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7 UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA

9 CARLOS ALBERTO DE LA GARZA,

10 Petitioner-Plaintiff,

11 v.

Case No: 4:25-cv-10305-HSG

12 SERGIO ALBARRAN, in his official capacity,
13 Acting San Francisco Field Office Director, U.S.
14 Immigration and Customs Enforcement;

**PETITIONER'S MOTION TO
ENFORCE TEMPORARY
RESTRAINING ORDER**

15 TODD M. LYONS, in his official capacity, Acting
16 Director, U.S. Immigration and Customs
Enforcement;

17 KRISTI NOEM, in her official Capacity, Secretary
18 of the U.S. Department of Homeland Security; and

19 PAMELA BONDI, in her official capacity,
20 Attorney General of the United States,

21 Respondents-Defendants.
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1 On Thursday, December 4, this Court granted Petitioner’s Motion for a Temporary
2 Restraining Order in part, and ordered ICE “to immediately release Petitioner from Respondents’
3 custody.” Dkt. 11 at 10. The Court stated that the TRO was “to preserve the status quo pending
4 further briefing and a hearing on this matter.” *Id.* at 10. The Court found that “a TRO
5 immediately releasing [Mr. De La Garza] is appropriate to return him to the status quo,” which
6 “refers to the ‘last uncontested status which preceded the pending controversy.’ . . . That is the
7 moment prior to [Mr. De La Garza’s] likely illegal detention.” *Id.* at 8 (quoting *Doe v. Noem*, 778
8 F. Supp. 3d 1151, 1166 (W.D. Wash. 2025)). The Court further ordered that “Respondents are
9 **ORDERED** to immediately release Petitioner from Respondents’ custody and are **ENJOINED**
10 **AND RESTRAINED** from re-detaining Petitioner without notice and a pre-deprivation hearing
11 before a neutral decisionmaker, and from removing Petitioner from the United States.” *Id.* at 10.

12 Following the TRO, Respondents released Mr. De La Garza from the Mesa Verde
13 Detention Center. Dkt. 13. However, upon his release, ICE issued Mr. De La Garza the attached
14 paperwork, principally an order of Release on Recognizance, which informed him that his
15 release from custody was conditioned, *inter alia*, on his prompt return on Monday, December 8
16 at 8:00am to ICE’s Office at the 5th Floor of 630 Sansome Street, San Francisco—the site of the
17 arrest that this Court found was likely illegal. *See* attached Exhibit. The release paperwork also
18 informs Mr. De La Garza that his release is conditioned on his appearance at additional
19 interviews with ICE. *Id.* The release paperwork threatens Mr. De La Garza with revocation of his
20 work permit, criminal prosecution, and being taken back into ICE custody if he does not appear
21 as ICE has instructed, or sit for interviews. *Id.*

22 Respondents’ release paperwork violates this Court’s order, as Mr. De La Garza’s release
23 was pursuant to this Court’s order and not any decision by the Agency. *See* Dkt. 10. Moreover,
24 this Court’s order makes clear that Mr. De La Garza cannot be re-detained absent a pre-
25 deprivation hearing before a neutral decision-maker, whereas the Order of Release on
26 Recognizance states that ICE can unilaterally re-arrest Mr. De La Garza under certain
27 circumstances. *See generally* attached Exhibit.

1 Tthe Agency’s requirement that Mr. De La Garza return to the site of his likely illegal
2 arrest and be subject to an additional interview, under threat of re-detention and prosecution, is
3 contrary to this Court’s TRO, which was designed to restore Mr. De La Garza to “the status
4 quo,” which was “the moment prior to [his] likely illegal detention” on Monday. Prior to Mr. De
5 La Garza’s detention on Monday, Mr. De La Garza was not under any obligation to report to ICE
6 or be interviewed by them.

7 Undersigned counsel has attempted to resolve the issue of the Order of Release on
8 Recognizance and the Monday, 8:00am appointment by meeting and conferring with
9 Respondents’ counsel. She made good faith to avoid requesting action from the Court over the
10 weekend. Undersigned counsel reviewed the reporting notice from Petition on Friday morning.
11 Undersigned counsel promptly brought this issue to Respondent’s counsel’s attention on Friday,
12 and requested that the agency agree that Mr. De La Garza did not need to appear on Monday
13 morning, pending further meet-and-confer that counsel expects to take place next week. The
14 parties continued in discussion this morning. However, by the time of filing this motion,
15 Respondents have now confirmed their position that they will not vacate Mr. De La Garza’s
16 Monday reporting requirement. Petitioner informed counsel for Respondents on Friday evening
17 that he intended to file a motion with the Court over the weekend if this issue could not be
18 resolved. Counsel again communicated this to Respondents on Saturday morning. Counsel
19 understands that Respondents oppose this motion.

20 Therefore, Petitioner respectfully seeks an order from this Court that Respondents-
21 Defendants cannot require him to appear for a “check in” or interview with ICE prior to being
22 heard by this Court on the preliminary injunction.

23 The question of whether Mr. De La Garza can ever be subject to reporting requirements
24 like those outlined in the attached Exhibit likely requires briefing from both sides, and may
25 depend, at least in part, on disputed facts. It is undersigned counsel’s understanding that
26 Respondents’ position is that the Monday appointment and reporting requirements are
27 permissible because Respondents assert that Petitioner’s permanent residence application was
28 denied, and that, therefore, he would have been subject to reporting even if ICE had not detained

1 him. Petitioner disagrees, and disputes those assertions. To Petitioner's knowledge, his
2 application for permanent residence was not denied prior to the arrest, and has not been denied.
3 Petitioner's counsel has not received a decision from USCIS regarding Petitioner's three pending
4 applications to USCIS. Dkt. 12-1 ¶ 17. The USCIS Acting Field Office Director informed
5 undersigned counsel *after* the arrest that Petitioner's permanent residence application would
6 likely be administratively closed (i.e., not denied). Dkt. 7 at 4 (Declaration of Amalia Wille
7 ¶ 12). The government's submission to this Court asserts that Petitioner's "application before
8 USCIS was denied." Dkt. 10-1, ¶ 15. That statement appears to be based on the Form I-213,
9 which contains an unsworn statement that refers to "negative approval status of [the] I-485." Dkt.
10 10-2 at 4. Petitioner's counsel has requested a copy of the alleged denial of Petitioner's
11 applications from Respondents, and has not received them. In addition, Petitioner has requested
12 from Respondents, but still has not received, the documents that appear to form the basis of
13 ICE's assertion that Petitioner is in removal proceedings and subject to reporting requirements:
14 the four documents listed in Officer Jerome's declaration, Dkt. 10-1 at ¶ 13. Accordingly, the
15 issue of ICE reporting for Petitioner should be addressed later in this litigation with full briefing
16 and a complete record.

17 ICE's purported order for Mr. De La Garza to return on Monday morning and be
18 subjected to another interview is particularly inappropriate in light of Petitioner's evidence, filed
19 with the Court shortly after the issuance of the TRO (which thus may not yet have been reviewed
20 by the Court), indicating that the government's submission to this Court contained false
21 information about Mr. De La Garza previous ICE interview and about Mr. De La Garza's most
22 recent entry to the United States. *See* Dkts. 12-12.2. In addition, Mr. De La Garza already spent
23 last week in ICE detention, which was very difficult for him mentally and physically, as he was
24 without his prescription medications. *See* Dkts 12-1, 12-2. He then spent Friday, the fifth
25 anniversary of his wife's death, traveling back from Bakersfield to his home in Berkeley.

26 Petitioner and Respondents have begun the meet and confer process regarding the
27 preliminary injunction briefing schedule on this matter for next week, as well as Petitioner's
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1 assertion that Respondents have presented false statements to the Court. Petitioner expects the
2 meet-and-confer process to continue on Monday.

3 In the meantime, Mr. De La Garza respectfully requests that this Court order that
4 Respondents-Defendants cannot require him to appear for a “check in” appointment or interview
5 with ICE prior to being heard by this Court on the preliminary injunction.

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Dated: December 6, 2025

Respectfully submitted,

s/Amalia Wille
Amalia Wille
Judah Lakin

LAKIN & WILLE LLP
Attorneys for Petitioner