UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FERNANDO ISAIAS CARRANZA CHUQUI, *Petitioner*, v. TAMMY MARICH, et al., *Respondents*.	Case No. 6:25-cv-6614-MAV

NOTICE OF SUPPLEMENTAL AUTHORITY

Petitioner respectfully submits this notice of supplemental authority in support of his claim that his arrest absent a warrant or individualized flight-risk determination violated the Constitution and the Immigration and Nationality Act and implementing regulations, as well as the Court's jurisdiction to hear this case.

On November 25, 2025, the Honorable R. Brooke Jackson issued a decision in the case of *Ramirez Ovando v. Noem*, --- F.Supp.3d ----2025 WL 3293467 (D. Colo. Nov. 25, 2025), which held that plaintiffs were likely to succeed on the merits of their argument that Immigration and Customs Enforcement (ICE) acted unlawfully in carrying out their warrantless arrests in violation of statute and regulation. Like the Petitioner in this case, the plaintiffs in *Ramirez Ovando* were all arrested without a warrant or any individualized flight-risk determination.

The Court rejected the government's arguments that ICE did not need a warrant simply because the officers had reason to believe the plaintiffs in *Ramirez Ovando* were in the country unlawfully. The Court explained that statute and regulation "permit arrest only where the officer has reason to believe that the individual is in the United States in violation of the immigration laws *and* is likely to escape before a warrant can be obtained for his arrest." (citation modified) (citing

§ 1357(a)(2); § 287.8(c)(2)(ii)). *Id.* at *2. In the case of the plaintiffs, "the immigration officers took plaintiffs into custody upon confirming their identities and their lack of lawful status. The officers asked no questions—until after their arrests—bearing on flight risk, including about plaintiffs' families, employment, or other community ties." *Id.* at *15. "[T]he total absence of questions on these topics strongly indicates that the officers did not seek what they did not wish to find." *Id.* So the Court found that "[n]o objectively reasonable officer could have found that these plaintiffs posed a 'substantial probability' of flight risk based on the limited information they possessed at the time of the arrest." *Id.* The Court also "received additional evidence tending to show that ICE has a practice of conducting warrantless arrests in Colorado without considering flight risk on an individual basis. *Id.* at *7. Much of this evidence was national in scope, however, including statements by ICE officials with national authority like ICE's acting director, Respondent-Defendant Todd Lyons and "Border Czar" Tom Homan, as well as the Trump Administration's publicly confirmed minimum daily quota of 3,000 immigration arrests and the command from White House Deputy Chief of Staff Stephen Miller to 'just go out there and arrest illegal aliens,' whoever and wherever they are." *Id.* at *7-*8 (citation modified).

As set forth in Petitioner's Amended Petition ("Petition") (ECF No. 10 at ¶¶ 82-84, 125, 129) and in his response to the government's motion to dismiss (ECF No. 20 at 20-21), Respondents failed to even suggest they made an escape determination before arresting Fernando. Reference to an escape determination is also notably absent from Fernando's I-213. ECF No. 10-13. And the relevant factors for such a determination clearly weighed in Fernando's favor: Fernando did not try to flee, has stable home and employment addresses, and the government had already determined that he was not a flight risk when it released him from ORR custody and terminated his removal proceedings. Fernando's current detention is unlawful because it was made

pursuant to an unlawful arrest, and there has been no probable cause hearing since, so the Court should order his release.

Separately, on November 26, 2025, the Honorable Elizabeth A. Wolford of this District rejected the government's arguments that 8 U.S.C. §§ 1252(e)(3), 1252(g), and 1252(b)(9) preclude the court from reviewing unlawful detention claims like Petitioner's here. *Liego v. Freden*, No. 6:25-CV-06615 EAW, 2025 WL 3290694, at *2-4 (W.D.N.Y. Nov. 26, 2025). As the court explained, Section 1252(e)(3) does not apply because Petitioner "does not raise any systemic challenges, nor does he challenge the implementation of section 1225(b)(2);" Section 1252(g) does not apply because Petitioner "does not seek to prevent the executive branch's commencement of a proceeding (or its adjudication of a case or execution of a removal order)," and Section 1252(b)(9) does not apply because Petitioner's "claims may be resolved without affecting any pending removal proceedings." *Id.* (citations omitted). Given this, and for the reasons set forth in Petitioner's response to the government's motion to dismiss, ECF No. 20 at 10-11, this Court should equally find that it has jurisdiction to review Petitioner's claims.

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New York, New York

Respectfully Submitted,

/s/ Sarah T. Gillman
Sarah T. Gillman
Director of Strategic U.S. Litigation
ROBERT F. KENNEDY HUMAN RIGHTS
88 Pine St., 8th Fl., Ste. 801
New York, NY 10005
T: (646) 289-5593
E: gillman@rfkhumanrights.org

/s/ Sarah E. Decker
Sarah E. Decker
Staff Attorney
1300 19th Street NW, Ste. 750
Washington, DC 20036
T: (646) 289-5593

E: decker@rfkhumanrights.org

/s/ Kerry Q. Battenfeld
Kerry Q. Battenfeld
Litigation Coordinator
Prisoners' Legal Services of New York
14 Lafayette Square, Suite 510
Buffalo, NY 14203
T: (716) 844-8266
E: kbattenfeld@plsny.org

/s/ James P. Milstein
James P. Milstein*
Project Director of Immigration Unit
Prisoners' Legal Services of New York
41 State Street, Suite M-112
Albany, New York 12207
T: (518) 423-1719
E: Jmilstein@plsny.org

/s/ Stephanie E. Norton
Stephanie E. Norton†
NATIONAL IMMIGRATION PROJECT
1763 Columbia Road NW
Suite 175 #896645
Washington, DC 20009
T: (202) 217-4742
E: ellie@nipnlg.org

Attorneys for Petitioner-Plaintiff
**Pro hac vice* application pending
† *Pro hac vice* application pending;
Not admitted in DC; working remotely from
Wyoming and admitted in New York only