

1 MARIO PORTUGAL, SBN 337525
2 Global Law Group San Diego, P.C.
3 1455 Frazee Road, Suite 500
4 San Diego, CA 92108
5 Tel: (858) 833-2020
6 Fax: (619) 829-3152

Detained

7 Attorney for Carlos GARCIA MARROQUIN
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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In the Matter of:) File No.: '25CV3013 RSH AHG
GARCIA MARROQUIN, Carlos) A 
Petitioner,) Consolidated Petition for Writ of
v.) Habeas Corpus
Warden of the Otay Mesa)
Detention Facility, Current or Acting Field)
Office Director, San Diego Field Office,)
United States Immigration and Customs)
Enforcement; Current or Acting Director,)
United States Immigration and Customs)
Enforcement; Current or Acting Secretary,)
United States Department of Homeland)
Security; and Current or Acting United)
States Attorney General,)
Respondents.)

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

PETITIONER'S PETITION FOR WRIT OF HABEAS
In the Matter of Carlos GARCIA MARROQUIN

1 Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to
2 release Petitioner from detention.

3 **INTRODUCTION**

4 1. Petitioner was detained by Immigration and Customs Enforcement (“ICE”) at the Otay
5 Mesa Detention Center pending removal proceedings since or about October 29, 2025.

6 2. Petitioner's Credible Fear Interview was negative. However, on or about November 29,
7 2024, the Immigration Judge (IJ) vacated this decision as it was recognized that Petitioner's
8 return to Peru would subject him to a clear probability of persecution.

9 3. Petitioner is a citizen of Peru who entered the United States through the Southern Border
10 in 2004, fleeing persecution and threats to his life. Prior to his arrival, Mr. Garcia Marroquin
11 was held captive and threatened by the Cartel in Mexico for two months, and was also
12 threatened and beaten by army soldiers in Peru.

13 4. Petitioner has resided in the U.S. for more than 20 years, spending most of his adult life
14 in the United States. He is the father of two U.S. citizen minor children. This makes the
15 Petitioner a strong candidate for Cancellation of Removal for Certain Nonpermanent Residents.

16 5. On or about November 14, 2024, Petitioner was apprehended by ICE at an airport in
17 Texas while attempting to purchase a return flight ticket. Subsequently, an asylum officer
18 determined that Mr. Garcia Marroquin did not establish a credible fear of persecution or torture.
19 However, the IJ vacated this decision, asserting a credible fear of persecution and torture.

20 6. Petitioner now challenges his continued detention, which has caused significant
21 hardship to him and his family, and seeks relief to avoid separation from his U.S. citizen
22 children and the community he has called home for nearly two decades.

JURISDICTION

7. Petitioner was detained in the custody of Respondents at Otay Mesa Detention Center.
8. This action arises under the Due Process Clause of the Fifth Amendment of the U.S. Constitution. Jurisdiction is proper under 28 U.S.C. §§ 1331 (federal question), 2241 (habeas corpus); U.S. Const. art. I, § 2; (Suspension Clause); and 5 U.S.C. § 702 (Administrative Procedure Act. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

9. Venue is proper in this District because this is the district in which Petitioner was confined. *See Doe v. Garland*, 109 F.4th 1188, 1197-99 (9th Cir. 2024).

STATEMENT OF FACTS

10. Petitioner is a noncitizen who was detained at Otay Mesa Detention Center pending immigration removal proceedings. Petitioner remains detained at Otay Mesa Detention Center.

11. Petitioner was detained in DHS custody on or about October 29, 2025.

12. Petitioner is still in DHS custody and requests release. Petitioner poses no danger or flight risk.

PARTIES

13. Mr. Garcia Marroquin (“Petitioner”) is a 41-year-old citizen and national of Peru. He came to the USA in 2004. He has had no departures since his arrival. He is not married. He has two U.S. minor children. He was detained by ICE while appearing to a routine ICE appointment. He has no criminal convictions. Since the arrest on or about October 29, 2025, Mr. GARICA MARROUIN has remained in the Respondents’ custody.

14. Mr. Garcia Marroquin is currently under the Respondents' custody, residing at Otay Mesa Detention Center in San Diego, California, as of the time of the filing of this petition.

1 15. Respondent Christopher LaRose (“LaRose”) is the Senior Warden at Otay Mesa
2 Detention Center in San Diego, California, where Mr. Garcia Marroquin is detained. LaRose is
3 responsible for the day-to-day operations and confinement of non-citizens detained at that
4 facility. He acts at the direction of Respondents Divver, Lyons, and Noem. LaRose is a
5 custodian of Mr. Garcia Marroquin and is named in his official capacity.

6 16. Respondent Patrick Divver (“Divver”) is the Field Office Director of ICE in San Diego,
7 California. He acts at the direction of Respondents Lyons and Noem. ICE is responsible for
8 local custody decisions relating to non-citizens charged with being removable from the U.S.,
9 including the arrest, detention, custody status, and removal of non-citizens. The San Diego Field
10 Office’s area of responsibility includes San Diego and Imperial Counties in California.
11 Respondent Divver is a custodian of Mr. GARICA MARROQUIN and is named in his official
12 capacity.

13 17. Respondent Todd Lyons (“Lyons”) is the Acting Director of ICE, and he has authority
14 over the actions of Respondents LaRose and Divver. ICE is responsible for local custody
15 decisions relating to non-citizens charged with being removable from the U.S., including the
16 arrest, detention, custody status, and removal of non-citizens. Respondent Lyons is a custodian
17 of Mr. GARICA MARROQUIN and is named in his official capacity.

18 18. Respondent Kristi Noem (“Noem”) is the Secretary of DHS and has authority over the
19 actions of all other DHS Respondents in this case, as well as all operations and federal agencies
20 of DHS, including ICE. In her capacity as Secretary of DHS, Respondent Noem is charged with
21 faithfully administering the immigration and naturalization laws of the United States. 8 U.S.C. §
22 1103(a). Respondent Noem is a custodian of Mr. GARICA MARROQUIN and is named in her
23 official capacity.

24 19. Respondent ICE is responsible for local custody decisions relating to non-citizens
25 charged with being removable from the U.S., including the arrest, detention, custody status, and
26 removal of non-citizens.

27 20. Respondent DHS is the federal agency that has authority over the actions of ICE and all
28 other DHS Respondents.

29 21. This action is commenced against Respondents LaRose, Divver, Lyons, and Noem
30 (collectively, “Respondents”) all in their official capacities.

LEGAL ARGUMENT

22. Courts have recognized the significance of the habeas statute in protecting individuals from unlawful detention, which affords “a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963); *see also* *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (noting that habeas statute requires expeditious determination of petitions).

23. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243.

24. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).

25. Due process requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas, v. Davis*, 533 U.S. 678, 690 (2001) (internal quotation marks omitted).

26. In the immigration context, the Supreme Court has recognized two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.

27. The test for procedural due process claims, the *Mathews* test balances: (1) the private interest threatened by governmental action; (2) the risk of erroneous deprivation of such interest and the value of additional or substitute safeguards; and (3) the government interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); see also *Sho v. Current or Acting Field Off. Dir.*, No. 1:21CV-01812 TLN AC, 2023 WL 4014649, at *3 (E.D. Cal. June 15, 2023), report and

1 *recommendation adopted*, No. 1:21-CV-1812-TLN-AC, 2023 WL 4109421 (E.D. Cal. June 21,
2 2023) (using *Mathews* factors to assess a habeas petitioner's due process claims and collecting
3 cases doing the same). Here, each factor weighs in Petitioner's favor, and Petitioner's release is
4 justified due to his interest in avoiding prolonged or unjustified detention. Petitioner poses no
5 danger to the community nor is a flight risk.

7 **FACTUAL BACKGROUND**

8 30. Petitioner is 41-year-old citizen and national of Peru.

9 31. Petitioner has resided in the United States, primarily Maryland, for the past 20
10 years, where he has established deep ties to the community.

11 32. Petitioner is the father of two U.S. citizen minor children, who depend on him
12 for emotional and financial support.

13 33. Petitioner fled Peru after being beaten and tortured by army soldiers in his home
14 country.

15 34. Petitioner entered the United States on or about July 2004 and was subsequently
16 detained by ICE on or about November 14, 2024, and released shortly after. Subsequently, he
17 was apprehended and transferred to the Otay Mesa Detention Center on or about October 29,
2025.

18 35. On November 25, 2024, Petitioner's Credible Fear Interview was negative; the
19 asylum officer determined that Petitioner did not establish a credible fear of persecution or
20 torture.

21 36. However, the IJ vacated this decision, asserting credible fear of persecution or
22 torture in Peru.

23 37. On November 15, 2024, Mr. Garcia Marroquin was issued a Notice to Appear
24 that improperly stated that the Respondent entered into the United States on or about November
25 14, 2024, instead of 2004.

26 38. Petitioner was initially detained on November 15, 2024, and released shortly
27 after. Subsequently, Petitioner was detained after an ICE appointment and has been detained
since October 29, 2025.

CAUSES OF ACTIONCOUNT ONE**Violation of Fifth Amendment Right to Due Process – Substantive and Procedural Due Process, U.S. Const. Amend. V.**

39. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

40. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

41. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

42. Moreover, Mr. GARICA MARROQUIN has a vital liberty interest in remaining free from DHS custody. *See Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *4 (N.D. Cal. July 24, 2025) (citing *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854 (N.D. Cal. June 14, 2025) (explaining that a non-citizen that ICE released from custody after initial apprehension “has a substantial private interest in remaining out of custody” which includes an interest in “...obtaining necessary medical care, [and] maintaining her relationships in the community...”). While on release from DHS custody, Mr. GARICA MARROQUIN was building his emotional support system which helped him cope with the emotional trauma he suffered in Peru on account of persecution for his political beliefs.

43. Even if the initial decision to release a non-citizen from DHS custody is discretionary, “...after that individual is released from custody she has a protected liberty interest in remaining out of custody.” *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *7 (E.D. Cal. Aug. 21, 2025) (quoting *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025)).

44. Here, Mr. GARICA MARROQUIN was deprived of his liberty interest and the bundle of rights associated with his original pending Cancellation of Removal for Certain Nonpermanent Residents application in violation of due process. *See generally Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before

1 deprivation of a legally protected interest). Nor has the government identified any materially
 2 changed circumstances that would warrant detaining Mr. GARICA MARROQUIN after he
 3 submitted his Cancellation of Removal for Certain Nonpermanent Residents Application (Form
 4 EOIR-42B), declaration, and corroborating evidence to the immigration Court.

5 **COUNT TWO**

6 **Violation of Fifth Amendment Right to Due Process -**

7 **Illegal Retroactive Application of Expedited Removal Designation, U.S. Const. Amend. V.**

8 45. Petitioner restates, realleges, and incorporates by reference each and every
 allegation in the paragraphs above as if fully set forth herein.

9 46. Administrative rules “will not be construed to have retroactive effect unless their
 10 language requires this result.” *Landgraf v. USI Film Products*, 511 U.S. 244, 272 (1994). When
 11 a “new provision attaches new legal consequences to events completed before its enactment”
 12 the new provision is not retroactive unless it is unmistakably clear.

13 47. The January 2025 designation does not unmistakably apply to individuals who
 entered the United States prior to its effective date and were already in removal proceedings.
 14 The designation’s language thus does not “require that it be applied retroactively.” *See INS v. St*
Cyr, 533 U.S. 289, 291 (2001).

15 48. Nor does the statutory language that the designation purports to derive from, 8
 U.S.C. § 1225(b)(1)(A)(iii), include any language indicating Congressional intent to allow
 16 retroactive effect. *See INS v. St. Cyr*, 533 U.S. 289, 316-17 (2001) (quoting *Lindh v. Murphy*,
 17 521 U.S. 320, 328, n.4 (1997) (requiring statutory language to be “so clear that it could sustain
 18 only one interpretation”).

19 49. Accordingly, Respondents unlawfully subjected Mr. GARICA MARROQUIN to
 20 expedited removal.

21 **COUNT THREE**

22 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance**

23 **with Law and in Excess of Statutory Authority Violation of 8**

24 **C.F.R. § 239.2(e)**

25 50. Petitioner restates, realleges, and incorporates by reference each and every
 allegation in the paragraphs above as if fully set forth herein.

1 51. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not
 2 in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction
 3 authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. §
 4 706(2)(A)-(D).

5 52. Once a removal proceeding has been initiated, regulations enumerate the reasons
 6 for which proceedings may be dismissed at 8 C.F.R. § 239.2(a). In considering a motion to
 7 dismiss, the Immigration Judge must make “an informed adjudication . . . based on an
 8 evaluation of the factors underlying the [DHS] motion.” *Matter of G-N-C-*, 22 I&N Dec. 281,
 284 (BIA 1998).

9 53. The initiation of expedited removal proceedings is not an enumerated ground
 10 upon which a removal proceeding may be dismissed.

11 54. It is a well-established administrative principle that “agency action taken without
 12 lawful authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp.
 13 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); *see*
 14 *also Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016)
 15 (invalidating agency action because it was taken by unauthorized official).

16 55. Under the APA, an agency must provide “reasoned explanation for its action”
 17 and “may not depart from a prior policy sub silentio or simply disregard rules that are still on
 18 the books.” *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). On information and
 19 belief, Respondents’ intent was to eliminate the due process rights available to Petitioner in
 20 removal proceedings under section 240 of the INA, deprive him of his liberty interest despite no
 21 evidence of material changed circumstances, or for some other purposes not supported by law.
 22 *See Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *5 (N.D. Cal. July 24,
 23 2025) (“Detention for its own sake, to meet an administrative quota, or because the government
 24 has not yet established constitutionally required pre-detention procedures is not a legitimate
 25 government interest.”).

26 56. In deciding to detain Mr. GARICA MARROQUIN, Respondents further violated
 27 the APA by “entirely fail[ing] to consider an important aspect of the problem” – namely, the
 28 important procedural rights that Petitioner relied on in § 1229a immigration court proceedings.
See Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43
 (1983); *see also Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 24-33

1 (2020) (holding that rescission of immigration policy without considering “particular reliance
2 interests” is arbitrary and capricious in violation of the APA).

3 57. The arbitrary and capricious detention of Mr. GARICA MARROQUIN was not
4 made in furtherance of an enumerated reason set forth in the regulations and causes Mr. N. A.
5 irreparable harm. For these reasons, the Court should find that the decision to detain Mr.
6 GARICA MARROQUIN is arbitrary, capricious, and unsupported by substantial evidence. *See*
5 U.S.C. § 706(2)(A), (E).

7 **COUNT FOUR**

8 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance
9 with Law and in Excess of Statutory Authority, Unlawful Detention**

10 58. Petitioner restates, realleges, and incorporates by reference each and every
11 allegation in the paragraphs above as if fully set forth herein.

12 59. Under the APA, a court shall “hold unlawful and set aside agency action...” that
13 is “...(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;
14 (B) contrary to constitutional right, power, privilege, or immunity...” 5 U.S.C. § 706(2)(A)-(B).

15 60. An action is an abuse of discretion if the agency “entirely failed to consider an
16 important aspect of the problem, offered an explanation for its decision that runs counter to the
17 evidence before the agency, or is so implausible that it could not be ascribed to a difference in
18 view or the product of agency expertise.” *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551
19 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto.
Ins. Co.*, 463 U.S. 29, 43 (1983)).

20 61. To survive an APA challenge, the agency must articulate “a satisfactory
21 explanation” for its action, “including a rational connection between the facts found and the
22 choice made.” *Dep't of Com. v. New York*, 588 U.S. 752, 773 (2019) (citation omitted).

23 62. In *Y-Z-H-L v Bostock*, 2025 WL 1898025, at *10-12 (D. Or. July 9, 2025), the
24 Court explained the process of discretionary release from custody in immigration cases and
25 noted that before revoking the release, the non-citizen must be given written notice of the
26 impending revocation, which must include a cogent description of the reasons. Under the APA,
27 non-citizens are entitled to determinations related to their release revocations that are not
arbitrary, capricious or an abuse of discretion. *See id.* at *10.

63. By detaining Mr. GARICA MARROQUIN without notice or consideration of his individualized facts and circumstances, Respondents have violated the INA, implementing regulations, and the APA.

64. Respondents have made no finding that Petitioner is a danger to the community.

65. Respondents have made no finding that Petitioner is a flight risk.

66. On information and belief, by detaining Mr. GARICA MARROQUIN categorically and without notice, Respondents have further abused their discretion because, since the agency made its initial custody determination, on information and belief, there have been no changes to Mr. GARICA MARROQUIN's specific facts or circumstances that support his detention.

COUNT FIVE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority, Violation of 8 U.S.C. § 1225(b)

67. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

68. Under the APA, a court shall “hold unlawful and set aside agency action...” that is “...(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity...” 5 U.S.C. § 706(2)(A)-(B).

69. Congress has made it clear that the expedited removal statute does not apply and may not be applied to individuals who were “paroled” into the United States. 8 U.S.C. § 1225(b). It further applies to the non-citizens seeking admission. Id. § 1225(b)(2).

70. Because Mr. GARICA MARROQUIN is not subject to the January 2025 Designation, Respondents' use of the January 2025 designation is unlawful, arbitrary, capricious, and unlawful.

COUNT SIX

Violation of the Fourth Amendment of the Constitution

71. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

72. The Fourth Amendment protects “[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures.” U.S. Const. amend. IV. The Supreme Court has recognized that immigration arrests and detentions are “seizures” within the meaning

1 of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging
2 that deportation proceedings are civil, but the Fourth Amendment still applies to the “seizure”
3 of the person).

4 73. The Fourth Amendment requires that arrests entail a neutral, judicial
5 determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). That neutral,
6 judicial determination can occur either before the arrest, in the form of a warrant, or promptly
7 afterward, in the form of a prompt judicial probable cause determination. *See id.* Arrest and
8 detention of a person, including of a noncitizen, absent a neutral judicial determination of
9 probable cause violates the Fourth Amendment of the Constitution. *Id.*; *see also Cnty. of*
10 *Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991). This determination must occur within 48
11 hours of detention, which includes weekends, unless there is a bona fide emergency or other
12 extraordinary circumstances. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

13 74. Congress enacted a strong preference that immigration arrests be based on
14 warrants. *See Arizona v. United States*, 567 U.S. 387, 407–08 (2012). The Immigration and
15 Nationality Act thus provides immigration officers with only limited authority to conduct
16 warrantless arrests. 8 U.S.C. § 1357(a)(2). Federal regulations track the strict limitations on
17 warrantless arrests. *See 8 C.F.R. § 287.8(c)(2)(ii)*.

18 75. Mr. GARICA MARROQUIN, at the moment of his arrest and detention by
19 Respondents, was lawfully present. He did not receive any judicial determination of probable
20 cause for his arrest or continued detention by the Respondents.

21 76. The Government cannot salvage this seizure by invoking generalized
22 immigration enforcement interests. The Fourth Amendment’s reasonableness inquiry is fact-
23 specific and demands individualized justification for both the arrest and the extended detention.
24 *See United States v. Brignoni-Ponce*, 422 U.S. 873, 882–84 (1975); *Gerstein*, 420 U.S. at 114.
25 Mr. GARICA MARROQUIN was granted release from DHS custody in 2024 and did not pose
26 any danger to any person in the community at large.

27 77. On or about October 29, 2025, Respondents’ warrantless arrest of Mr. GARICA
28 MARROQUIN constitutes an unreasonable and unlawful seizure in violation of the Fourth
Amendment.

COUNT SEVEN

Violation of Fifth Amendment Right to Due Process – Procedural Due Process, U.S. Const. Amend. V.

78. Petitioner restates, realleges, and incorporates by reference each and every allegation in the paragraphs above as if fully set forth herein.

79. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

80. Mr. GARICA MARROQUIN has a fundamental interest in liberty and being free from official restraint.

81. The government's detention of Petitioner without notice or an opportunity to be heard before detention violates his right to due process.

82. The government's detention of Petitioner without a meaningful bond and custody redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- (4) Declare that refusal to allow Petitioner a meaningful bond and custody redetermination hearing violates the INA, APA, and Due Process;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;
- (6) Issue an Order prohibiting the Respondents from transferring Petitioner from this district without the Court's approval;

- 1 (7) Issue an Order requiring Respondents to provide a bond and custody
- 2 redetermination hearing within 14 days to meaningfully consider his eligibility for
- 3 release from DHS custody;
- 4 (8) Award Petitioner's counsel reasonable attorney's fees and costs under the Equal
- 5 Access to Justice Act, and on any other basis justified under law;
- 6 (9) Grant such further relief as the Court deems just, equitable, and appropriate; and
- 7 (10) Grant any and all other further relief this Court deems just or proper.

8
9 Respectfully Submitted,

10 /S/ Mario Portugal

11 Mario Portugal, Esq.
12 Attorney for the Petitioner