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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10 **DIVISION**

11 Karina Alejandra GARCIA MARIAGUA,

12 **Petitioner,**

13 **v.**

14 Christopher CHESTNUT, Warden, California
15 City Detention Facility; Sergio ALBARRAN,
16 Acting Field Office Director of the San
Francisco Immigration and Customs
17 Enforcement Office; Todd LYONS, Acting
Director of United States Immigration and
18 Customs Enforcement; Kristi NOEM, Secretary
of the United States Department of Homeland
19 Security, Pamela BONDI, Attorney General of
the United States, acting in their official
capacities,

20 **Respondents.**
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Case No.

**PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

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2 1. Petitioner Karina Alejandra Garcia Mariagua (“Ms. Garcia Mariagua” or
3 “Petitioner”), a 29-year-old asylum seeker from Venezuela, hereby files this habeas petition.

4 2. Ms. Garcia Mariagua came to the United States in approximately May 2024, fleeing
5 threats of violence. She made contact with immigration officials and was issued a Notice to
6 Appear. The Department of Homeland Security released her into the interior to await her court
7 hearings. Since then, she has been compliant with her obligations. ICE placed her on an ankle
8 monitor, and then de-escalated her supervision to weekly submission of a photo on a telephone
9 application. She faithfully complied with her reporting requirements but for one photo sent late
10 only by hours on the same business day, due to the app not notifying with the normal sound. She
11 timely filed a Form I-589 Application for Asylum and Withholding of Removal within the required
12 one-year deadline. She applied for and received an Employment Authorization Document
13 (commonly called a “work permit”), and has been lawfully employed as a delivery driver and
14 housecleaner. She attends church in her community.
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16
17 3. Her removal proceedings are venued in San Francisco, and her next master calendar
18 hearing in immigration court is scheduled for May 5, 2028.

19 4. Ms. Garcia Mariagua has integrated into her community. She is working for
20 DoorDash and cleans houses in San Francisco. She attends a local church. Ms. Garcia Mariagua
21 is taking two online courses, English and Marketing. On information and belief, she has no
22 criminal record. She is seeking counsel to represent her in her immigration proceedings.

23
24 5. On December 3, 2025, the Intensive Supervision Appearance Program (ISAP)
25 called Ms. Garcia Mariagua into their office where they subsequently instructed her to go to the
26 Immigration and Customs Enforcement (“ICE”) field office. She dutifully complied, waited in
27 line, and spoke to an ICE agent. To her shock, ICE took her into custody at 630 Sansome Street.

28 The only thing she could think that had caused her detention was a glitch with her reporting app a

1 couple of weeks prior. She sent a weekly photo when prompted to by the telephone application,
2 until once when the application did not alert her. She received a call from the ICE contractor,
3 ISAP, telling her she had not sent her photo yet that day. She immediately took the photo and sent
4 it via the app. Her compliance was completed that same business day. ICE took her into custody,
5 told her they were going to provide her documents regarding her arrest, and failed to do so.

6 6. Counsel learned of Ms. Garcia Mariagua's arrest around 3:00 p.m. on December 3,
7 2025. Counsel's colleague attempted to reach Ms. Garcia Mariagua through the San Francisco
8 ICE-Enforcement and Removal Operations ("ERO") control room and via ERO's email, but there
9 was no answer. She later reached the Stockton ICE-ERO control room and confirmed that Ms.
10 Garcia Mariagua was en route to Stockton where she would be detained overnight and then
11 transferred to a longer-term detention facility.

12 7. On December 4, 2025, Counsel attempted to speak to Ms. Garcia Mariagua by
13 emailing and calling Stockton ERO. Counsel spoke to the staff in the control room and requested
14 to speak to an ICE-ERO agent to again make a formal request to speak to Ms. Garcia Mariagua.
15 In addition, Counsel requested Ms. Garcia Mariagua be given access to her daily medication for
16 serious skin allergies. The staff person who answered the call told Counsel he was going to find
17 an agent for her to speak to, and put her on hold for a considerable duration. When the staff person
18 returned, he told Counsel that she had "just left" and was en route to California City. For having
19 been denied the ability to speak to Ms. Garcia Mariagua in a manner adequate for attorney-client
20 consultation, the instant petition is being filed with limited information.

21 8. Ms. Garcia Mariagua believes she is pregnant, as she has missed multiple
22 menstrual cycles and other symptoms. She suffers from serious allergies, reacting regularly to a
23 range of foods, and gets hives on her face. She takes a medication, Cetirizine, almost every night
24 for her allergies and hives. Despite multiple attempts over two days by Counsel and her colleagues
25 to speak to ICE agents about her need for her medication, she is still without it.

1 9. Ms. Garcia Mariagua is now detained at California City Detention Facility.

2 10. This arrest is part of a new, nationwide Department of Homeland Security “(DHS)”
3 strategy of arresting people at their court hearings as well as at ICE check-in appointments. For
4 the past several months, DHS has implemented a coordinated practice of leveraging immigration
5 detention to strip people like Ms. Garcia Mariagua of their substantive and procedural rights and
6 effect their swift deportation. Immigration detention is civil, and thus is permissible for only two
7 reasons: to ensure a noncitizen’s appearance at immigration hearings and to prevent danger to the
8 community. But DHS did not arrest and detain Ms. Garcia Mariagua—who poses no risk of
9 absconding from immigration proceedings nor danger to the community—for either of these
10 reasons. Instead, as part of its broader enforcement campaign, DHS likely detained Ms. Garcia
11 Mariagua justified by their reinterpretation of the immigration detention statutes.
12

13 11. Discretionary detention and release authority under 8 U.S.C. § 1226(a) is the
14 “default rule,” applicable to individuals who are “already in the country” and in removal
15 proceedings. *Jennings v. Rodriguez* 583 U.S. 281, 288-89 (2018). Certain individuals in the interior
16 are subject to well-defined exceptions that make detention mandatory. *See* 139 Stat. 3 (2025),
17 codified at 8 U.S.C. § 1226(c)(1)(E). *See, e.g., Pablo Sequen v. Kaiser*, No. 25-CV-06487-PCP,
18 2025 WL 2650637 at *7 (N.D. Cal. Sept. 16, 2025). In contrast to the default rule of discretionary
19 detention in the interior, Section 1225(b) makes available a mandatory detention scheme “at the
20 Nation’s borders and ports of entry” to detain certain noncitizens “seeking to enter the country.”
21 *Jennings*, 583 U.S. at 287. Section 1225(b)(2) provides that “in the case of an alien who is an
22 applicant for admission, if the examining immigration officer determines that an alien seeking
23 admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for
24 a [full removal proceeding].” 8 U.S.C. § 1225(b)(2)(A). The government may release noncitizens
25 detained under Section 1225(b) on temporary parole “for urgent humanitarian reasons or
26 significant public benefit.” 8 U.S.C. § 1182(d)(5)(A). Respondents now argue that Section
27
28

1 1225(b)(2)(A)—despite its limitation to those who are “seeking admission”—mandates the re-
2 detention of people who are merely present in the interior while undergoing removal proceedings.
3 This re-interpretation not only contradicts the government’s consistent treatment of Ms. Garcia
4 Mariagua as subject to Section 1226, but it also is incorrect as a matter of straightforward statutory
5 interpretation.¹ See, e.g., *Pablo Sequen*, 2025 WL 2650637, at *6-8.

6
7 12. Ms. Garcia Mariagua’s arrest and detention have already caused her substantial
8 harm, including the emotional trauma of being arrested like a criminal when she had been
9 compliant with legal requirements. The psychological toll of confinement is considerable, and
10 conditions in immigration detention facilities are often substandard. Furthermore she believes she
11 is pregnant and arrest and detention under these conditions poses a great risk to her health as a
12 pregnant person. Every additional day of unlawful detention will add to her immiseration and
13 subject her to further irreparable harm.

14
15 13. Moreover, detention is highly prejudicial to her chance of success in her
16 immigration proceedings. Her loss of income will take away her ability to pay for immigration
17 counsel, limiting her to seeking help from the limited number of nonprofit providers who take on
18 detained cases. Those providers are already overwhelmed with demand for their services. While
19 making it much harder to access legal help, detention will also make it much harder to go through
20 all of the steps needed to prepare an asylum case – steps such as having extensive communication
21

22
23 ¹ On November 25, 2025, the U.S. District Court for the Central District of California issued an order
24 in *Maldonado Bautista v. Santacruz*, certifying a nationwide class of noncitizens who are in immigration
25 detention and being denied release based on the government’s allegation that they entered the United
26 States without admission or inspection under INA 212(a)(6)(A)(i). The Court granted declaratory relief to
27 the entire class, holding that the government is unlawfully subjecting them to mandatory detention and
28 that class members are eligible for release. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-
BFM, --- F. Supp. 3d ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025) (order granting partial summary
judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-
BFM, --- F. Supp. 3d ---, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-
Petitioners’ proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment
from Order Granting Petitioners’ Motion for Partial Summary Judgment).

1 with counsel, collecting evidence, and preparing testimony.

2 14. The Constitution protects Ms. Garcia Mariagua—and every other person present in
3 this country—from arbitrary deprivations of liberty, and guarantees her due process of law. The
4 government’s power over immigration is broad, but as the Supreme Court has declared, it “is
5 subject to important constitutional limitations.” *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001).
6 “Freedom from bodily restraint has always been at the core of the liberty protected by the Due
7 Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).
8

9 15. Ms. Garcia Mariagua respectfully seeks a writ of habeas corpus ordering the
10 government to immediately release her from ongoing, unlawful detention, and prohibiting her re-
11 arrest without a hearing to contest that re-arrest before a neutral decision-maker. In addition, to
12 preserve this Court’s jurisdiction and ensure effective relief, Petitioner also requests that this Court
13 order the government not to transfer her outside of the District, or deport her, for the duration of
14 this proceeding.
15

16 **JURISDICTION AND VENUE**

17 16. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal
18 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act),
19 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension
20 Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706
21 (Administrative Procedure Act).

22 17. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
23 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner was processed and spent the night at an ICE
24 processing facility in Stockton, CA and is currently physically located within this district, in
25 California City, CA.
26

27 **PARTIES**

28 18. Ms. Garcia Mariagua is a 29-year-old asylum seeker from Venezuela. She has filed

1 an application for asylum, which remains pending. On information and belief, she has no criminal
2 history, and has been compliant with her legal obligations since being released by ICE following
3 her apprehension at the southern border. She is currently in civil immigration detention, at
4 California City since December 4, 2025.

5 19. Respondent Christopher Chestnut is employed by CoreCivic as the Warden of the
6 California City Detention Facility, where Petitioner is detained. He has immediate physical
7 custody of Petitioner. He maintains an office and regularly conducts business in this district. He is
8 sued in his official capacity.

9
10 20. Respondent Sergio Albarran is the Acting Field Office Director of the San
11 Francisco ICE Field Office. In this capacity, he is responsible for the administration of immigration
12 laws and the execution of immigration enforcement and detention policy within ICE's San
13 Francisco Area of Responsibility, including the detention of Ms. Garcia Mariagua. Respondent
14 Albarran maintains an office and regularly conducts business in this district. He is the legal
15 custodian of Petitioner and has the authority to release her. Respondent Albarran is sued in his
16 official capacity.

17
18 21. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official
19 Performing the Duties of the Director of ICE, he is responsible for the administration and
20 enforcement of the immigration laws of the United States; routinely transacts business in this
21 District; and is legally responsible for pursuing any effort to detain and remove the Petitioner.
22 Respondent Lyons is sued in his official capacity.

23
24 22. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate
25 authority over DHS. In that capacity and through her agents, Respondent Noem has broad authority
26 over and responsibility for the operation and enforcement of the immigration laws; routinely
27 transacts business in this District; and is legally responsible for pursuing any effort to detain and
28 remove Ms. Garcia Mariagua. Respondent Noem is sued in her official capacity.

1 23. Respondent Pamela Bondi is the Attorney General of the United States and the most
2 senior official at the Department of Justice. In that capacity and through her agents, she is
3 responsible for overseeing the implementation and enforcement of the federal immigration laws.
4 The Attorney General delegates this responsibility to the Executive Office for Immigration
5 Review, which administers the immigration courts and the BIA. Respondent Bondi is sued in her
6 official capacity.

7
8 **EXHAUSTION**

9 24. There is no requirement to exhaust because no other forum exists in which Ms.
10 Garcia Mariagua can raise the claims herein. There is no statutory exhaustion requirement prior to
11 challenging the constitutionality of an arrest or detention, or challenging a policy under the
12 Administrative Procedure Act. Prudential exhaustion is not required here because it would be
13 futile, and Ms. Garcia Mariagua will “suffer irreparable harm if unable to secure immediate judicial
14 consideration of [their] claim.” *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Any further
15 exhaustion requirements would be unreasonable.

16
17 **LEGAL BACKGROUND**

18 25. The Constitution establishes due process rights for “all ‘persons’ within the United
19 States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or
20 permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533
21 U.S. at 693). These due process rights are both substantive and procedural.

22 26. *First*, “[t]he touchstone of due process is protection of the individual against
23 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the
24 exercise of power without any reasonable justification in the service of a legitimate government
25 objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

26
27 27. These protections extend to noncitizens facing detention, as “[i]n our society
28 liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.”

1 *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom from
2 imprisonment—from government custody, detention, or other forms of physical restraint—lies
3 at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

4 28. Substantive due process thus requires that all forms of civil detention—including
5 immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See Jackson v.*
6 *Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible
7 non-punitive purposes for immigration detention: ensuring a noncitizen’s appearance at
8 immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–
9 92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

11 29. *Second*, the procedural component of the Due Process Clause prohibits the
12 government from imposing even permissible physical restraints without adequate procedural
13 safeguards.

14 30. Generally, “the Constitution requires some kind of a hearing *before* the State
15 deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). This is so
16 even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d at 683
17 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional
18 supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)
19 (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

21 31. After an initial release from custody on conditions, even a person paroled following
22 a conviction for a criminal offense for which they may lawfully have remained incarcerated has a
23 protected liberty interest in that conditional release. *Morrissey*, 408 U.S. at 482. As the Supreme
24 Court recognized, “[t]he parolee has relied on at least an implicit promise that parole will be
25 revoked only if he fails to live up to the parole conditions.” *Id.* “By whatever name, the liberty is
26 valuable and must be seen within the protection of the [Constitution].” *Id.*

28 32. This reasoning applies with equal if not greater force to people released from civil
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1 immigration detention, like Ms. Garcia Mariagua. After all, noncitizens living in the United States
2 like Petitioner have a protected liberty interest in their ongoing freedom from confinement. *See*
3 *Zadvydas*, 533 U.S. at 690. And, “[g]iven the civil context [of immigration detention], [the] liberty
4 interest [of noncitizens released from custody] is arguably greater than the interest of parolees.”
5 *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

7 FACTUAL ALLEGATIONS

8 ***A. DHS Undertakes New Campaign of Arrests at Courthouses and ICE Appointments.***

9 33. For the last several months, DHS has initiated an aggressive new enforcement
10 campaign targeting people in regular removal proceedings for detention. They have arrested many
11 at their immigration court hearings, a “coordinated operation” that has been “aimed at dramatically
12 accelerating deportations.”² At the same time, they have also started to regularly make arrests at
13 ICE check-in appointments, for thinly pretextual reasons or none at all.³

14 34. DHS’s aggressive tactics at immigration courts appear to be motivated by the
15 Administration’s imposition of a new daily quota of 3,000 ICE arrests.⁴ As of June 2025, ICE’s
16 arrests of noncitizens with no criminal record had increased more than 800% since the previous
17 year.⁵

18
19
20 ² Arelis R. Hernández & Maria Sacchetti, *Immigrant Arrests at Courthouses Signal New Tactic in*
21 *Trump’s Deportation Push*, Wash. Post, May 23, 2025,
22 <https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/>; *see also*
23 *Hamed Aleaziz, Luis Ferré-Sadurní, & Miriam Jordan, How ICE is Seeking to Ramp Up Deportations*
24 *Through Courthouse Arrests*, N.Y. Times, May 30, 2025,
25 <https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html>.

26 ³ Ian Bradley & Christien Kafton, *ICE strikes again: allegedly arrests 15 people, including children, in*
27 *SF*, KTVU Fox 2, June 5, 2025, <https://www.ktvu.com/news/ice-strikes-again-allegedly-arrests-15-people-including-children-sf>

28 ⁴ Ted Hesson & Kristina Cooke, *ICE’s Tactics Draw Criticism as it Triples Daily Arrest Targets*, Reuters,
June 10, 2025, <https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/>; Alayna Alvarez & Brittany Gibson, *ICE Ramps Up Immigration Arrests in*
Courthouses Across the U.S., Axios, June 12, 2025, <https://www.axios.com/2025/06/12/ice-courthouse-arrests-trump>.

⁵ José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under Trump*,
The Guardian, June 14, 2025, <https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures>.

1 35. The government's new campaign is a significant shift from previous DHS practice
2 of re-detaining noncitizens only after a material change in circumstances. *See Saravia v. Sessions*,
3 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905
4 F.3d 1137 (9th Cir. 2018) (describing prior practice).

5
6 ***B. Petitioner is Unlawfully Arrested and Detained Pursuant to DHS's New Policy.***

7 36. Ms. Garcia Mariagua came to the United States in approximately May of 2024,
8 fleeing threats of violence. She made contact with immigration officials and was issued a Notice
9 to Appear. The Department of Homeland Security released her into the interior to await her court
10 hearings. Since then, she has been compliant with her obligations. ICE placed her on an ankle
11 monitor, and then deemed her compliance sufficient to de-escalate her supervision to weekly
12 submission of a photo on a telephone application. She faithfully complied with her reporting
13 requirements but for one photo sent late only by hours on the same business day, which was due
14 to the app not notifying her with the normal sound. She has a cognizable claim to asylum based on
15 a fear of return to Venezuela, and timely filed a Form I-589. She applied for and received
16 Employment Authorization and has been lawfully employed. She attends church.

17
18 37. Her removal proceedings are venued in San Francisco, and her next master calendar
19 hearing in immigration court is scheduled for May 5, 2028.

20 38. Ms. Garcia Mariagua has integrated into her local community. She is taking two
21 online courses, English and Marketing. On information and belief, she has no criminal record. She
22 is seeking counsel to represent her in her immigration proceedings.

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24 39. On December 3, 2025, the Intensive Supervision Appearance Program (ISAP)
25 called Ms. Garcia Mariagua into their office where they subsequently instructed her to go to the
26 ICE field office at 630 Sansome Street, in San Francisco. She dutifully complied, waited in line,
27 and spoke to an ICE agent. To her shock, ICE took her into their custody at 630 Sansome Street.
28 The only thing she could think that had caused her detention was a glitch with her reporting

1 application a couple of weeks prior. She faithfully sent a weekly photo when prompted to by the
2 telephone app, until about two or three weeks ago when the app did not alert her. She received a
3 call from the ICE contractor, ISAP, telling her she had not sent her photo yet that day. She
4 immediately took the photo and sent it via the app. Her compliance was completed that same
5 business day. ICE took her into custody, told her they were going to provide her documents
6 regarding her arrest, and failed to do so.

7
8 40. Counsel learned of Ms. Garcia Mariagua's arrest around 3:00 p.m. on December 3,
9 2025. Counsel's colleague tried to reach Ms. Garcia Mariagua via the San Francisco ICE-
10 Enforcement and Removal Operations ("ERO") control room and via ERO's email, but there was
11 no answer. She later reached the Stockton ICE-ERO control room and confirmed that she was en
12 route to Stockton where she would be detained overnight and then transferred to a longer-term
13 detention facility.

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15 41. On December 4, 2025, Counsel attempted to speak to Ms. Garcia Mariagua by
16 emailing and calling Stockton ERO. Counsel spoke to the staff person in the control room and
17 requested to speak to an ICE-ERO agent and explained the reason was to again make a formal
18 request to speak to Ms. Garcia Mariagua. In addition, Counsel requested she be given access to
19 her daily medication for serious skin allergies. The staff person who answered the call told Counsel
20 he was going to find an agent, and put her on hold for a considerable duration. When the staff
21 person returned, he told Counsel that she had "just left" and that she was en route to California
22 City. For having been denied the ability to speak to Ms. Garcia Mariagua in a manner adequate for
23 attorney-client consultation, the instant petition is being filed with limited information.

24
25 42. Ms. Garcia Mariagua believes she is pregnant, as she has missed multiple
26 menstrual cycles as well as other symptoms. She suffers from serious allergies, having allergic
27 reactions regularly after eating a range of foods, and gets hives on her face. She takes a medication,
28 Cetirizine, almost every night for her allergies and/or hives. Despite multiple attempts over two

1 days by Counsel and her colleagues to request to speak to ICE agents about Ms. Garcia Mariagua's
2 need for her medication, she is still without it.

3 43. Ms. Garcia Mariagua is now detained at California City Detention Facility.

4 44. Because Ms. Garcia Mariagua has not been determined to be a flight risk nor a
5 danger to the community, her ongoing detention is not related to either permissible justification
6 for civil immigration detention and does not further any legitimate government interest.
7

8 ***C. As a Result of Her Arrest and Detention, Petitioner is Suffering Ongoing and Irreparable***
9 ***Harm.***

10 45. Ms. Garcia Mariagua is being deprived of her liberty without any permissible
11 justification. The government previously released her because she did not pose sufficient risk of
12 flight or danger to the community to warrant detention.

13 46. None of that has changed. Based on information and belief, she has no criminal
14 record, and there is no basis to believe that she poses a public safety risk. Nor is she, who was
15 arrested *while appearing for an ICE appointment*, conceivably a flight risk. To the contrary, she
16 has complied with immigration court requirements.
17

18 47. Detention will cause her irreparable harm. It will interfere with her ability to access
19 counsel and present her asylum claim. Immigration proceedings aside, it will pose a compounding
20 psychological burden, in addition to the physical hardships she has to endure from prison
21 conditions especially considering she believes she is pregnant. It will deprive her of her livelihood,
22 her community, her church, and her life as she knows it.
23

24 **CLAIMS FOR RELIEF**

25 **FIRST CLAIM FOR RELIEF**

26 **Violation of the Fifth Amendment to the United States Constitution**

27 **(Substantive Due Process—Detention)**

28 48. Ms. Garcia Mariagua repeats and re-alleges the allegations contained in the
preceding paragraphs of this Petition as if fully set forth herein.

1 49. The Due Process Clause of the Fifth Amendment protects all “person[s]” from
2 deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom from
3 imprisonment—from government custody, detention, or other forms of physical restraint—lies at
4 the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

5 50. Immigration detention is constitutionally permissible only when it furthers the
6 government’s legitimate goals of ensuring the noncitizen’s appearance during removal
7 proceedings and preventing danger to the community. *See id.*

8 51. Ms. Garcia Mariagua is not a flight risk or danger to the community. Respondents’
9 detention of Ms. Garcia Mariagua is therefore unjustified and unlawful. Accordingly, Ms. Garcia
10 Mariagua is being detained in violation of the Due Process Clause of the Fifth Amendment.

11 52. Moreover, Ms. Garcia Mariagua’s detention is punitive as it bears no “reasonable
12 relation” to any legitimate government purpose. *Id.* (finding immigration detention is civil and
13 thus ostensibly “nonpunitive in purpose and effect”). Here, the purpose of Ms. Garcia Mariagua’s
14 detention appears to be “not to facilitate deportation, or to protect against risk of flight or
15 dangerousness, but to incarcerate for other reasons”—namely, to meet newly-imposed DHS arrest
16 quotas. *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

17
18
19 **SECOND CLAIM FOR RELIEF**

20 **Violation of the Fifth Amendment to the United States Constitution**

21 **(Procedural Due Process—Detention)**

22 53. Ms. Garcia Mariagua repeats and re-alleges the allegations contained in the
23 preceding paragraphs of this Petition as if fully set forth herein.

24 54. As part of the liberty protected by the Due Process Clause, Ms. Garcia Mariagua
25 has a weighty liberty interest in avoiding re-incarceration after her initial release from DHS
26 custody. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778,
27 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp.
28

1 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody
2 following an IJ’s bond determination).

3 55. Accordingly, “[i]n the context of immigration detention, it is well-settled that due
4 process requires adequate procedural protections to ensure that the government’s asserted
5 justification for physical confinement outweighs the individual’s constitutionally protected
6 interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinermon*, 494
7 U.S. at 127 (Generally, “the Constitution requires some kind of a hearing *before* the State
8 deprives a person of liberty or property.”). In the immigration context, for such hearings to
9 comply with due process, the government must bear the burden to demonstrate, by clear and
10 convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh*
11 *v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785,
12 786 (9th Cir. 2024).

14 56. Ms. Garcia Mariagua’s re-detention without a pre-deprivation hearing violated
15 due process. A year and a half after deciding to release Ms. Garcia Mariagua from custody on
16 her own recognizance, Respondents re-detained her with no notice, no explanation of the
17 justification of her re-detention, and no opportunity to contest her re-detention before a neutral
18 adjudicator before being taken into custody.

20 57. Ms. Garcia Mariagua has a profound personal interest in her liberty. Because she
21 received no procedural protections, the risk of erroneous deprivation is high, and the government
22 has no legitimate interest in detaining her without a hearing. Bond hearings are conducted as a
23 matter of course in immigration proceedings, and nothing in her record suggests that she would
24 abscond or endanger the community before a bond hearing could be carried out. *See, e.g., Jorge*
25 *M.F. v. Wilkinson*, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, 2020
26 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) (“the government’s concern that delay in
27 scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of
28

1 petitioner's strong family ties and her continued employment during the pandemic as an essential
2 agricultural worker").

3
4 **PRAYER FOR RELIEF**

5 Petitioner respectfully requests that this Court:

- 6 1. Assume jurisdiction over this matter;
- 7 2. Issue a writ of habeas corpus ordering Respondents to immediately release Ms.
8 Garcia Mariagua from custody;
- 9 3. Declare that Ms. Garcia Mariagua's arrest and detention violates the Due Process
10 Clause of the Fifth Amendment;
- 11 4. Enjoin Respondents from transferring Ms. Garcia Mariagua outside this District or
12 the Northern District, or deporting Ms. Garcia Mariagua pending these proceedings;
- 13 5. Enjoin Respondents from re-detaining Ms. Garcia Mariagua unless her re-detention is
14 ordered at a custody hearing before a neutral arbiter in which the government bears
15 the burden of proving, by clear and convincing evidence, that she is a flight risk or
16 danger to the community;
- 17 6. Award Ms. Garcia Mariagua her costs and reasonable attorneys' fees in this action as
18 provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
- 19 7. Grant such further relief as the Court deems just and proper.
- 20
21
22

23 Date: December 5, 2025

Respectfully Submitted,

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