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9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11 JOSSIE ARANGUREN PACHECO,

12 Petitioner,

13 v.

14 KRISTI NOEM, in her official capacity,
Secretary of Homeland Security; PAM
15 BONDI, in her official capacity,
Attorney General of the United States;
16 CHRISTOPHER CHESTNUT, in his
official capacity, Warden, California
17 City Detention Facility; SERGIO
ALBARRAN, in his official capacity,
18 Field Office Director of the San
Francisco Field Office, U.S. Immigration
19 and Custom Enforcement (ICE); TODD
20 M. LYONS, in his official capacity,
Acting Director of ICE,

21 Respondents.
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Case No. 1:25-cv-1901-DC-CKD

**REPLY TO RESPONDENT'S
OPPOSITION OF HABEAS
CORPUS, PRELIMINARY
INJUNCTION, AND
TEMPORARY RESTRAINING
ORDER.**

Hon. Dena Coggins

I. PROCEDURAL BACKGROUND

On December 17, 2025, the Courtroom Deputy for District Judge Dena M. Coggins issued the following minutes order: “The court has reviewed Petitioner’s [1] Petition for Writ of Habeas Corpus and [3] Motion for Temporary Restraining Order. Respondents shall file an Opposition or Statement of Non-Opposition to the [3] Motion for Temporary Restraining Order by December 19, 2025. In their response, Respondents shall substantively address whether any provision of law or fact in this case would distinguish it from this court’s decisions in *Labrador-Prato v. Noem, et al.*, 1:25-cv-01598-DC-SCR, 2025 WL 3458802 (E.D. Cal. Dec. 2, 2025), *Selis Tinoco v. Noem, et al.*, 1:25-cv-01762-DC-JDP, 2025 WL 3567862 (E.D. Cal. Dec. 14, 2025), and other similar cases previously decided by this court, or indicate that the matter is not substantively distinguishable. Petitioner may file a Reply on or before December 23, 2025.”

On December 19, 2025, Respondent’s filed their opposition. This motion follows.

II. RESPONDENT CONCEDES THAT PETITIONER’S CASE IS NOT SUBSTANTIVELY DISTINGUISHABLE FROM CASES CITED BY THE COURT.

In the Opposition counsel for the government states that [he] “has reviewed the cases cited in the Court’s minute order, *Labrador Prato v. Noem, et al.*, 1:25-cv-01598-DC-SCR, 2025 WL 3458802 (E.D. Cal. Dec. 2, 2025), *Selis Tinoco v. Noem, et al.*, 1:25-cv-01762-DC-JDP, 2025 WL 3567862 (E.D. Cal. Dec. 14, 2025), and notes that the cases address largely the same issues and are in the same procedural posture as this case, and also as the pending Ninth Circuit appeal in *Rodriguez v. Bostock*, 779 F.Supp.3d 1239 (W.D. Wash. 2025), Ninth Circuit docket no. 25-6842.” Opp. at 2.

In their opposition, the “government maintains the position that Petitioner’s prior release at DHS’s discretion, even if the release document cited 8 U.S.C. § 1226, does

1 not have the effect of having converted petitioner's presence in the United States into
2 an "admission." Opp. at 1.

3 As this Court has recognized in *Labrador Prato v. Noem, et al.*, 1:25-cv-01598-
4 DC-SCR, 2025 WL 3458802 at * 9 (E.D. Cal. Dec. 2, 2025) the "legal arguments
5 Respondents rely upon to support the government's position that section 1225 applies
6 here have been consistently rejected by a majority of courts in this district and courts
7 across the country". *Labrador Prato citing Valencia Zapata v. Kaiser*, No. 25-CV-
8 07492-RFL, 2025 U.S. Dist. LEXIS 190934, 2025 WL 2741654, at *10 (N.D. Cal. Sep.
9 26, 2025) (*citing Salcedo Aceros*, 2025 U.S. Dist. LEXIS 179594, 2025 WL 2637503,
10 at *8 (collecting cases)).¹

11 "Instead, those courts have generally held that section 1226 rather than 5
12 Subparagraph (B) of 8 U.S.C. § 1225(b)(2) sets forth exceptions to subparagraph
13 (A). Subparagraph (C) of the same section addresses the [treatment] of
14 [noncitizens] arriving from contiguous territory." 8 U.S.C. § 1225 b)(2)(C).
15 Neither subparagraph appears to apply here. 2025 U.S. Dist. LEXIS 235061. *6
16 Page 5 of 8 section 1225 is the appropriate section to apply in cases in which a
17 noncitizen is already living in the United States. *See C.A.R.V. v. Wofford*, No. 25-
18 cv-01395-JLT-SKO, 2025 U.S. Dist. LEXIS 216277, 2025 WL 3059549, at *8
19 (E.D. Cal. Nov. 1, 2025) (finding section 1226 applied when "petitioner had
20 been present in the United States for approximately four years and was released
21 on his own recognizance well before Respondents adopted the new interpretation
22 of the governing statutes"): *see Bernardo Aquino v. Larose*, No. 25-cv-02904-
23 RSH-MMP, 2025 U.S. Dist. LEXIS 222821, 2025 WL 3158676, at *3 (S.D. Cal.
24 Nov. 12, 2025) ("The overwhelming majority of courts to address the issue have
25 agreed that Section 1226(a), rather than the mandatory detention [*10] provision
26 of Section 1225(b)(2)(A), applies to a noncitizen . . . who has resided in the
27 United States for many years.") (citing cases). The majority view rejects the
28 government's new interpretation of section 1225 as the applicable immigration
detention authority for all inadmissible noncitizens. (Doc. No. 11 at 3.). Indeed,
Petitioner was specifically released in accordance with section 236 of the INA
[section 1226]. (Doc. No. 1-1 at 5-6.) "Having elected to proceed with full
removal proceedings under § 1226, Respondents cannot now reverse course and
institute § 1225 expedited removal proceedings." *Clavio v. Kaiser*, No. 25-cv-
06248-BLF, 2025 U.S. Dist. LEXIS 163056, 2025 WL 2419263, at *4 (N.D. Cal.
Aug. 21, 2025). Accordingly, Petitioner is likely subject to the discretionary
detention scheme set forth in section 1226.

¹ The filing of this TRO the Northern District in *Garro Pinchi v. Noem*, No. ___, 2025 WL ___,
at * (N.D. Cal. Dec. 19, 2025) held that DHS may not re-detain noncitizens previously released after
an individualized custody determination by arresting them at routine ICE check-ins or immigration
court appearances pursuant to a uniform policy, absent a pre-detention determination—supported by
clear and convincing evidence—that the individual is a flight risk or danger; concluding such
systematic re-detention likely violates the Administrative Procedures Act and the Fifth Amendment
and staying enforcement of ICE's re-detention policy.

Labrador Prato, 2025 WL 3458802 at * 10.

Petitioner’s Detentions Do Not Distinguish this Case from *Selis Tinoco*.

The government adds, however, that “Petitioner’s criminal history distinguishes Petitioner’s case from *Selis Tinoco*, in which the government unsuccessfully opposed the petitioner’s release based on the petitioner’s prior arrest for a DUI charge and violations of the terms of his release.” *Id.* Again, the government’s argument fails to distinguish Petitioner’s case from *Labrado Prado* and *Selis Tinoco* and those line of cases.² It is a difference without a distinction.

In fact, Petitioner, unlike *Tenico*, who had a conviction for a wet reckless, does not have any criminal convictions. He has been detained and has not suffered one conviction.³ In addition, the government, in their desperation to distinguish the case, makes a misrepresentation: that Petitioner’s cases have not been resolved. This is simply false.

Petitioner suffered three detentions – all of which Petitioner brought to light in his opening brief: First, the case in Marin County that was dismissed and the prosecutor has conceded there is exonerating evidence for a vacatur of the entire case.⁴ Second, the detention in San Francisco that occurred on February 2, 2025, for an alleged violation of Cal. Vehicle Code Sec. 23152 was never charged. It was discharged for lack of evidence and is not pending.⁵ Lastly, the Contra Costa County detention for conspiracy

² See also *Hortua v. Chestnut*, No. 1:25-cv-01670, 2025 WL __, at * (E.D. Cal. Dec. 9, 2025) (granting TRO ordering petitioner’s immediate release where ICE re-detained her at a routine check-in after prior release; holding likely success on Fifth Amendment due-process claim, noting petitioner’s intervening theft arrest had been dismissed after pretrial diversion; requiring any future re-detention be preceded by notice and a neutral hearing with clear and convincing evidence of flight risk, danger, or materially changed circumstances)).

³ Pursuant to California Penal Code 849.5 an arrest is converted into a detention when no criminal charges are filed. Meaning the arrest record becomes a detention record. Since no charges were filed probable cause did not exist for the initial arrest.

⁴ See Petitioner’s Opening Br., Exh. J, Keast Decl. ¶ 5-6.

⁵ See Petitioner’s Opening Br. Exh. M, and Exh. A (Declaration of Liliana Garcia).

1 to commit a misdemeanor theft was never charged as well.⁶ There are no pending
2 cases, and Petitioner has no prior convictions.⁷ See Pet.'s Opening Br., Exh. K, M, N,
3 See also Exh. A and B.

4 More importantly, the government's opposition misses the mark and fails to
5 address Petitioner's due process claim in their opposition. They do not contest that
6 Petitioner has a protected liberty interest under the Due Process clause; and they do not
7 contest that the procedure necessary to ensure any deprivation of that protected interest
8 accords with the Constitution.

9 Conclusion

10 Petitioner's request for a TRO should be granted, and he must be released
11 immediately. As *Labrador-Prato v. Noem, et al.*, 1:25-cv-01598-DC-SCR, 2025 WL
12 3458802 (E.D. Cal. Dec. 2, 2025), *Selis Tinoco v. Noem, et al.*, 1:25-cv-01762-DC-
13 JDP, 2025 WL 3567862 (E.D. Cal. Dec. 14, 2025), *Garro Pinchi v. Noem*, 2025 WL __,
14 at * (N.D. Cal. Dec. 19, 2025), and *Hortua v. Chestnut*, 2025 WL __, at * (E.D. Cal.
15 Dec. 9, 2025) have held, ICE may not re-detain previously released individuals without
16 a neutral hearing and clear-and-convincing evidence of flight risk or danger. Petitioner
17 has prior detentions but no convictions. He has lived in the U.S. for four years, most
18 recently with his mother, obtained TPS, has a pending asylum case, is lawfully
19 employed, pays taxes, and is attending community college with plans to transfer to a
20 four-year school.⁸ These facts establish a strong protected liberty interest, and DHS
21 cannot lawfully rely on non-convictions to justify continued detention.

22 Dated: Dember 23, 2025

Respectfully submitted,

23 /s/ Carla V. Gomez

24 Carla V. Gomez
25 Deputy Public Defender

26 ⁶ See Exh. B, (Declaration of Cameron Bird).

27 ⁷ These detentions highlight why California has enacted the Racial Justice Act that seeks to
28 eliminate racial bias in arrests, charging, sentencing and throughout the entire criminal process. See
Penal Code Sec. 745.

⁸ See Opening Br. at 1, Exh. H (Pacheco Declaration).