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

LUIS DAVID GARCIA-AYALA,

Petitioner,

vs.

TONYA ANDREWS, WARDEN OF
GOLDEN STATE ANNEX DETENTION
CENTER;
MOISES BECERRA, FIELD OFFICE
DIRECTOR, IMMIGRATION AND
CUSTOMS ENFORCEMENT;
ALEXANDER PHAM, ASSISTANT FIELD
OFFICE DIRECTOR, IMMIGRATION AND
CUSTOMS ENFORCEMENT;
KRISTI NOEM, SECRETARY OF
DEPARTMENT OF HOMELAND
SECURITY;
AND PAMELA BONDI, UNITED STATES
ATTORNEY GENERAL,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. The Petitioner, Luis Garcia-Ayala, a native and citizen of El Salvador, was released from custody of the Department of Homeland Security (DHS) on or about February 7, 2023, pending a final decision on his application for asylum and asylum-related relief. There is not yet a final decision. The immigration judge granted protection under the Convention Against Torture but denied asylum and withholding of removal. Petitioner has appealed the denial of asylum and

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1 withholding of removal to the Board of Immigration Appeals (BIA) and his case is pending at
2 the BIA.

3 2. For the past 28 months, Petitioner has been in perfect compliance with the terms and
4 conditions of his release. He has committed no criminal offense. He reported to ICE on every
5 required check-in without fail. He appeared at every required immigration court hearing. DHS
6 has issued him a valid employment authorization document and he has been working to help
7 support his U.S. citizen family members.
8

9 3. On June 25, 2025, when Petitioner appeared at a required check-in, Immigration and
10 Customs Enforcement (ICE) peremptorily and without explanation re-detained Petitioner. ICE
11 has no legitimate reason for taking Petitioner into custody, and doing so violates Due Process.
12 Petitioner seeks a temporary restraining order requiring the Respondents to release Petitioner
13 until this Court can hold a hearing on a preliminary injunction, or can otherwise finally resolve
14 his claims.

15 JURISDICTION AND VENUE

16 4. This court has jurisdiction pursuant to 28 U.S.C. §2241 (habeas corpus jurisdiction);
17 28 U.S.C. §1331 (federal question jurisdiction); 28 U.S.C. §2201 (jurisdiction to render
18 declaratory judgments); and 28 U.S.C. §1361 (jurisdiction over actions for mandamus).

19 5. Venue in the Eastern District of California is appropriate because Petitioner currently
20 is in custody in this judicial district. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
21 484, 493-500 (1973); *see also Doe v. Garland*, 109 F.4th 1188, 1195 (9th Cir. 2024) (citing
22 *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004)). In addition, venue is also properly in this district
23 pursuant to 28 U.S.C. §1391(e) because Respondents are employees, officers, and agencies of
24 the United States, and a substantial part of the events or omissions giving rise to the claims in
25 this lawsuit have occurred in this district.
26

PARTIES

6. Petitioner entered the United States in or around July 2022. He was released from detention in February 2023 and he has lived peaceably and lawfully in the United States until he was arrested on June 25, 2025. Petitioner is currently being held in detention by United States Immigration and Customs Enforcement (ICE) at the Golden State Annex Detention Center (GSA) in McFarland, California.

7. Respondent Tonya Andrews is Warden of the GSA Detention Center. She is sued in her official capacity.

8. Respondent Moises Becerra is the Field Office Director for Immigration and Customs Enforcement for the San Francisco Field Office, the Area of Responsibility of which includes the GSA Detention Center. He is sued in his official capacity.

9. Respondent Alexander Pham is the Assistant Field Office Director for Immigration and Customs Enforcement in the San Francisco Field Office, the Area of Responsibility of which includes the GSA Detention Center. He is sued in his official capacity.

10. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). DHS is the agency responsible for implementing the Immigration and Nationality Act, and Kristi Noem, as Secretary of DHS, is the person ultimately responsible for custody determinations regarding Petitioner. Respondent Noem is sued in her official capacity.

11. Respondent Pamela Bondi, United States Attorney General, is the executive officer who has been given authority to manage and control the Executive Office of Immigration Review (EOIR), including the Immigration Judges and the Board of Immigration Appeals (BIA). In addition, the U.S. Attorney General has authority to establish legal and policy guidelines concerning which non-citizens are to be detained for immigration purposes.

FACTUAL BACKGROUND

12. Mr. Garcia Ayala is a citizen of El Salvador. In 2016, when he was nineteen years old, MS-13 began extorting and threatening him and his family. Over the course of approximately

1 one year, the gang coerced him into serving as a neighborhood lookout for the gang. He did not
2 join the gang, but had no choice but to comply with their demands in order to keep his family
3 and himself safe. Mr. Garcia Ayala was also frequently harassed, detained, beaten, and
4 threatened by a corrupt police officer who harbored personal resentment toward him. These
5 beatings happened so many times that Mr. Garcia Ayala lost count. This pattern of abuse lasted
6 until 2017, when Garcia Ayala was arrested and incarcerated for possession of marijuana.

7
8 13. While in prison, Mr. Garcia Ayala continued to suffer beatings, now by prison guards.
9 In 2019, guards informed him that he was scheduled to be transferred to a different prison, which
10 was controlled by the Mara 18 gang. Such a transfer would put his life at grave risk because of
11 his past work with MS-13. His only option to avoid that transfer was to formally join MS-13.

12 14. Mr. Garcia Ayala continued to suffer beatings by prison guards until his release in
13 2021. MS-13 contacted Mr. Garcia Ayala within days of his release and told him he had to begin
14 carrying out missions for them. He refused and told them he wanted to leave the gang, especially
15 as he had converted to Christianity while incarcerated. The gang threatened him, saying the only
16 way out of MS-13 was in death. The corrupt police officer had also been threatening to kill Mr.
17 Garcia Ayala, and began appearing at his mother's home looking for him upon his release from
18 prison and continues to do so.

19 15. In 2022, Mr. Garcia Ayala fled to the United States to escape increasing threats from
20 MS-13, the corrupt police officer, and the government, which had recently instituted a "State of
21 Exception" which continues to give the Salvadoran government extraordinary powers to punish
22 harshly any individuals it deems appear may be affiliated with gangs.

23 16. On or around July 13, 2022, Mr. Garcia Ayala entered the United States without
24 inspection and was apprehended near the border, put in expedited removal, and received a
25 positive determination in his Credible Fear Interview.

26 17. At Mr. Garcia Ayala's hearing on February 7, 2023, the Immigration Judge found
27 him ineligible for asylum and Withholding of Removal on the basis of "material support" to MS-
28

1 13. However, the Immigration Judge found that Mr. Garcia Ayala was more likely than not to
2 experience torture or death if returned to El Salvador and accordingly granted Deferral of
3 Removal under the Convention Against Torture. At that time, DHS determined that Mr. Garcia
4 Ayala was neither a danger to the community nor a flight risk and released him. On March 6,
5 2023, Mr. Garcia Ayala timely filed a notice of appeal of the IJ's denial of asylum and
6 withholding of removal. The case is currently pending before the BIA.

7
8 18. Since his release in February 2023, Mr. Garcia Ayala has remained employed,
9 working in construction. He maintains consistent contact with family, friends, and community,
10 including his U.S. citizen niece and nephews. Mr. Garcia Ayala contributes significant financial
11 support to his family in the United States and is a constant presence at family and community
12 gatherings. He has remained in perfect compliance with his ICE Order of Supervision (OSUP),
13 never having missed a single appointment since his release over two years ago.

14 19. On June 25, 2025, ICE arrested Mr. Garcia Ayala without explanation when he
15 checked in, as required under OSUP. Since then, ICE has held him in detention without bond.
16 There is no final order of removal against Mr. Garcia Ayala. He is concerned that he may be
17 removed or repatriated to a third country before he has an opportunity to apply for withholding
18 of removal or protection under the Convention Against Torture as to such country.

19 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

20 20. Petitioner has no available administrative remedies that can provide the relief he seeks.
21 *Acevedo-Carranza v. Ashcroft*, 371 F.3d 539, 541–42 (9th Cir. 2004) (“Exhaustion of remedies
22 is not required when resort to such remedies would be futile.”).

23 **CLAIMS FOR RELIEF**

24 **FIRST CLAIM**

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

1 22. The detention of Petitioner on or about June 25, 2025, when there were no changed
2 circumstances after his previously granted release and no legitimate reason to revoke his
3 previously granted release, is arbitrary and capricious, and constitutes a violation of the
4 Immigration and Nationality Act.

5
6 SECOND CLAIM

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

9 24. The revocation of Petitioner's parole on or about June 25, 2025, when there were no
10 changed circumstances and no legitimate reason to terminate parole, is arbitrary and capricious,
11 and constitutes a violation of the Immigration and Nationality Act and its implementing
12 regulations, including 8 CFR §212.5(e)(2)(i).

13 THIRD CLAIM

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

16 26. The decision to re-detain Petitioner without a hearing to determine whether Petitioner
17 is a danger to the community or a flight risk constitutes a violation of the Due Process clause of
18 the United States Constitution.

19 FOURTH CLAIM

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

22 28. The deportation of Petitioner to any previously undesignated third country without an
23 opportunity to apply for withholding of removal and protection under the Convention Against
24 Torture violates the Immigration and Nationality Act and the Foreign Affairs Reform and
25 Restructuring Act (FARRA), which implements the Convention Against Torture.

26 **REQUEST FOR RELIEF**

27 The Petitioner herein respectfully requests the Court grant the following relief:

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(1) Declare that the revocation of Petitioner's release and the termination of Petitioner's parole violates the Immigration and Nationality Act and the governing regulations, is ultra vires, and has no legal effect;

(2) Declare that Petitioner is not subject to mandatory detention;

(3) Declare that the continued detention of Petitioner violates due process;

(4) Issue an order that Petitioner be immediately released from detention, under such conditions of supervision as are reasonable and appropriate;

(5) Issue an order prohibiting ICE from removing Petitioner to El Salvador;

(6) Issue an order prohibiting ICE from removing Petitioner to any country other than El Salvador unless Petitioner is first given an opportunity to apply for withholding of removal and protection under the Convention Against Torture as to such country;

(7) Issue an order prohibiting ICE from removing Petitioner out of this jurisdiction;

(8) Grant such other relief as may be just and appropriate, including costs, expenses and reasonable attorney fees.

Dated this 23rd day of July, 2025.

/s/ Peter A. Habib

VERIFICATION

Peter A. Habib, being duly sworn upon oath, hereby states: I am an attorney representing the Petitioner in these habeas corpus proceedings. I hereby verify that the information contained in the foregoing Petition is true and correct to the best of my knowledge and belief.

Dated this 23rd day of July, 2025.

/s/ Peter A. Habib