

Angela D. Warren, Esq. (SBN 171279)

WARREN LAW FIRM, P.C.

601 Montgomery Street, Suite 530

San Francisco, CA 94111

T: 415.362.2906

angela@warrenlawfirm.net

(LEAD COUNSEL)

Susan J. Cofano, Esq. (SBN 149921)

LAW OFFICES OF SUSAN J. COFANO

574 Cobble Drive

Montrose, Colorado 81403

T: 415.497.7840 / F: 877.946

susan@LOSJC-law.com; susan@w

Susan, 2333 W. Main, Salt Lake City

Pro Bono Attorneys for Petitioner

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

RAUL DE LA TORRE,

Case No.

Petitioner,

VS.

TODD M. LYONS, in his capacity as Acting Director of U.S. Immigration and Customs Enforcement, as well as his successors and assigns; **KRISTI NOEM**, in her capacity as Secretary of the U.S. Department of Homeland Security, as well as her successors and assigns; **PAMELA BONDI**, in her capacity as Attorney General of the United States, as well as her successors and assigns; **SERGIO ALBARRAN**, in his capacity as Field Office Director of the San Francisco Field Office of U.S. Immigration and Customs Enforcement, as well as his successors and assigns,

Respondents.

**VERIFIED PETITION FOR WRIT
OF HABEAS CORPUS**

IMMIGRATION HABEAS CASE

1 **INTRODUCTION**

2 1. Petitioner RAUL DE LA TORRE (“Petitioner” or “Mr. DE LA TORRE”) brings this
3 Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. Section 2241 to remedy Respondents’
4 (collectively, “Respondents” and each a “Respondent”) arbitrary and unlawful detention of Mr. DE LA
5 TORRE by agents of U.S. Immigration and Customs Enforcement (“ICE”) without any process, in
6 violation of the Immigration and Nationality Act (“INA”) and the Fifth Amendment to the U.S.
7 Constitution.

8 2. Mr. De La Torre is a longtime resident of the United States, a father of U.S. citizen
9 children, and a pending applicant for adjustment of status (“Green Card”) through his U.S. citizen son
10 JONATHAN DE LA TORRE. He was taken into custody by ICE officers on October 16, 2025
11 immediately following his USCIS adjustment interview, without a warrant being produced, and without
12 lawful basis for detention. Mr. DE LA TORRE is an adjustment of status (Green Card) seeker from
13 Mexico. He filed the appropriate adjustment of status petition which sought to confer Green Card status
14 to Mr. DE LA TORRE through his son, JONATHAN DE LA TORRE, a U.S. citizen.

15 3. In 1990, Mr. DE LA TORRE entered the United States in search of safety and opportunity.
16 In the years that followed, Mr. DE LA TORRE was recruited [REDACTED]
17 [REDACTED]
18 [REDACTED], to work as
19 a confidential informant in immigration and criminal investigations. Mr. DE LA TORRE was induced by
20 INS and/or ICE to cooperate through repeated promises of protection, legal status, and safety for himself
21 and his family, promises that were never honored. See **Exhibit A**, copy of ICE and USCIS *Record of*
22 *Deportable Alien* which evidences that Mr. DE LA TORRE was a confidential informant for the INS and
23 ICE.

24 4. In 1994, after INS issued Mr. DE LA TORRE a Form I-210 (Voluntary Departure), INS
25 agents instructed him to ignore it and told Mr. DE LA TORRE that he would be allowed to remain in the
26 United States because of his confidential informant role. The officers checked the I-94 box on Mr. DE
27 LA TORRE’s Form I-210 as being stamped. The I-94 Arrival/Departure Record therefore appears on the
28

1 Form I-10, which agents explained evidenced that he was “paroled in” and authorized to remain in the
2 United States while assisting them. Mr. DE LA TORRE relied on those representations and the
3 government-issued documentation as proof of lawful presence. Evidence that Mr. DE LA TORRE
4 received an I-94 was obtained through the USCIS Freedom of Information Act. As such, USCIS provided
5 the copy of the I-94. *Please see Exhibit B*, copy of Mr. DE LA TORRE’s I-210 with stamped evidence
6 of I-94 (“Stamped Evidence of I-94”).

7 5. Between 1994 and 2000, Mr. DE LA TORRE served as an undercover informant,
8 [REDACTED]

9
10
11
12
13
14 6. Mr. DE LA TORRE’s service was not voluntary. He was told repeatedly that refusing any
15 assignment or ending his cooperation would result in his deportation and harm to his family. Mr. DE LA
16 TORRE had no contract, no legal representation, and no lawful status, only fear and reliance on
17 government promises. [REDACTED]

18
19
20
21 7. Despite years of cooperation and endangerment, Mr. DE LA TORRE has been left without
22 protection, while other informants who performed similar duties were eventually granted lawful status
23 through the same process that Mr. DE LA TORRE is now undertaking. [REDACTED]

24
25
26
27 ///

1 8. Mr. DE LA TORRE has lived in the United States for more than 30 years, and has no
2 criminal charges against him. He is presently eligible to receive a Green Card and he has applied for
3 adjustment of status with the assistance of present counsel. That case is still pending. *See Exhibit C*, a
4 copy of Mr. DE LA TORRE's I-485 Application to Register Permanent Residence or Adjust Status
5 ("Green Card Application" or "I-485 Application").

6 9. In or around October 1994, INS issued Mr. DE LA TORRE a Form I-210 (Voluntary
7 Departure) directing him to leave the United States by a certain date. At that time, supervising agents
8 instructed him to disregard the Form I-210, assuring him that he was being "allowed to stay" because of
9 his informant role. Shortly thereafter, he was issued a Form I-94 Arrival/Departure Record, which agents
10 described as proof that he had been "paroled in" and was lawfully permitted to remain in the country
11 while assisting them. (*See Ex.B*, Stamped Evidence of of I-94.) The I-94 is well-accepted evidence that
12 Mr. DE LA TORRE was paroled in or admitted and inspected which are prerequisites to have an
13 adjustment of status (Green Card) approved. Mr. DE LA TORRE relied on that I-94 documentation and
14 the agents' statements as evidence of lawful presence and protection.

15 10. When Mr. DE LA TORRE appeared at his Green Card interview on October 16, 2025,
16 with present counsel, he was not in possession of the full I-210 document showing that he received an I-
17 94 document. Mr. DE LA TORRE's counsel for the I-485 application, and a present *pro bono counsel*
18 for this Petition, provided the I-94 in Exhibit C of the I-485 Adjustment of Status application and
19 specifically referenced it in the cover letter accompanying the submittal of the I-485. While Mr. DE LA
20 TORRE did not have the I-94 evidence at the onset of his October 16th interview, his attorney was able
21 to obtain and provide the evidence showing that the I-210 included a section where the I-94 box is
22 stamped. Nevertheless, during the interview, and before the evidence could be presented, the USCIS
23 examining officer created a ruse stating that his computer was having technical difficulties, asking Mr.
24 DE LA TORRE and his counsel to momentarily step out of his office, and it is now suspected that the
25 USCIS examining officer was actually notifying ICE officers at time, without giving Mr. DE LA TORRE
26 a Request for Evidence which is routinely extended to Green Card applicants who *may be* missing
27 evidence that can result in a successful adjustment of status. If a Request for Evidence had been issued,
28

1 Mr. DE LA TORRE would have been able to satisfy the examining officer by providing the I-210 full
2 form that contains evidence of a stamped I-94. Further, on information and belief, that evidence already
3 existed in the files of USCIS as (i) it was produced to counsel under a FOIA request for Mr. DE LA
4 TORRE and (ii) it was included with Mr. DE LA TORRE's I-485 Application.

5 11. Instead of issuing a Request for Evidence, the overzealous officer was intent on having
6 Mr. DE LA TORRE arrested and did so. When the adjustment of status interview was 'seemingly
7 concluded,' the USCIS examining officer issued a notice that Mr. DE LA TORRE's case was being
8 continued. However, immediately thereafter, two ICE officers, heavily armed, burst through the doors of
9 the interview room and announced that they had an arrest warrant (which they never) and hurriedly
10 arrested Mr. DE LA TORRE at his Green Card interview.

11 12. Mr. DE LA TORRE is an upstanding citizen and as previously stated, has been in the
12 country for more than 30 years. He supports his wife and their two minor sons by working as a surgical
13 tech at Community Regional Medical Center and is the family's breadwinner. Mr. DE LA TORRE and
14 his wife and children attend church in Fresno, CA.

15 13. It is well-established that Mr. DE LA TORRE has a liberty interest in his years-long
16 freedom, and the Fifth Amendment's Due Process Clause mandates that detention serve a legitimate
17 purpose — to mitigate flight risk and/or prevent danger to the community — neither of which is served
18 by Mr. DE LA TORRE's detention. The fact that Mr. DE LA TORRE has been allowed to live in the
19 U.S. for more than 30 years without further removal proceedings entitles him to procedural protections
20 which Respondents failed to provide. Further, Respondents detained him despite the fact that his
21 adjustment of status case has been continued. See **Exhibit D**, copy of Notice of Interview Results.

22 14. Mr. DE LA TORRE seeks immediate relief to remedy his unlawful detention.

JURISDICTION

23 15. Jurisdiction is proper over a Writ of Habeas Corpus pursuant to Art. 1 Section 9, cl. 2 of
24 the United States Constitution (the Suspension Clause); 28 U.S.C. Section 2241 (habeas corpus); and 28
25 U.S.C. Section 1331 (federal question). This action arises under the Due Process Clause of the Fifth
26
27
28

1 Amendment of the U.S. Constitution and the Immigration & Nationality Act (“INA”), 8 U.S.C. Section
 2 1101, *et seq.*

3 16. Venue is proper in this District under 28 U.S.C. Section 1391(e) because Petitioner’s
 4 family members, witnesses to the underlying case and his attorney all reside within the Northern District
 5 of California.

6 17. The Court may grant declaratory and injunctive relief under the habeas corpus statutes, 28
 7 U.S.C. Section 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. Section 2201 *et seq.*, and the All
 8 Writs Act, 28 U.S.C. Section 1651. This Court also has broad equitable powers to grant relief to remedy
 9 a constitutional violation. *See Roman v. Wolf*, 977 F.3d 935, 941 (9th Cir. 2020).

10 18. The federal habeas statute establishes the Court’s power to decide the legality of Mr. DE
 11 LA TORRE’s detention and directs courts to “hear and determine the facts” of a habeas petition and to
 12 “dispose of the matter as law and justice require.” 28 U.S.C. Section 2243. Moreover, the Supreme Court
 13 has held that the federal habeas statute codifies the common law writ of habeas corpus as it existed in
 14 1789. *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) (“[A]t its historical core, the writ of habeas corpus has
 15 served as a means of reviewing the legality of Executive detention, and it is in that context that its
 16 protections have been strongest.”). The common law gave courts power to release a petitioner to bail
 17 even absent a statute contemplating such release. *Wright v. Henkel*, 190 U.S. 40, 63 (1903) (“[T]he
 18 Queen’s Bench had, ‘independently of statute, by the common law, jurisdiction to admit to bail[.]’”)
 19 (quoting *Queen v. Spilsbury*, 2 Q.B. 615 (1898)).

20 19. Additionally, venue is proper in this Court pursuant to 28 U.S.C. Section 1391(e) because
 21 a substantial part of the litigation addressing the claims have occurred and will continue to occur in the
 22 Northern District of California.

23 **INTERDISTRICT ASSIGNMENT**

24 20. The witnesses to the underlying case reside in the San Francisco Bay Area. Important
 25 family members who are educated and cooperating with Mr. DE LA TORRE’s legal counsel are located
 26 in Oakland which falls under the U.S. Northern District jurisdiction. Equally as important is that Mr. DE
 27 LA TORRE’s legal counsel’s office is located in San Francisco, CA and it would be a great burden for
 28

1 counsel, representing Petitioner *pro bono* in this matter, to travel to MacFarland (near Fresno) to work
2 on Mr. DE LA TORRE's case. Assignment to the San Francisco Division of this Court is therefore
3 proper under N.D. Local Rule 3-2(d).

4 **PARTIES**

5 21. Petitioner Raul De La Torre is a 59-year-old man from Mexico who last entered the United
6 States in 1990 seeking safety and a better life and who has lived in the United States ever since. He
7 resides with his wife and two minor sons in Fresno, California. Mr. DE LA TORRE was taken into
8 custody by ICE on October 16, 2025 at approximately 10:00 am at the USCIS Field Office in Fresno at
9 744 "P" Street, Fresno, California.

10 22. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs
11 Enforcement and is named in his official capacity. Respondent Lyons is responsible for ICE's policies,
12 practices, and procedures, including those relating to the detention of noncitizens. Respondent Lyons is
13 a legal custodian of Mr. DE LA TORRE.

14 23. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security
15 ("DHS"), an agency of the United States and is named in her official capacity. She is responsible for
16 overseeing DHS and its sub-agencies, ICE and USCIS, and has ultimate responsibility over the detention
17 of noncitizens in civil immigration custody. *See* 8 U.S.C. Section 1103 (g). Respondent Noem is a legal
18 custodian of Mr. DE LA TORRE.

19 24. Respondent Pamela Bondi is the Attorney General of the United States and the head of
20 the Department of Justice ("DOJ"), which encompasses the Board of Immigration Appeals ("BIA") and
21 Immigration Judges ("IJs") as part of its sub-agency, the Executive Office for Immigration Review
22 ("EOIR"). As Attorney General, Respondent Bondi is responsible for overseeing the implementation and
23 enforcement of federal immigration laws. *See* 8 U.S.C. Section 1103 (g). The Attorney General delegates
24 this responsibility to the EOIR, which administers the immigration courts and the BIA. Respondent Bondi
25 is a legal custodian of Mr. DE LA TORRE and is sued in her official capacity.

26 25. Respondent Sergio Albarran is the Field Office Director for the San Francisco Field Office
27 of ICE Enforcement and Removal Operations ("ERO"). Respondent Albarran maintains an office in San
28

1 Francisco, California, within this judicial district. The San Francisco Field Office oversees custody
2 determinations of non-citizens at its offices in San Francisco, California. Respondent Albaran is the
3 federal official most directly responsible for Mr. DE LA TORRE's custody and is his legal custodian. He
4 is named in his official capacity.

5 **STATEMENT OF FACTS**

6 **A. Flight from Persecution and Adjustment of Status Proceeding**

7 26. Petitioner Mr. DE LA TORRE is a 59 year-old man from Mexico. Between 1994 and
8 2000, Mr. DE LA TORRE served as a confidential informant [REDACTED]
9 [REDACTED]. While serving in his role as a confidential informant, Mr. DE LA TORRE was repeatedly
10 harassed and worked under dangerous and coercive conditions. [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 27. While performing these government-directed operations, Mr. DE LA TORRE
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 28. Despite years of service, the government's promised protection and lawful status never
20 materialized. Agents eventually ceased contact, [REDACTED]
21 [REDACTED]. Mr. DE LA TORRE continues to suffer
22 from psychological trauma and fear resulting from those experiences.

23 29. Mr. DE LA TORRE has lived continuously in the United States since 1990, more than 35
24 years. Mr. DE LA TORRE received a DUI in 1985, approximately 40 years ago. Mr. De La Torre
25 immediately learned his lesson and has had no other criminal record since then. He supports his wife and
26 U.S. citizen minor children. He works as a surgical technician at Community Regional Medical Center
27 and is active in his church in Fresno, California.
28

1 30. Petitioner filed for adjustment of status (Form I-485) through his U.S. citizen son,
2 JONATHAN DE LA TORRE and is statutorily eligible for lawful permanent residency. *See EX. B* and
3 EX C., copy of I-485 Application.

4 31. Mr. DE LA TORRE was not (and is not) a flight risk or danger to the community and thus
5 federal authorities did not pursue him. Yet, DHS wrongfully determined on October 16, 2025 that Mr.
6 DE LA TORRE was subject to detention without citing a basis for such detention.

7 32. As of October 18, 2025, a Notice to Appear has not been issued in Mr. DE LA TORRE's
8 case. Mr. DE LA TORRE has never been ordered removed by an immigration judge.

9 **B. Release and Participation in the Community Over the Past 20 Years**

10 33. For more than 20 years before his detention, Mr. DE LA TORRE complied with the rules
11 of the community.

12 34. Mr. DE LA TORRE lives with his wife and minor children, in Fresno, California. Mr. DE
13 LA TORRE supports and spends time with his wife and children. He attends church and cares for his
14 children, including taking them to required doctor's appointments.

15 35. In the previous years, while a confidential informant and for some years afterward, U.S.
16 Citizenship and Immigration Services ("USCIS") issued Mr. DE LA TORRE an employment
17 authorization document allowing him to work lawfully in the United States. Mr. DE LA TORRE works
18 as a surgical technician at the Community Regional Medical Center where he assists doctors with life-
19 saving complicated surgery. He is the primary breadwinner and supporter of his wife and children.

20 **C. Detention Without Process or a Hearing**

21 36. On October 16, 2025, Mr. DE LA TORRE attended his adjustment of status (Green Card)
22 interview with his son and attorney. The examining USCIS officer interrupted the interview and told Mr.
23 DE LA TORRE and his attorney that he (the USCIS officer) was having technical difficulties with his
24 computer, and had the parties temporarily vacate his office. Actually, it is believed that technical
25 difficulties did not exist, and that the stall tactic was to buy ICE time to get to the adjustment of status
26 interview. It was all a ruse so that the examining USCIS officer could contact ICE and set up an arrest
27 scenario. There were no technical difficulties. The examining officer set a trap with ICE officers to
28

1 ensnare Mr. DE LA TORRE at his adjustment of status interview. Before the arresting officers arrived,
2 the examining officer issued a notice stating that Mr. DE LA TORRE's case was continued. Immediately
3 after ICE Officers stormed the room, announcing they had an arrest warrant (which they did not and
4 would not produce for his counsel to review) A shocked Mr. DE LA TORRE was then placed in handcuffs
5 and led away to Fresno ICE detention on October 16, 2025. ICE did not provide Mr. DE LA TORRE any
6 notice, hearing, or process prior to his arrest; nor did the examining officer extend a formal Request For
7 Evidence which is routinely given to Green Card applicants so applicants can provide the evidence
8 needed for an approval. In this case, Mr. DE LA TORRE would have produced the evidence that Mr. DE
9 LA Torre received an I-94, which evidence included as an exhibit on Form I-210 with this Petition. (See
10 **Ex. B.**)

11 37. USCIS and ICE did not provide Mr. DE LA TORRE an opportunity to provide additional
12 proof, the I-94 document as evidence of eligibility before taking him into custody, evidence that already
13 existed in USCIS files. *Id.*

14 38. Upon information and belief, at the time of filing Mr. DE LA TORRE remains detained
15 in ICE custody. *See Exhibit E*, Declaration of Angela D. Warren ("Warren Decl.").

16 **LEGAL FRAMEWORK**

17 **I. RIGHT TO A HEARING PRIOR TO INCARCERATION**

18 39. The Due Process Clause of the Fifth Amendment makes it unlawful for Respondents to
19 detain Mr. DE LA TORRE without first providing a hearing before a neutral decision maker to determine
20 whether detention is justified by a risk of flight or danger to the community. Moreover, under 8 U.S.C.
21 Sections 1226 and 1255, individuals with pending adjustment applications-particularly those who have
22 been inspected and paroled-may not be detained absent specific statutory justification.

23 **A. Violation of the Fifth Amendment (Due Process)**

24 40. Mr. DE LA TORRE's detention violates his procedural and substantive due process rights
25 under the Fifth Amendment. Having lived in the U.S. freely for over three decades (since 1990),
26 Petitioner has a constitutionally protected liberty interest. His arrest and continued detention without
27 hearing, notice, or legitimate purpose constitute a gross deprivation of liberty.

1 41. Civil immigration detention must be justified by a permissible purpose and must be
 2 reasonably related to that purpose. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The two permissible
 3 regulatory goals are “ensuring the appearance of [noncitizens] at future immigration proceedings” and
 4 “preventing danger to the community.” *Id.*; *see also Matter of Patel*, 17 I&N Dec. 597, 666 (BIA 1976)
 5 (“[A noncitizen] generally is not and should not be detained or required to post bond except on a finding
 6 that he is a threat to the national security, or that he is a poor bail risk.”) (internal citations omitted).

7 42. ICE’s power to arrest a noncitizen who is at liberty is also constrained by the demands of
 8 due process. *See Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) (“the government’s discretion
 9 to incarcerate non-citizens is always constrained by the requirements of due process”). “It is well
 10 established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation
 11 proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306
 12 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical
 13 restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S.
 14 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause
 15 includes protection against unlawful or arbitrary personal restraint or detention.”).

16 43. Federal District Courts have repeatedly recognized that due process requires that a
 17 noncitizen like Mr. DE LA TORRE be given a hearing before ICE detains him.

18 **B. Mr. DE LA TORRE’s Protected Liberty Interest in His Release**

19 44. Mr. DE LA TORRE’s liberty from immigration custody and his weighty interest in
 20 avoiding incarceration is protected by the Due Process Clause. *See Zadvydas*, 533 U.S. at 690 (“Freedom
 21 from imprisonment, ...lies at the heart of the liberty” that the Due Process Clause protects); *Morrissey*
 22 *v. Brewer*, 408 U.S. 471, 482-483 (1972) (holding that a parolee has a protected liberty interest in his
 23 conditional release); *Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778,
 24 781-82 (1973).

25 45. In *Morrissey*, the Supreme Court examined the “nature of the interest” that a parolee has
 26 in “his continued liberty.” 408 U.S. at 481-82. The Court noted that, “subject to the conditions of his
 27 parole, [a parolee] can be gainfully employed and is free to be with family and friends and to form the
 28

1 other enduring attachments of normal life." *Id.* at 482. "[T]he liberty of a parolee, although indeterminate,
2 includes many of the core values of unqualified liberty and its termination inflicts a grievous loss on the
3 parolee and often others." *Id.* Therefore, "[b]y whatever name, the liberty is valuable and must be seen
4 within the protection of the [Fifth] Amendment." *Id.*

5 46. This basic principle—that individuals have a liberty interest in their conditional release—has
6 been reinforced by both the Supreme Court and the circuit courts on numerous occasions since *Morrissey*.
7 *See, e.g., Young*, 520 U.S. at 152. Mr. DE LA TORRE was in fact paroled into the U.S. as evidenced by
8 his I-94. See also, *Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) ("a person who is in
9 fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that
10 entitles him to constitutional due process before he is re-incarcerated") (citing *Young*, 520 U.S. at 152,
11 *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at 482).

12 47. Procedural due process constrains governmental decisions that deprive individuals of
13 property or liberty interests, as defined by the Due Process Clause of the Fifth Amendment. *See Matthews*
14 *v. Eldridge*, 424 U.S. 319, 332 (1976) *see also Perry v. Sindermann*, 408 U.S. 593, 601-603 (1972)
15 (reliance on informal policies and practices may establish a legitimate claim of entitlement to a
16 constitutionally-protected interest). Infringing upon a protected interest triggers a right to a hearing before
17 that right is deprived. *See Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 569-70 (1972).

18 48. Civil detention with no foreseeable end infringes upon a protected liberty interest and thus
19 violates his Constitutional rights. *See Zadvydas v. Davis*, 533 U.S. 678, 679, 121 S. Ct. 2491, 2493, 150
20 L. Ed. 2d 653 (2001) ("Freedom from imprisonment lies at the heart of the liberty protected by the Due
21 Process Clause. Government detention violates the Clause unless it is ordered in a criminal proceeding
22 with adequate procedural safeguards or a special justification outweighs the individuals' liberty interest.
23 The instant proceedings are civil and assumed to be nonpunitive, and the Government proffers no
24 sufficiently strong justification for indefinite civil detention under this statute.").

25 49. In fact, an individual maintains a protected liberty interest in his freedom even where he
26 obtained liberty through a mistake of law or fact. *See Hurd*, 864 F.3d at 683; *Gonzalez-Fuentes*, 607 F.3d
27 at 887; *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982) (noting that due process considerations
28

1 support the notion that an inmate released on parole by mistake, because he was serving a sentence that
 2 did not carry a possibility of parole, could not be re-incarcerated because the mistaken release was not
 3 his fault, and he had appropriately adjusted to society, so it “would be inconsistent with fundamental
 4 principles of liberty and justice” to return him to prison) (internal quotation marks and citation omitted).

5 50. Here, Mr. De LA TORRE’s release is in relevant ways similar to the liberty interest in
 6 parole protected in *Morrissey*. Just as in *Morrissey*, Mr. De LA TORRE’s release “enables him to do a
 7 wide range of things open to persons” who have never been in custody or convicted of any crime,
 8 including to live at home, work, care for his children, and “be with family and friends and to form the
 9 other enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482. Indeed, Mr. DE LA TORRE is
 10 a primary breadwinner and support for his wife and two children. He works, participates in church, spends
 11 time with family and friends, and contributes to the community. See *id.* He has proceeded with his
 12 adjustment of status (Green Card) after 20 years in his effort to completely legalize his status. It is noted
 13 that the other confidential informants that Mr. DE LA TORRE worked with at the time he had the role
 14 has obtained adjustment of status (Green Card) pursuant to a family petition just as Mr. DE LA TORRE
 15 expects to do.

16 51. Mr. DE LA TORRE’s 35 years at liberty provides him a “a liberty interest that entitles
 17 him to constitutional due process before he is incarcerated.” *Hurd*, 864 F.3d at 683; *see also Gonzalez-*
Fuentes, 607 F.3d at 887 (holding that inmates released to electronic monitoring program had liberty
 19 interest protected by the Due Process Clause because the program “allowed the appellees to live with
 20 their loved ones, form relationships with neighbors, lay down roots in their community, and reside in a
 21 dwelling of their own choosing (albeit subject to certain limitations) rather than in a cell designated by
 22 the government.”); *see also Jorge M.F.*, 534 F. Supp. 3d at 1054 (holding that released noncitizen made
 23 a substantial showing that he had liberty interest requiring pre-deprivation hearing before re-arrest, even
 24 after original bond order was reversed on appeal); *Duong*, 2025 U.S. Dist. LEXIS 185024, at *13-14
 25 (noncitizen released on Zepeda-Rivas bail order had strong liberty interest even after expiration of
 26 settlement agreement); *Carballo v. Andrews*, No. 1:25-cv-00978-KES-EPG (HC), 2025 U.S. Dist.
 27 LEXIS 158839, at *4 (E.D. Cal., Aug. 15, 2025) (same).

28

C. Mr. DE LA TORRE's Strong Interest in His Liberty Required a Hearing Before He Was Incarcerated By ICE

52. If a petitioner identifies a protected liberty interest, the Court must then determine what process is due. "Adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its impairment, the greater the procedural safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). To determine the process due in this context, courts use the flexible balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). See, e.g., *Ortega*, 415 F. Supp. 3d at 970; *Jorge M. F.*, 534 F. Supp. 3d at 1055.

53. Under the *Mathews* test, the Court balances three factors: “first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and finally the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail.” *Haygood*, 769 F.2d at 1357 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

54. Importantly, the Supreme Court “usually has held that the Constitution requires some kind of a hearing before the State deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). *Zinermon*, 494 U.S. at 128.

55. Here, the *Mathews* factors all favor Mr. DE LA TORRE and establish that the government was required to provide Mr. DE LA TORRE notice and a hearing prior to any incarceration.

56. First, Mr. DE LA TORRE's private interest in his liberty is substantial. See *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) ("Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause."). The Supreme Court has recognized that individuals released from serving a criminal sentence have a "valuable" liberty interest—even if that freedom is lawfully revocable. *Morrissey*, 408 U.S. at 482; *Young*, 520 U.S. at 152. The interest for an individual awaiting civil immigration proceedings is even weightier. See, e.g., *Ortega*, 415 F. Supp. 3d at 969 ("[G]iven the civil context" of immigration detention, a noncitizen's interest in release on bond is

1 “arguably greater than the interest of parolees in Morrissey.”). Here, Mr. DE LA TORRE’s interest is
 2 even more pronounced than the average noncitizen given that the government has provided him
 3 employment authorization, allowing him to work lawfully. (See **Ex. E**, Warren Decl.)

4 57. Second, the risk of erroneous deprivation of liberty is high if ICE can unilaterally detain
 5 Mr. DE LA TORRE without a hearing before a neutral adjudicator that would determine whether
 6 detention serves a permissible purpose, i.e., preventing danger or flight risk. See *Zadvydas*, 533 U.S. at
 7 690. These developments show that detention is likely not warranted.

8 58. Yet DHS’ and ICE’s choice to detain Mr. CLIENT without a hearing has deprived him of
 9 his liberty and separated him from his family and community without any opportunity for Mr. DE LA
 10 TORRE to contest this unilateral action. *See, e.g., Alvarenga Matute v. Wofford*, No. 1:25-cv-01206-
 11 KES-SKO, 2025 WL 2817795 (E.D. Cal. Oct. 3, 2025) (granting TRO for petitioner detained at his
 12 scheduled check-in without notice or hearing, and where compliance with release terms is in dispute, and
 13 ordering immediate release and enjoining Respondents from re-detention without a pre-deprivation
 14 hearing before a neutral adjudicator where Respondents bear the burden to show by clear and convincing
 15 evidence that petitioner is a flight risk or danger to the community); *J.O.L.R. v. Wofford*, No. 1:25-cv-
 16 01241-KES-SKO, 2025 WL 2718631 (E.D. Cal. Sept. 23, 2025) (same).

17 59. By contrast, the value of a deprivation hearing before a neutral decision-maker is high. “A
 18 neutral judge is one of the most basic due process protections.”

19 60. *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated on other grounds*
 20 by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). Indeed, the Ninth Circuit has noted that the risk
 21 of an erroneous deprivation of liberty under *Mathews* can be decreased where a neutral decisionmaker,
 22 rather than ICE alone, makes custody determinations.

23 61. *Diouf v. Napolitano* (“*Diouf II*”), 634 F.3d 1081, 1091-92 (9th Cir. 2011). A hearing
 24 before a neutral decisionmaker is much more likely than ICE’s unilateral decision to produce accurate
 25 determinations regarding factual disputes, and to determine whether Mr. DE LA TORRE actually
 26 currently poses a flight risk or danger such that detention is justified. *See, e.g., Doe*, 2025 U.S. Dist.
 27 LEXIS 37929, at *15 (“At a hearing, a neutral decisionmaker can consider all of the facts and evidence

28

1 before him to determine whether Petitioner in fact presents a risk of flight or dangerousness.”). Requiring
 2 such a hearing be held before Mr. DE LA TORRE is detained serves to protect his liberty interest,
 3 facilitate his right to counsel and to gather evidence, and ensure that ICE’s decision to incarcerate Mr.
 4 DE LA TORRE’s release does not evade review. *See Zinermon*, 494 U.S. at 127; *Hurd*, 864 F.3d at 683.

5 62. Third, the government’s interest in detaining Mr. DE LA TORRE without a hearing is
 6 low. The government cannot plausibly assert it has any basis for detaining Mr. DE LA TORRE now,
 7 when he has lived in the community caring for his family without incident for more than 20 years. In any
 8 event, providing Mr. DE LA TORRE with a hearing before this Court (or another neutral decisionmaker)
 9 to determine whether there is evidence that Mr. DE LA currently poses any risk of flight or danger to the
 10 community imposes a de minimis, if any, burden on the government. Such a hearing is far less costly and
 11 burdensome for the government than keeping Mr. DE LA TORRE detained at what the Ninth Circuit
 12 described as a “staggering” cost to the public of \$158 each day per detainee in 2017, “amounting to a
 13 total daily cost of \$6.5 million” (the current cost now is likely significantly higher). *Hernandez*, 872 F.3d
 14 at 996.

15 63. Because the government failed to give Mr. DE LA TORRE the notice and hearing he was
 16 due under the *Mathews* factors prior to incarcerating him, the Court should order him released until the
 17 government provides him with a constitutionally-compliant hearing.

18 64. At a custody hearing, due process requires that the government justify detention of Mr.
 19 DE LA TORRE by clear and convincing evidence that he poses a flight risk or danger. *See Singh*, 638
 20 F.3d at 1204 (“[D]ue process places a heightened burden of proof on the State in civil proceedings in
 21 which the individual interests at stake . . . are both particularly important and more substantial than mere
 22 loss of money.”) (internal quotation marks omitted); *Ixchop Perez v. McAleenan*, 435 F. Supp. 3d 1055,
 23 1062 (N.D. Cal. 2020) (noting the “consensus view” among District Courts concluding that, “where . . .
 24 the government seeks to detain [a noncitizen] pending removal proceedings, it bears the burden of
 25 proving that such detention is justified”); *Jorge M.F.*, 534 F. Supp. 3d at 1057 (where noncitizen was due
 26 a pre-deprivation hearing before being returned to custody, ordering that the government bear the burden
 27 at the hearing by clear and convincing evidence); *Doe*, 2025 U.S. Dist. LEXIS 37929, at *21 (same).

28

1 **D. Detention Bears No Reasonable Relationship to any Legitimate Purpose As His Removal**
2 **is not Reasonably Foreseeable**

3 65. Here, Mr. DE LA TORRE is eligible for adjustment of status. At his adjustment of status
4 interview, Mr. DE LA TORRE was not in possession of an I-94 document. The only document that Mr.
5 DE LA TORRE needed to produce was his I-94 which he is now in possession of, and which should have
6 already been in the possession of USCIS (*see supra*). After counsel examined his FOIA, counsel found
7 the I-94 evidence which would allow Mr. DE LA TORRE to adjust his status to being a Green Card
8 holder. The USCIS examiner prematurely called ICE to arrest Mr. DE LA TORRE without issuing a
9 Request for Addition Evidence in response to which Mr. De La TORRE could have produced the needed
10 I-94. Instead, the USCIS examiner called ICE without giving Mr. DE LA TORRE the opportunity to
11 fully exercise his due process rights.

12 66. To comport with due process, detention must bear a reasonable relationship to its two
13 regulatory purposes-to ensure the appearance of noncitizens at future hearings and to prevent danger to
14 the community pending the completion of removal. *Zadvydas v. Davis*, 533 U.S. at 690-691 (2001); *Diop*
15 *v. Ice*, 656 F.3d 221, 233-234 (3d Cir. 2011); *Gordon v. Shanahan*, No.15-CIV-261, 2015 WL 1176706
16 at*10 (S.D.N.Y. Mar. 13, 2015). Such a justification for detention is required to be particularly strong
17 once detention is presumptively unconstitutional.

18 67. The detention of Mr. DE LA TORRE is arbitrary on its face. As ICE did not produce an
19 arrest warrant (although they announced they had one) and arrested and jailed Mr. DE LA TORRE despite
20 not exercising a calculation about whether he was a danger to the community or whether he was a flight
21 risk. Without any explanation or basis why Mr. DE LA TORRE is subject to detention-especially in light
22 of the fact that he is in possession of the I-94 evidence and thus eligible for adjustment of status, Mr. DE
23 LA TORRE's continued detention is arbitrary and violates due process. After Mr. DE LA TORRE was
24 detained, counsel asked whether Mr. DE LA TORRE would be given the opportunity to post bond, to
25 which the ICE officer answered "no" without having examined Mr. DE LA TORRE's documents about
26 eligibility to make a meaningful decision.

27 ///

28

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution

Procedural Due Process

68. Mr. DE LA TORRE re-alleges and incorporates by reference the paragraphs above.

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

70. Mr. DE LA TORRE has a vested liberty interest in his release from immigration custody. Due Process does not permit the government to strip him of that liberty without a hearing before a neutral adjudicator. See *Morrissey*, 408 U.S. at 487-488.

SECOND CLAIM FOR RELIEF

Violation of the Due Process Clause of the Fifth Amendment

to the U.S. Constitution Substantive Due Process

71. Mr. DE LA TORRE re-alleges and incorporates by reference the paragraphs above.

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

73. Due Process does not permit the government to strip Mr. DE LA TORRE of liberty without it being tethered to one of the two constitutional bases for civil immigration detention: to mitigate against the risk of flight or to protect the community from danger.

74. Civil detention that is unrelated to a valid regulatory purpose or excessive in relation to that purpose is punitive, in violation of substantive due process. *See Jones*, 393 F.3d at 934.

75. Additionally, during those 20 years at liberty, Mr. DE LA TORRE has been working and taking care of his wife and minor U.S. citizen children. He poses no danger.

76. The government's arrest of Mr. DE LA TORRE is untethered from any valid basis for civil immigration detention, is excessive in relation to any risk that does exist, and is therefore punitive in violation of substantive due process. Mr. DE LA TORRES's continued detention is unlawful and violates due process.

THIRD CLAIM FOR RELIEF

Arbitrary and Capricious Agency Action (APA, 5 U.S.C. Section 706)

77. Respondents, DHS and ICE, acted arbitrarily, capriciously, and contrary to law, when they detained Petitioner and failed to consider the totality of his immigration history, his prior cooperation with federal law-enforcement agencies, and his eligibility for adjustment of status and his eligibility for protection under the Trafficking Victims Protection Act (TVPA).,

78. By detaining Petitioner immediately at his Adjustment of Status interview without giving Petitioner an opportunity to provide the additional proof needed to prove a legal entry into the U.S. and further to not acknowledge his cooperation history, the government's inducements, or his trafficking-related vulnerability, Respondents acted in a manner that was arbitrary, capricious, and an abuse of discretion, in violation of 5 U.S.C. Section 706(2)(A).

79. Respondents' conduct further violates administrative due process, and the Fifth Amendment, as they failed to provide Petitioner with notice, a meaningful opportunity to respond, or any fair consideration of his eligibility for adjustment of status and for protection under the TVPA.

80. The government's inconsistent and self-contradictory treatment, first promising lawful status through cooperation, then detaining Petitioner for relying on those assurances and hindering his pursuit of family-based adjustment of status, for which he is eligible, constitutes a fundamental violation of due process and administrative fairness, that warrants judicial correction under the, APA and the Constitution.

PRAYER FOR RELIEF

WHEREFORE, in view of the arguments and authority noted herein, Petitioner respectfully prays that the Respondents be cited to appear herein and that, upon due consideration, the Court:

1. Assume jurisdiction over the matter;
2. Declare Respondents' actions in arresting Mr. DE LA TORRE on October 16, 2025 and continuing to detain him contrary to law;
3. Issue a Writ of Habeas Corpus and order Respondents to immediately release Mr. DE LA TORRE from ICE custody;

4. Enjoin Respondents from further detaining Mr. DE LA TORRE while his I-485 Application is pending and causing Mr. DE LA TORRE any additional harm during the pendency of this litigation, such as by transferring him farther away from his legal counsel or placing him into solitary confinement;

5. Award reasonable costs and attorneys' fees under the Equal Access to Justice Act, as amended, 5 U.S.C. Section 504 and 28 U.S.C. Section 2412, and on any other basis justified under law; and

6. Grant such other relief at law and in equity as justice may require

Dated: October 19, 2025. Respectfully submitted,

WARREN LAW FIRM, P.C.

By: /s/ Angela D. Warren

By: /s/ Angela D. Warren
Angela D. Warren
Attorney for Plaintiff

LAW OFFICES OF SUSAN J. COFANO

By: /s/ Susan J. Cofano
Susan J. Cofano
Attorney for Plaintiff

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF
PURSUANT TO 28 U.S.C. § 2242**

We are submitting this verification on behalf of Mr. DE LA TORRE as his attorneys because Mr. DE LA TORRE is presently detained and not present in the county where we maintain our office. As Mr. DE LA TORRE's attorneys, we hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of our knowledge.

Dated: October 19, 2025.

/s/ Angela D. Warren
Angela D. Warren, Esq.
Pro Bono Attorney for Petitioner

/s/ Susan J. Cofano
Susan J. Cofano, Esq.
Pro Bono Attorney for Petitioner

LIST OF EXHIBITS

<u>Exhibit</u>	<u>Description</u>
A	Record of Deportable Alien
B	Stamped Evidence of I-94, provided by USCIS on form I-210
C	I-485, Application to Register Permanent Residence or Adjust Status
D	Interview Results
E	Declaration of Angela D. Warren