soto Garcia arrived at the Stockton ISAP office on May 28, 2025, it looked closed. *Id.* at ¶ 22. Then, a woman opened the door for him and locked it behind him once he was inside. *Id.* This was odd, as Mr. Soto Garcia had never been locked inside of ISAP before. He waited in the lobby for his ISAP officer to come get him. *Id.*

44. Three officers came out into the lobby. *Id.* Mr. Soto Garcia believes these officers were with ICE based on their uniforms. *Id.* The officers told him to put his hands behind his back. *Id.* Mr. Soto Garcia asked what was happening and they told him they had a warrant for his arrest. *Id.* The officers laughed when he asked to see the warrant. *Id.* One of the officers said that he had 20 years of experience working for ICE and he did not need to show him a warrant. *Id.* Another said the warrant was at his desk. *Id.* Mr. Soto Garcia showed them the letter his lawyer had prepared for him explaining his case status. *Id.* An officer took the letter from him but did not read it. *Id.* An officer pushed him against the wall and handcuffed him. *Id.*

45. The officers did not give Mr. Soto Garcia a concrete answer as to why they were arresting him. *Id.* at ¶ 23.

46. The officers drove Mr. Soto Garcia to the Stockton ICE office and placed him in a

<https://thehill.com/homenews/administration/5323491-stephen-miller-trump-triple-arrests-deportatoins/>.

1 holding cell. *Id.* at ¶ 24. A little while later, the same three officers took him to another room. *Id.*
2 There, they tried to get him to sign some documents, but one of the officers covered the text of
3 the documents with their hands and would not remove their hands when Mr. Soto Garcia asked.
4 *Id.* He told them that he would not sign anything without reading it first. *Id.* He felt pressured
5 and intimidated. *Id.* When he told the officers that he felt like his rights were being violated, the
6 officers laughed at him and told him he had no rights. *Id.*

7
8 47. Next, the officer in charge called more officers into the room, until there were about eight
9 or nine officers surrounding Mr. Soto Garcia. *Id.* at ¶ 25. Their voices kept getting louder and
10 more aggressive, and they slammed papers on the table in front of Mr. Soto Garcia. *Id.* At one
11 point, one of the officers tried to grab his hand to force him to put his fingerprint on a document,
12 but he refused. *Id.*

13
14 48. Eventually, Mr. Soto Garcia was able to speak with his attorney and explain that he was
15 being detained. *Id.*

16 **ICE's Basis for Mr. Soto Garcia's Redetention**

17
18 49. On May 29, 2025, Mr. Soto Garcia's immigration attorney, Lydia Sinkus, was able to
19 speak with deportation officer ("DO") Miller. Sinkus Decl. at ¶ 21. DO Miller informed her that
20 Mr. Soto Garcia was being redetained because he "allegedly had over 30 ATD program
21 violations." *Id.* He also mentioned Mr. Soto Garcia's 2024 arrest and stated that it would be
22 considered a violation of the ATD program until such time that the charges were dismissed, or
23 Mr. Soto Garcia was found not guilty. *Id.* DO Miller declined to provide me with the list of these
24 alleged violations. *Id.* DO Miller also stated that Mr. Soto Garcia's bond did not appear to have
25 been formally revoked as normally done prior to redetention. *Id.*

26
27 50. Attorney Sinkus sought to obtain copies of any and all documents related to Mr. Soto
28

Garcia's redetention, including an itemized list of the alleged 30 ATD program violations. She submitted a Freedom of Information Act request on June 3, 2025, and sent an email requesting the documents to ERO Bakersfield, the best method for reaching a deportation officer for a noncitizen detained at Golden State Annex, on June 10, 2025, and June 25, 2025. *Id.* at ¶¶ 22-24. Ms. Sinkus has yet to receive any documents from the agency regarding Mr. Soto Garcia's redetention. *Id.* at ¶ 24.

51. Mr. Soto Garcia also requested a copy of his arrest report. Soto Garcia Decl. at ¶ 27. On June 25, 2025, Mr. Soto Garcia received a copy of the Form I-213, Record of Deportable/Inadmissible Noncitizen. *Id.* Mr. Soto Garcia states that the report includes the following language regarding his redetention on May 28, 2025:

Since release Subject has accumulated over 30 violations of the program, including verbally stating to ERO officers that he will no longer comply with the program. Additionally, on May 2, 2024, Subject was arrested by the Stanislaus County Office for [redacted]. These charges are still pending as of this report date. Subject will be processed as a custody redetermination based on ATD program violations, criminal history, and recent post-release arrest....

Addendum: On May 28, 2025, Subject was taken into ICE/ERO Stockton without [sic] incident at the BI/ISAP Office in Stockton, California.

Id.

Mr. Soto Garcia's Detention at Golden State Annex

52. ICE transferred Mr. Soto Garcia to Golden State Annex that night, on May 28, 2025. Sinkus Decl. at ¶ 21. Golden State Annex is a private detention center located in McFarland, California, that is owned and operated by GEO Group, Inc. ("GEO"). The GEO Group is a

private prison company that has facilities on three continents.⁹ While Golden State Annex is now used as an immigration detention center it was “previously used as a correctional facility.” *Martinez Leiva v. Becerra*, No. 23-02027-CRB, 2023 WL 3688097, at *2 (N.D. Cal. May 25, 2023). For years, immigrants detained at Golden State Annex have raised the alarm about unlivable and unsanitary housing conditions, as well as concerns regarding their treatment.¹⁰

53. Mr. Soto Garcia reports difficulties sleeping, crowded facilities, and inadequate medical care at GSA. *See* Soto Garcia Decl. at ¶ 31. His emotion state is not well, and he is concerned about the impact of his redetention on his family and his partner. *Id.* at ¶ 33. Further, with summer being a busy time for event production work, he and his employers report hardship with him missing previously scheduled work responsibilities. *Id.* at ¶ 11; *see also* Exh.I. Mr. Soto Garcia is also missing the chance to earn money during this busy time to help support himself and his family. *Id.*

54. If released from custody, Mr. Soto Garcia plans to reside back with his family and puppy in Patterson. He intends to keep focused on his career and return to working with his employers. *Id.* at ¶¶ 37. He has future goals of returning to school to take computer science classes and to one day open his own business. *Id.* at ¶ 34.

LEGAL FRAMEWORK

Right to a Hearing Prior to Re-Detention

⁹ The GEO Group, Inc., <https://www.geogroup.com/facilities/golden-state-annex/> (last visited June 18, 2025).

¹⁰ *See e.g.*, “Advocacy Letter: Urgent request to stop new intakes at Golden State Annex,” CCIJ (March 11, 2024) at <https://www.ccijustice.org/advocacy-gsa-population-increase> (highlighting a rise in reports regarding failure to provide drinking water, timely and adequate medical care, soap or underwear and shoes, and disruptions to means and programming).

1 55. In Mr. Soto Garcia's particular circumstances, the Due Process Clause of the Constitution
2 makes it unlawful for Respondents to re-arrest him without first providing a pre-deprivation
3 hearing before the IJ to determine whether circumstances have materially changed since his
4 release on bond in May 2023, such that re-detention would now be warranted.

5
6 56. The statute and regulations grant ICE the ability to unilaterally revoke any noncitizen's
7 immigration bond and re-arrest the noncitizen at any time. 8 U.S.C. § 1226(b); 8 C.F.R. §
8 236.1(c)(9). Moreover, notwithstanding the breadth of the statutory language granting ICE the
9 power to revoke an immigration bond "at any time," 8 U.S.C. 1226(b), in *Matter of Sugay*, 17
10 I&N Dec. 637, 640 (BIA 1981), the BIA recognized an implicit limitation on ICE's authority to
11 re-arrest noncitizens. There, the BIA held that "where a previous bond determination has been
12 made by an immigration judge, no change should be made by [the DHS] absent a change of
13 circumstance." *Id.* In practice, DHS "requires a showing of changed circumstances both where
14 the prior bond determination was made by an immigration judge and where the previous release
15 decision was made by a DHS officer." *Saravia*, 280 F. Supp. 3d at 1197 (emphasis added). The
16 Ninth Circuit has also assumed that, under *Matter of Sugay*, ICE has no authority to re-detain an
17 individual absent changed circumstances. *Panosyan v. Mayorkas*, 854 F. App'x 787, 788 (9th
18 Cir. 2021) ("Thus, absent changed circumstances ... ICE cannot redetain Panosyan.").

19
20
21 57. ICE has further limited its authority as described in *Sugay*, and "generally only re-arrests
22 [noncitizens] pursuant to § 1226(b) after a *material* change in circumstances." *Saravia*, 280 F.
23 Supp. 3d at 1197, *aff'd sub nom. Saravia for A.H.*, 905 F.3d 1137 (quoting Defs.' Second Supp.
24 Br. at 1, Dkt. No. 90) (emphasis added). Thus, under BIA case law and stated ICE practice, ICE
25 may re-arrest a noncitizen who had been previously released on bond only after a material
26 change in circumstances. *See Saravia*, 280 F. Supp. 3d at 1176; *Matter of Sugay*, 17 I&N Dec. at

1 640.

2 58. It is unclear whether the above authority even applies to Mr. Soto Garcia, who was
3 released pursuant to a bond hearing obtained via federal class action litigation. Even still, it must
4 be recognized that ICE's power to re-arrest a noncitizen who is at liberty following a release on
5 bond is also constrained by the demands of due process. *See Hernandez v. Sessions*, 872 F.3d
6 976, 981 (9th Cir. 2017) ("[T]he government's discretion to incarcerate non-citizens is always
7 constrained by the requirements of due process"). In this case, the guidance provided by *Matter*
8 *of Sugay*—that ICE should not re-arrest a noncitizen absent changed circumstances, assuming
9 applicability—is insufficient to protect Mr. Soto Garcia's weighty interest in his freedom from
10 detention.
11

12 59. Federal district courts in California have repeatedly recognized that the demands of due
13 process and the limitations on DHS's authority to revoke a noncitizen's bond or parole set out in
14 DHS's stated practice and *Matter of Sugay* both require a pre-deprivation hearing for a
15 noncitizen on bond, like Mr. Soto Garcia, *before* ICE re-detains him. *See, e.g., Meza v. Bonnar*,
16 2018 WL 2554572 (N.D. Cal. June 4, 2018); *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal.
17 2019); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23,
18 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL 783561, at *2 (N.D. Cal.
19 Mar. 1, 2021); *Garcia v. Bondi*, No. 3:25-CV-05070, 2025 WL 1676855, at *4 (N.D. Cal. June
20 14, 2025); *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *4 (N.D. Cal. June 14,
21 2025); ECF No. 9, *Guillermo M.R. v. Polly Kaiser*, No. 3:25-cv-05436-RFL (N.D. Cal. June 30,
22 2025).
23

24 60. As for the process due to noncitizen following their redetention by ICE, the Court's
25 decision in *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC, 2025 WL 691664, at *8 (E.D. Cal.
26

Mar. 3, 2025), is illustrative. In this case, Mr. Doe, a noncitizen from India, had been redetained by ICE at a standard check-in more than five years after his release on a bond. *Id.* at *1. Notably, Mr. Doe had been arrested following his release on bond with charges dismissed after he successfully completed a diversion program, and he was the subject of an INTERPOL Red Notice. *Id.* at *5. Mr. Doe challenged his mandatory detention, arguing that his redetention without review by a neutral adjudicator violated his due process rights. *Id.* at *1. In granting a preliminary injunction, the Court held that even with the new facts, Mr. Doe had established a strong likelihood of success in showing that he had an interest in his continued liberty and that mandatory detention, in that case, under 8 U.S.C. 1225(b)(1)(B)(ii) would violate this due process rights unless he was afforded adequate process. *Id.* at *5. The Court further held that, after applying the three-factor test in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), Mr. Doe was entitled to a hearing before an IJ to determine whether his detention is warranted. *Id.* at *6, *8. At this hearing, the government bore the burden of establishing, by clear and convincing evidence, whether Mr. Doe posed a danger or a flight risk.

Mr. Soto Garcia's Protected Liberty Interest in His Conditional Release

61. Mr. Soto Garcia's liberty from immigration custody is protected by the Due Process Clause: "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

62. For two years preceding his re-detention on May 28, 2025, Mr. Soto Garcia exercised that freedom under the IJ's 2023 order granting him release on a low \$3,00 bond and release conditions. *See* Exh. D. Although he was released on bond (and thus under government custody), he retained a weighty liberty interest under the Due Process Clause of the Fifth Amendment in

1 avoiding re-incarceration. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v.*
2 *Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972).

3
4 63. More importantly, Mr. Soto Garcia continued presenting himself before ICE for his
5 regular check-in appointments and ISAP requirements. Specifically, Mr. Soto Garcia attended
6 two ICE check-ins after his state arrest in May 2024—in November 2024 and March 2025. Exh.
7 B. On both occasions, ICE gave him a future date and time to appear again. *Id.*

8
9 64. In *Morrissey*, the Supreme Court examined the “nature of the interest” that a parolee has
10 in “his continued liberty.” 408 U.S. at 481-82. The Court noted that, “subject to the conditions of
11 his parole, [a parolee] can be gainfully employed and is free to be with family and friends and to
12 form the other enduring attachments of normal life.” *Id.* at 482. The Court further noted that “the
13 parolee has relied on at least an implicit promise that parole will be revoked only if he fails to
14 live up to the parole conditions.” *Id.* The Court explained that “the liberty of a parolee, although
15 indeterminate, includes many of the core values of unqualified liberty and its termination inflicts
16 a grievous loss on the parolee and often others.” *Id.* In turn, “[b]y whatever name, the liberty is
17 valuable and must be seen as within the protection of the [Fifth] Amendment.” *Morrissey*, 408
18 U.S. at 482.

19
20 65. This basic principle—that individuals have a liberty interest in their conditional release—
21 has been reinforced by both the Supreme Court and the circuit courts on numerous occasions.
22
23 *See, e.g., Young v. Harper*, 520 U.S. at 152 (holding that individuals placed in a pre-parole
24 program created to reduce prison overcrowding have a protected liberty interest requiring pre-
25 deprivation process); *Gagnon v. Scarpelli*, 411 U.S. at 781-82 (holding that individuals released
26 on felony probation have a protected liberty interest requiring pre-deprivation process). As the
27 First Circuit has explained, when analyzing the issue of whether a specific conditional release
28

1 rises to the level of a protected liberty interest, “[c]ourts have resolved the issue by comparing
2 the specific conditional release in the case before them with the liberty interest in parole as
3 characterized by *Morrissey*.” *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010)
4 (internal quotation marks and citation omitted). *See also, e.g., Hurd v. District of Columbia*, 864
5 F.3d 671, 683 (D.C. Cir. 2017) (“a person who is in fact free of physical confinement—even if
6 that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due
7 process before he is re-incarcerated”) (citing *Young*, 520 U.S. at 152, *Gagnon*, 411 U.S. at 782,
8 and *Morrissey*, 408 U.S. at 482).

10
11 66. In fact, it is well-established that an individual maintains a protectable liberty interest
12 even where the individual obtains liberty through a mistake of law or fact. *See id.*; *Gonzalez-*
13 *Fuentes*, 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982) (noting that
14 due process considerations support the notion that an inmate released on parole by mistake,
15 because he was serving a sentence that did not carry a possibility of parole, could not be re-
16 incarcerated because the mistaken release was not his fault, and he had appropriately adjusted to
17 society, so it “would be inconsistent with fundamental principles of liberty and justice” to return
18 him to prison) (internal quotation marks and citation omitted).

20 67. Here, when this Court “‘compar[es] the specific conditional release in [Petitioner’s case],
21 with the liberty interest in parole as characterized by *Morrissey*,” it is clear that they are
22 strikingly similar. *See Gonzalez-Fuentes*, 607 F.3d at 887. Just as in *Morrissey*, Mr. Soto
23 Garcia’s release “enables him to do a wide range of things open to persons” who have never
24 been in custody or convicted of any crime, including to live at home, work, and “be with family
25 and friends and to form the other enduring attachments of normal life.” *Morrissey*, 408 U.S. at
26 482. Noncitizens released on a bond have a similar liberty interest. *See Doe*, 2025 WL 691664, at
27

*5 (“Petitioner, having been released at a bond hearing over five years ago, has a similar liberty interest.”); *Diaz*, 2025 WL 1676854, at *2 (“Courts have previously found that individuals released from immigration custody on bond have a protectable liberty interest in remaining out of custody on bond.”); *see also Jorge M.F. v. Wilkinson*, No. 21-cv-01434-JST, 2021 WL 783561, at *3 (N.D. Cal. March 1, 2021) (holding that a Mexican citizen with pending removal proceedings who had been released on bond had “a substantial private interest in remaining on bond”); *see also Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

68. Since his release in May 2023, Mr. Soto Garcia has returned to living with his mother and stepfather, started dating his girlfriend, and adopted a puppy. Soto Garcia Decl. at ¶ 7. He completed his required tasks for parole and was successfully discharged in April of 2024. *Id.* at ¶ 12. He has also maintained consistent employment in the fields of food service and event production. *Id.* at ¶¶ 8-11. While released, he was able to participate in the “attachments of normal life,” *Morrissey*, 408 U.S. at 482, and as such, he has a protected liberty interest and his continued detention without adequate process violates his due process rights.

Mr. Soto Garcia’s Liberty Interest Mandated a Hearing Before any Re-Arrest and Revocation of Bond

69. Mr. Soto Garcia asserts that, here, (1) where his detention is civil, (2) he has diligently complied with ICE’s reporting requirements on a regular basis, (3) has an appeal pending before the Board of Immigration Appeals, (4) the only change in circumstances ICE could possibly point to is a non-violent arrest, (5) ICE has not indicated that the bond has been breached or provided any evidence that would support Mr. Soto Garcia’s redetention, and (6) public records demonstrate that ICE is arresting individuals to address quota requirements imposed by the new administration, due process mandates that he was required to receive notice and a hearing before

1 a neutral adjudicator prior to any re-arrest or revocation of a bond.

2 70. “Adequate, or due, process depends upon the nature of the interest affected. The more
3 important the interest and the greater the effect of its impairment, the greater the procedural
4 safeguards the [government] must provide to satisfy due process.” *Haygood v. Younger*, 769
5 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court
6 must “balance [Mr. Soto Garcia’s] liberty interest against the [government’s] interest in the
7 efficient administration of” its immigration laws to determine what process he is owed to ensure
8 that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357. Under the test set
9 forth in *Mathews v. Eldridge*, this Court must consider three factors in conducting its balancing
10 test: “first, the private interest that will be affected by the official action; second, the risk of an
11 erroneous deprivation of such interest through the procedures used, and the probative value, if
12 any, of additional or substitute procedural safeguards; and finally the government’s interest,
13 including the function involved and the fiscal and administrative burdens that the additional or
14 substitute procedural requirements would entail.” *Haygood*, 769 F.2d at 1357 (citing *Mathews v.*
15 *Eldridge*, 424 U.S. 319, 335 (1976)).

16 71. The Supreme Court “usually has held that the Constitution requires some kind of a
17 hearing *before* the State deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S.
18 113, 127 (1990) (emphasis in original). Only in a “special case” where post-deprivation remedies
19 are “the only remedies the State could be expected to provide” can post-deprivation process
20 satisfy the requirements of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where “one
21 of the variables in the *Mathews* equation—the value of predeprivation safeguards—is negligible
22 in preventing the kind of deprivation at issue” such that “the State cannot be required
23 constitutionally to do the impossible by providing predeprivation process,” can the government
24

1 avoid providing pre-deprivation process. *Id.*

2 72. Because, in this case, the provision of a pre-deprivation hearing was both possible and
3 valuable in preventing an erroneous deprivation of liberty, ICE was required to provide Mr. Soto
4 Garcia with notice and a hearing *prior* to any re-incarceration. *See Morrissey*, 408 U.S. at 481-
5 82; *Haygood*, 769 F.2d at 1355-56; *Zinerman*, 494 U.S. at 985; *see also Youngberg v. Romeo*,
6 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir. 1984) (holding that
7 individuals awaiting involuntary civil commitment proceedings may not constitutionally be held
8 in jail pending the determination as to whether they can ultimately be recommitted). Under
9 *Mathews*, “the balance weighs heavily in favor of [Mr. Soto Garcia’s] liberty” and required a
10 pre-deprivation hearing before a neutral adjudicator, which ICE failed to provide.
11

12
13 **Mr. Soto Garcia’s Private Interest in His Liberty is Profound**

14 73. Under *Morrissey* and its progeny, individuals conditionally released from serving a
15 criminal sentence have a liberty interest that is “valuable.” *Morrissey*, 408 U.S. at 482. In
16 addition, the principles espoused in *Hurd* and *Johnson*—that a person who is in fact free of
17 physical confinement, even if that freedom is lawfully revocable, has a liberty interest that
18 entitles him to constitutional due process before he is re-incarcerated—apply with even greater
19 force to individuals like Mr. Soto Garcia, who have been released pending civil removal
20 proceedings, rather than parolees or probationers who are subject to incarceration as part of a
21 sentence for a criminal conviction. Parolees and probationers have a diminished liberty interest
22 given their underlying convictions. *See, e.g., U.S. v. Knights*, 534 U.S. 112, 119 (2001); *Griffin v.*
23 *Wisconsin*, 483 U.S. 868, 874 (1987). Nonetheless, even in the criminal parolee context, the
24 courts have held that the parolee cannot be re-arrested without a due process hearing in which
25 they can raise any claims they may have regarding why their re-incarceration would be unlawful.
26
27
28

1 *See Gonzalez-Fuentes*, 607 F.3d at 891-92; *Hurd*, 864 F.3d at 683. Thus, Mr. Soto Garcia retains
2 a truly weighty liberty interest even though he was under conditional release prior to his re-
3 arrest.

4
5 74. What is at stake in this case for Mr. Soto Garcia is one of the most profound individual
6 interests recognized by our legal system: whether ICE may unilaterally nullify a prior bond
7 decision and be able to take away his physical freedom, i.e., his “constitutionally protected
8 interest in avoiding physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)
9 (internal quotation omitted). “Freedom from bodily restraint has always been at the core of the
10 liberty protected by the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). *See*
11 *also Zadvydas*, 533 U.S. at 690 (“Freedom from imprisonment—from government custody,
12 detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due
13 Process] Clause protects.”); *Cooper v. Oklahoma*, 517 U.S. 348 (1996); *see also Doe*, 2025 WL
14 691664, at *5 (“It cannot be gainsaid that Petitioner has a substantial private interest in
15 maintaining his out-of-custody status.”).

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18 75. Thus, it is clear there is a profound private interest at stake in this case, which must be
19 weighed heavily when determining what process Mr. Soto Garcia is owed under the
20 Constitution. *See Mathews*, 424 U.S. at 334-35.

21 **The Government’s Interest in Keeping Mr. Soto Garcia in Detention Without a Hearing is**
22 **Low, and the Burden on the Government to Release Him from Custody Unless and Until**
23 **He is Provided a Hearing is Minimal**

24 76. The government’s interest in keeping Mr. Soto Garcia in detention without a due process
25 hearing is low, and when weighed against Mr. Soto Garcia’s significant private interest in his
26 liberty, the scale tips sharply in favor of releasing him from custody unless and until the
27 government demonstrates by clear and convincing evidence that he is a flight risk or danger to
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1 the community. It becomes abundantly clear that the *Mathews* test favors Mr. Soto Garcia when
2 the Court considers that the process he seeks—release from custody pending notice and a hearing
3 regarding whether he should be redetained or a new bond amount should be set—is a standard
4 course of action for the government. In the alternative, providing Mr. Soto Garcia with a hearing
5 before this Court (or a neutral decisionmaker) to determine whether there is clear and convincing
6 evidence that Mr. Soto Garcia is a flight risk or danger to the community would impose only a *de*
7 *minimis* burden on the government, because the government routinely provides this sort of
8 hearing to detained individuals like Mr. Soto Garcia.

10 77. As immigration detention is civil, it can have no punitive purpose. The government's
11 only interests in holding an individual in immigration detention can be to prevent danger to the
12 community or to ensure a noncitizen's appearance at immigration proceedings. *See Zadvydas*,
13 533 U.S. at 690. In this case, the government cannot plausibly assert that it had a sudden interest
14 in detaining Mr. Soto Garcia in May 2025 due to his pending misdemeanor charges for driving
15 without a license and failure to install an interlock device, when it has been aware of the arrest
16 for at least a year. *See Sinkus Decl. at ¶ 18; Soto Garcia Decl. at ¶ 13.*

19 78. These charges do not constitute a material change in circumstances that establishes he is a
20 danger to the community here in the United States where he has otherwise lived a law-abiding
21 life and fully complied with ICE's reporting requirements. Under ICE's own stated policies, DHS
22 "generally only re-arrests [noncitizens] pursuant to § 1226(b) after a *material* change in
23 circumstances." *Saravia*, 280 F. Supp. 3d at 1197, *aff'd sub nom. Saravia for A.H.*, 905 F.3d
24 1137. If DHS believed that Mr. Soto Garcia's arrest on regulatory non-violent violations
25 constituted a material change in circumstances that would justify revoking his bond, ICE would
26 have moved to re-detain him (subject to the demands of due process) when the agency first
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1 became aware of the arrest. That ICE did not move to re-arrest Petitioner at his check-in on
2 November 29, 2024, or at his subsequent ICE check-in on March 20, 2025, illustrates the
3 absurdity of claiming now, months and months later, that these charges suddenly constitute a
4 material change in circumstances that allows the government to re-incarcerate Mr. Soto Garcia
5 without affording him due process. Exh. B. At the very least, Mr. Soto Garcia had the right to a
6 hearing prior to his detention where he could present his argument as to why the allegations
7 against him do not justify revoking his bond. To hold otherwise is to allow a non-prevailing
8 party to unilaterally decide when it is appropriate to override an IJ's bond decision.
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11 79. Mr. Soto Garcia was determined by an Immigration Judge not to be a danger to the
12 community in May 2023 and his pending charges do not undermine that determination. Exh. D.
13 While ICE states that one of the reasons for his redetention was his state arrest in May 2024, this
14 arrest should not change the dangerousness analysis. A charge or an arrest, without more, is
15 proof of nothing. This derives from the presumption of innocence, where one is "to judge an
16 accused's guilt or innocence solely on the evidence adduced at trial and not on the basis of
17 suspicions that may arise from the fact of his arrest, indictment, or custody, or from other matters
18 not introduced as proof at trial." *Bell v. Wolfish*, 441 U.S. 520, 533 (1979). These principles have
19 been recognized by the BIA in *Matter of Arreguin De Rodriguez*, 21 I&N Dec. 38, 42 (BIA
20 1995), wherein the agency stated "[W]e are hesitant to give substantial weight to an arrest report,
21 absent a conviction or corroborating evidence of the allegations contained therein." These
22 principles are especially true here, as these charges do not imply a danger to persons or property,
23 use of a weapon or unlawful substance, or any sort of violent conduct. In fact, there is no
24 assertion that anyone was injured or that any property was damaged at all when Mr. Soto Garcia
25 was stopped by the police at a gas station. The existence of non-violent allegations that the
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1 agency has been aware of since May 2024 did not significantly increase the government's
2 interest in detaining him in May 2025, and it certainly did not increase that interest enough to
3 outweigh the private interests at stake in this case. *See Morrissey*, 408 U.S. at 482 n.8.

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5 80. As to flight risk, the IJ already determined that a bond of \$3,000 and frequent check-ins
6 were sufficient to guard against any possible flight risk, to “assur[e] [his] presence at the moment
7 of removal.” *Zadvydas*, 533 U.S. at 699. Mr. Soto Garcia’s post-release conduct in the form of
8 consistent attendance at his ICE check-in requirements further confirms that he is not a flight risk
9 and that he is likely to present himself at any future hearings or ICE appearances. *See* Exh. B
10 (listing Mr. Soto Garcia’s five check-ins with ICE). Further, while the government purports that
11 it redetained Mr. Soto Garcia in part due to over 30 alleged ATD violations, the government has
12 not proffered an itemized list of the supposed violations, nor has it provided Mr. Soto Garcia an
13 opportunity to respond to these allegations. Not only are notice and an opportunity to respond
14 basic due process safeguards (that have been denied here), Mr. Soto Garcia’s documented issues
15 with the SmartLINK application and reporting on malfunctions with the monitoring technology
16 further establish the need for a neutral adjudicator to review the validity of these purported ATD
17 violations. *See* Soto Garcia Decl. at ¶¶ 15-20; Sinkus Decl. at ¶¶ 13, 15; Exh. O, Johana Bhuiyan,
18 “Poor tech, opaque rules, exhausted staff: inside the private company surveilling US
19 immigrants,” *The Guardian* (March 7, 2022) at [https://www.theguardian.com/us-](https://www.theguardian.com/us-news/2022/mar/07/us-immigration-surveillance-ice-bi-isap)
20 [news/2022/mar/07/us-immigration-surveillance-ice-bi-isap](https://www.theguardian.com/us-news/2022/mar/07/us-immigration-surveillance-ice-bi-isap).¹¹
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26 ¹¹ An investigation into BI Incorporated, the company that manages ISAP, cites frequent
27 malfunctions of the SmartLINK app, which often prevent users from checking in as required. *See*
28 Exh. O. A BI Incorporated case manager told *The Guardian* that the BI system would send her
“warning every time one of the people she was monitoring appeared to be out of compliance” but
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81. Moreover, even assuming Mr. Soto Garcia had over 30 violations of his ATD program, such violations do not, on their face, establish materially changed circumstances as to flight risk, especially where Mr. Soto Garcia has consistently appeared at his assigned ICE check-ins. Exh. B; Exh. C, Letter from DHS. Indeed, ICE detained Mr. Soto Garcia after he complied with ISAP's request asking him to appear for an unscheduled in-person appointment at the ISAP Stockton office. As this Court has previously recognized in *Doe* for a noncitizen facing similar circumstances of mandatory detention following a release on bond:

Given that Petitioner was previously found to not be a danger or risk of flight and the unresolved questions about the timing and reliability of the new information, the risk of erroneous deprivation remains high. Moreover, the value in granting Petitioner procedural safeguard is readily apparent. At a hearing, a neutral decisionmaker can consider all of the facts and evidence before him to determine whether Petitioner in fact presents a risk of flight or dangerousness.

Doe, 2025 WL 691664, at *5.

82. The government's interest in detaining Mr. Soto Garcia at this time is therefore low. That ICE has a new policy to make a minimum number of arrests each day under the new administration does not constitute a material change in circumstances in his case or increase the government's interest in detaining him.¹² Moreover, the "fiscal and administrative burdens" that release from custody, unless and until a pre-deprivation bond hearing is provided, would impose are nonexistent in this case. *See Mathews*, 424 U.S. at 334-35. Mr. Soto Garcia does not seek a

that those "warnings were frequently triggered by errors from the company's own technology." *Id.* In addition, the investigation found that the "App Store reviews over the last three years list myriad issues, including people missing their check-ins because notifications didn't work, photos that failed to register, login troubles, and malfunctioning geotag software." *Id.*

¹² *See supra* n. 8.

1 unique or expensive form of process, but rather his release from custody until a routine hearing
2 regarding whether his bond should be revoked and whether he should be re-incarcerated takes
3 place.

4
5 83. In the alternative, providing Mr. Soto Garcia with an immediate hearing before this Court
6 (or a neutral decisionmaker) regarding bond is a similarly routine procedure that the government
7 provides to those in immigration jails on a daily basis. *See Doe* at *6 (“The effort and cost
8 required to provide Petitioner with procedural safeguards is minimal and indeed was previously
9 provided in his case.”). At that hearing, the Court would have the opportunity to determine
10 whether the non-violent allegations from over a year ago change the dangerousness analysis
11 sufficiently to require a different amount of bond—or if bond should be revoked. But there was
12 no justifiable reason to re-incarcerate Mr. Soto Garcia and ship him to Golden State Annex while
13 his case is pending on appeal. As the Supreme Court noted in *Morrissey*, even where the State
14 has an “overwhelming interest in being able to return [a parolee] to imprisonment without the
15 burden of a new adversary criminal trial if in fact he has failed to abide by the conditions of his
16 parole . . . the State has no interest in revoking parole without some informal procedural
17 guarantees.” 408 U.S. at 483.

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20 84. Release from custody until ICE (1) moves for a bond re-determination before an
21 Immigration Judge and (2) demonstrates by clear and convincing evidence that Mr. Soto Garcia
22 is a flight risk or danger to the community is far *less* costly and burdensome for the government
23 than keeping him detained. As the Ninth Circuit noted in 2017, which remains true today, “[t]he
24 costs to the public of immigration detention are ‘staggering’: \$158 each day per detainee,
25 amounting to a total daily cost of \$6.5 million.” *Hernandez*, 872 F.3d at 996. If, in the
26 alternative, the Court chooses to order a hearing for Mr. Soto Garcia at which the government
27

bears the burden of justifying his continued detention, the government would bear no additional cost if the hearing is scheduled within fourteen days, rather than allowing Mr. Soto Garcia to sit in detention for days or weeks awaiting a decision in his appeal.

Without Release from Custody until the Government Provides a Due Process Hearing, the Risk of an Erroneous Deprivation of Liberty is High, and Process in the Form of a Constitutionally Compliant Hearing Where ICE Carries the Burden Would Decrease That Risk

85. Releasing Mr. Soto Garcia from custody until he is provided a pre-deprivation hearing would decrease the risk of him being erroneously deprived of his liberty. Before Mr. Soto Garcia can be lawfully detained, he must be provided with a hearing before a neutral adjudicator at which the government is held to show that there has been sufficiently changed circumstances such that the May 2023 bond determination should be altered or revoked because clear and convincing evidence exists to establish that Mr. Soto Garcia is a danger to the community or a flight risk. *See e.g. Diaz*, 2025 WL 1676854, at *3 (finding that “the three factors relevant to the due process inquiry set out in *Mathews*... support requiring a pre-detention hearing for [Mr. Diaz as Mr. Diaz] has a substantial private interest in remaining out of custody on bond, which enables him to do a wide range of things open to persons who are free from custody, such as working, living at home, and being with family and friends ... to form the enduring attachments of normal life”). Mr. Soto Garcia has already been erroneously deprived of his liberty, and the risk that he will continue to be deprived is high if ICE is permitted to keep him detention after making a unilateral decision to re-detain him. Mr. Soto Garcia was previously granted release via a bond hearing provided by litigation. *See Gonzalez v. Sessions*, 325 F.R.D. 616 (N.D. Cal. 2018). No statutory mechanism provides Mr. Soto Garcia any process before a neutral adjudicator following his redetention. As a result, under current procedures, the validity or

1 necessity of Mr. Soto Garcia's redetention would evade any review by the IJ or any other neutral
2 arbiter.

3 86. By contrast, the procedure Mr. Soto Garcia seeks—release from custody and
4 reinstatement of his prior bond until he is provided a hearing in front of a neutral adjudicator at
5 which the government proves by clear and convincing evidence that circumstances have changed
6 to justify his re-detention, *see Doe*, 2025 WL 691664, *8—is much more likely to produce
7 accurate determinations regarding factual disputes, such as whether a certain circumstance
8 constitutes a “changed circumstance.” *See Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th
9 Cir.1989) (when “delicate judgments depending on credibility of witnesses and assessment of
10 conditions not subject to measurement” are at issue, the “risk of error is considerable when just
11 determinations are made after hearing only one side”); *see also Doe*, 2025 WL 691664, *1. “A
12 neutral judge is one of the most basic due process protections. *Castro-Cortez v. INS*, 239 F.3d
13 1037, 1049 (9th Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548
14 U.S. 30 (2006). The Ninth Circuit has noted that the risk of an erroneous deprivation of liberty
15 under *Mathews* can be decreased where a neutral decisionmaker, rather than ICE alone, makes
16 custody determinations. *Diouf v. Napolitano* (“*Diouf II*”), 634 F.3d 1081, 1091-92 (9th Cir.
17 2011).

18 87. Due process also requires consideration of alternatives to detention and ability to pay at
19 any custody redetermination hearing that may occur. *See e.g., Hernandez v. Sessions*, 872 F.3d
20 976, 997 (9th Cir. 2017) (“Plaintiffs are likely to succeed on their challenge under the Due
21 Process Clause to the government's policy of allowing ICE and IJs to set immigration bond
22 amounts without considering the detainees’ financial circumstances or alternative conditions of
23 release.”); *Walter A.T. v. Facility Administrator*, No. 1:24-CV-01513-EPG-HC, 2025 WL
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1 1744133, at *10 (E.D. Cal. June 24, 2025). The primary purpose of immigration detention is to
2 ensure a noncitizen's appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697.
3 Detention is not reasonably related to this purpose if there are alternatives to detention that could
4 mitigate risk of flight. *See Bell*, 441 U.S. at 538. Accordingly, alternatives to detention and
5 ability to pay must be considered in determining whether Mr. Soto Garica's re-incarceration is
6 warranted.
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8 88. Lastly, due process also requires that at any hearing ICE provide Mr. Soto Garcia with
9 details regarding the date, time, place, and substance of any conduct being used by ICE justify
10 his redetention. Mr. Soto Garcia and his counsel have been diligent in requesting information
11 regarding, through both formal and informal means, and have yet to receive an itemized list of
12 the alleged violations. Foundational due process requires that Mr. Soto Garcia receive notice and
13 an opportunity to review information concerning his redetention. *See c.f. Trump v. J. G. G.*, 145
14 S. Ct. 1003, 1006 (2025) (Noncitizens are "entitled to notice and opportunity to be heard
15 appropriate to the nature of the case").
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18 **FIRST CAUSE OF ACTION**

19 **Due Process**

20 **U.S. Const. Amend. V**

21 89. Mr. Soto Garcia re-alleges and incorporates herein by reference, as is set forth fully
22 herein, the allegations in all the preceding paragraphs.

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

25 91. Mr. Soto Garcia had a vested liberty interest in his conditional release. Due Process does
26 not permit the government to strip him of that liberty without a hearing before this Court. *See*
27 *Morrissey*, 408 U.S. at 487-488.

92. For these reasons, Mr. Soto Garcia's re-arrest without a hearing violated the Constitution. The only remedy of this violation is his immediate release from immigration detention until DHS proves to this Court or, in the alternative, a neutral adjudicator, by clear and convincing evidence, and taking into consideration alternatives to detention and ability to pay a bond, that he is a present danger to the community or an unmitigable flight risk, such that his re-incarceration is warranted. Further, to comply with due process, the government must provide Mr. Soto Garcia with details regarding the date, time, place, and substance of any conduct being used by ICE justify his redetention.

PRAYER FOR RELIEF

WHEREFORE, Mr. Soto Garcia prays that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Respondents from transferring Mr. Soto Garcia outside the jurisdiction of the Eastern District of California pending the resolution of this case;
- (3) Order the immediate release of Mr. Soto Garcia from DHS custody on the conditions of his prior bond and the reinstatement of that bond until DHS proves to a neutral adjudicator by clear and convincing evidence that he is a present danger or an unmitigable flight risk after taking into consideration alternatives to detention and his ability to pay a bond, such that his re-incarceration is warranted. During any custody redetermination hearing, DHS must provide Mr. Soto Garcia with details regarding the date, time, place, and substance of any conduct being used by ICE justify his redetention;
- (4) In the alternative, conduct an immediate bond hearing before this Court where DHS bears the burden of justifying Mr. Soto Garcia's continued detention by clear and

convincing evidence, after taking into consideration alternatives to detention and his ability to pay a bond, such that his re-incarceration is warranted. During any custody redetermination hearing, DHS must provide Mr. Soto Garcia with details regarding the date, time, place, and substance of any conduct being used by ICE justify his redetention;

(5) In the alternative, order an immediate bond hearing before a neutral decisionmaker where DHS bears the burden of justifying Mr. Soto Garcia's continued detention by clear and convincing evidence that he is a present danger or an unmitigable flight risk after taking into consideration alternatives to detention and his ability to pay a bond, such that his re-incarceration is warranted. During any custody redetermination hearing, DHS must provide Mr. Soto Garcia with details regarding the date, time, place, and substance of any conduct being used by ICE justify his redetention;

(6) Award reasonable costs and attorney fees; and

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

Dated: July 3, 2025

Respectfully submitted,

/s/Kelsey Morales

Attorney for Petitioner