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Karina Albino Tito

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

Karina Albino Tito

Petitioner

vs.

SERGIO ALBARRAN, Field Office Director of the San Francisco Immigration and Customs Enforcement Office; TODD LYONS, Acting Director of United States Immigration and Customs Enforcement; TROY EDGAR, Acting Secretary and MARKWAYNE MULLIN, Acting Secretary-Designate of the United States Department of Homeland Security, PAMELA BONDI, Attorney General of the United States, acting in their official capacities,

Respondents.

Case No. 3:26-cv-2178

[VERIFIED] PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Karina Albino Tito ("Petitioner") is a noncitizen currently in the constructive custody of Respondents.' While Petitioner is not presently incarcerated, they are subject to significant 'restraints on their liberty not shared by the public generally' – specifically, the requirement to report for a mandatory in-person ICE check-in on Friday, March 13, 2026, at the San Francisco ISAP office, under the imminent threat of summary arrest and physical re-detention. Petitioner is an asylum seeker from Peru. They have been in substantial compliance with all ICE check-ins, both on the phone and in person, since their entry into the United States. They have filed for political asylum, and their application is pending

with the Immigration Court in San Francisco. If the application is successful, they may obtain permanent residence and then citizenship five years later. Petitioner has work authorization and is working as a caregiver. They have no criminal history anywhere in the world.

2. Petitioner is a member of the certified class in *Garro Pinchi v. Noem*, No. 25-CV-05632-PCP, --- F. Supp. 3d ---, 2025 WL 3691938, at *12 (N.D. Cal. Dec. 19, 2025), which challenges the Department of Homeland Security's (DHS) new policy of re-arresting and re-detaining class members despite no change in their individual circumstances as to their dangerousness or flight (the "Re-Detention Policy").

3. On December 19, 2025, the district court made a factual finding that DHS adopted the Re-Detention Policy in May 2025 and held that the policy is likely unlawful under the Administrative Procedure Act (APA). *Garro Pinchi*, 2025 WL 3691938, at *25, *41.

4. Accordingly, the *Garro Pinchi* court granted "Plaintiffs' motion to stay DHS's re-detention policy pending final resolution of their APA claims," and "postpone[d] the effective date of the re-detention policy within ICE's San Francisco Area of Responsibility until the entry of a final judgment in this action." *Garro Pinchi*, 2025 WL 3691938, at *34.

5. Respondents have scheduled Petitioner for a mandatory in-person check-in on **Friday, March 13, 2026**, for the purpose of imminent re-detention. This planned arrest at a routine supervision appointment constitutes a 'Check-in Trap' that violates the preliminary injunction in *Garro Pinchi v. Noem*. There has been no material change in Petitioner's circumstances—such as a new criminal conviction or a willful failure to appear—that would justify revoking her eighteen months of liberty. Petitioner has remained in substantial compliance with all supervision requirements; any technical reporting discrepancies during a recent mobile device transition are insufficient as a matter of law to trigger re-detention under the *Garro Pinchi* standard.

6. Moreover, the Constitution protects Petitioner—and every other person present in this country—from arbitrary deprivations of their liberty and guarantees them due process of law. The government's power over immigration is broad, but as the Supreme Court has declared, it "is subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary

governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

7. Petitioner Karina Albino Tito respectfully requests that this Court issue a Writ of Habeas Corpus, or in the alternative, an Order to Show Cause why a Writ should not issue. Because Respondents intend to deprive Petitioner of their physical liberty at a routine March 13, 2026, check-in without the due process required by the Fifth Amendment and this Court's preliminary injunction in *Garro Pinchi v. Noem*, judicial intervention is required to maintain the status quo of Petitioner's liberty and prevent an unlawful arrest.

8. Respondents' planned re-detention of Petitioner—an asylum applicant who has lived safely in the community for 18 months—is not based on any material change in circumstances or newfound flight risk. Rather, it is an application of an unlawful enforcement policy that has been stayed by this Court. To prevent the irreparable harm of physical incarceration and the deprivation of Petitioner's vested liberty interests, this Court should intervene to ensure Respondents do not alter Petitioner's custody status at their upcoming appointment.

CUSTODY

9. Although Petitioner is not currently physically incarcerated, they are 'in custody' for purposes of 28 U.S.C. § 2241 (habeas corpus) because they are subject to 'restraints on her liberty not shared by the public generally.' These restraints include mandatory Intensive Supervision Appearance Program (ISAP) reporting and the requirement to appear for a March 13, 2026, check-in under threat of imminent physical arrest. *See Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973) (holding that a person released on their own recognizance is "in custody" for habeas purposes). Courts have construed "in custody" broadly to include "restraints short of physical confinement." *Rumsfeld v. Padilla*, 542 U.S. 426, 437 (2004); see also *Nakaranurack v. United States*, 68 F.3d 290, 293 (9th Cir. 1995) ("We have broadly construed 'in custody' to apply to situations in which [a noncitizen] is not suffering any actual physical detention."). All that a petitioner must show is that they are subject to a significant restraint on liberty "not shared by the public generally." *Jones v. Cunningham*, 371 U.S. 236, 239-40 (1963).

JURISDICTION

10. This Court has subject matter jurisdiction to entertain this habeas petition under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), and the Due Process Clause of the Fifth Amendment.

VENUE

11. Venue is proper in the Northern District of California under 28 U.S.C. § 1391(e) and 28 U.S.C. § 2241(a). Petitioner resides within this judicial district, and a substantial part of the events giving rise to this Petition—specifically the scheduled March 13, 2026, check-in and the threatened re-detention—are set to occur at the San Francisco ICE Field Office located at 478 Tehama Street, San Francisco, CA. Respondents Lyons and Albarran, who exercise legal and physical control over Petitioner's supervision and custody, are also located within this district.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved for *Garro Pinchi* class members. 8 U.S.C. § 2243.

13. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal quotation marks omitted).

PARTIES

14. Petitioner, Karina Albino Tito, is a woman from Peru who has applied for political asylum based on [redacted] and persecution in Peru because of it. Their application is currently pending at the San Francisco Immigration Court. Petitioner has work authorization and is working as a caregiver. Ms. Albino Tito has no criminal history anywhere in the world. They are not detained but are scheduled to

appear at an ISAP "check-in" on Friday March 13, 2026, and is under imminent threat of unlawful arrest and detention.

15. Respondent Sergio Albarran is the Field Office Director of the San Francisco ICE Field Office. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's San Francisco Area of Responsibility, including the detention of Petitioner. Respondent Albarran maintains an office and regularly conducts business in this district. Respondent Albarran is sued in his official capacity.

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

17. Respondent Troy Edgar is the Acting Secretary of the U.S. Department of Homland Security and MarkWayne Mullin is the Secretary Designee and they have ultimate authority over DHS. In that capacity and through his agents, Respondent Mullin has broad authority over and responsibility for the operation and enforcement of the immigration laws; routinely transacts business in this District; and is legally responsible for pursuing any effort to detain and remove the Petitioner. Respondent Mullin is sued in his official capacity.

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

EXHAUSTION

19. In habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). As applicable here, a court may waive the prudential exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or

the administrative proceedings would be void." *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted). Here, exhaustion is not required because no other forum exists in which Petitioner can raise their claims, exhaustion would be futile, there is no requirement to exhaust before challenging the constitutionality of an arrest or detention, and Petitioner will "suffer irreparable harm if unable to secure immediate judicial consideration of [their] claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992).

STATEMENT OF FACTS

A. ICE Implements New Policy of Re-detaining Previously Released Noncitizens Even Where There Are No Materially Changed Circumstances to Justify Re-Detention

20. The Immigration and Nationality Act and implementing regulations govern Respondents' authority to detain or release noncitizens pending removal proceedings. Release is available only after an immigration agent or immigration judge ("IJ") first determines that a noncitizen is neither a flight risk nor a danger to the community. *See, e.g.*, 8 C.F.R. §§ 212.5(b), 236.1(c)(8), 1236.1(c)(8); 8 U.S.C. § 1226(c)(4); *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).

21. Accordingly, for more than 40 years, Respondents' practice was to re-detain a noncitizen whom it had previously released only after making an individualized determination that the noncitizen's circumstances had materially changed since their release, such that the noncitizen posed a flight risk or danger to the public. *See generally Garro Pinchi*, 2025 WL 3691938, at *20.

22. In May 2025, that changed. Respondents adopted the Re-Detention Policy and began re-arresting and re-detaining noncitizens whom they had previously released, without first making any individualized determination of changed circumstances. Many of these arrests occurred without notice, after noncitizens appeared for removal proceedings at immigration courthouses, check-ins with ICE or ICE's Intensive Supervision Appearance Program (ISAP), or scheduled immigration-related interviews. *Id.* at *3.

B. **Garro Pinchi v. Noem** ***Litigation and Order of Preliminary Relief***

23. In October 2025, three plaintiffs filed a complaint challenging the Re-Detention Policy under the Administrative Procedure Act (APA). *Garro Pinchi*, No. 5:25-cv-05632-PCP, Dkt. No. 38 (Class Action Complaint and Amended Petition for Writ of Habeas Corpus) (N.D. Cal. filed Oct. 10, 2025). The plaintiffs further filed a motion to "stay" the Re-Detention Policy pending final judgment on their claims and a motion for provisional class certification.

24. On December 19, 2025, the *Garro Pinchi* court issued an order granting the plaintiffs' motions to provisionally grant class certification and stay agency action. *Garro Pinchi*, 2025 WL 3691938, at *34.

25. *Garro Pinchi* certified the following class: "All noncitizens in the jurisdiction of the San Francisco ICE Field Office who (1) entered or will enter the United States without inspection; (2) have been or will be charged with inadmissibility under 8 U.S.C. § 1182 and have been or will be released from DHS custody; and who (3) are in removal proceedings under 8 U.S.C. § 1229a, including any § 1229a proceedings that have been dismissed where the dismissal is not administratively final; and (4) are not subject to detention under 8 U.S.C. § 1226(c)." *Garro Pinchi*, 2025 WL 3691938, at *12.

26. Relevant to the class definition, the jurisdiction of the San Francisco ICE Field Office covers California from the Oregon border to (and including) Kern County; Hawaii; Guam; and the Northern Mariana Islands. Within California, the Sacramento, Stockton, San Jose/Morgan Hill, Fresno, and Bakersfield sub-field ICE offices are all within the San Francisco Area of Responsibility.[1]

27. *Garro Pinchi* further certified the following subclass: "All members of the Class whose release from DHS custody was or will be on bond, conditional parole, or their own recognizance under 8 U.S.C. § 1226(a) and/or 8 C.F.R. § 236.1(c)(8)." *Garro Pinchi*, 2025 WL 3691938, at *12.

28. On the merits, *Garro Pinchi* held that the Re-Detention Policy is likely arbitrary and capricious because, based on the preliminary record: Respondents failed to provide a reasoned explanation for their new policy at the time of its implementation; any post hoc rationalization Respondents provided for the Re-Detention Policy was based on legal error; Respondents failed to consider released noncitizens'

[1] A map depicting the geographic the jurisdiction of the San Francisco ICE Field Office is available at https://www.ice.gov/doclib/about/offices/ero/pdf/eroFieldOffices.pdf.

serious reliance interests when implementing the new policy; and Respondents failed to adequately consider noncitizens' protected liberty interests when implementing the new policy. *Id.* at *25.

29. The *Garro Pinchi* court held that the DHS' new interpretation of 8 U.S.C. § 1225(b)(2) did not justify the agency's adoption of the Re-Detention Policy. *Id.* at *26–29. The court held that the Re-Detention Policy was likely unlawful regardless of whether the underlying statutory authority for re-detention was 8 U.S.C. § 1225(b)(2) or § 1226(a), and stayed the policy from applying to any class member detained under color of either statute. *Id.* at *44.

30. *Garro Pinchi* further concluded that class members would suffer irreparable harm without preliminary relief, and that the balance of equities and public interest favored such relief. *Id.* at *20.

31. Accordingly, *Garro Pinchi* granted preliminary relief and stayed Respondents' Re-Detention Policy, effective immediately. *Id.* at *31–32. The order has the effect of requiring Respondents to revert to their longstanding prior policy of refraining from re-arresting and re-detaining class members, unless they make an individualized determination that there are materially changed circumstances as to the class member's dangerousness or flight risk. *See Paulsen v. Daniels*, 413 F.3d 999, 1008 (9th Cir. 2005) ("The effect of invalidating an agency rule is to reinstate the rule previously in force.").

C. Petitioner is in Imminent Danger of being Re-detained and subjected to increased surveillance Despite Being a Garro Pinchi Class Member and Despite No Material Change in Circumstances Since Their Previous Release from DHS Custody to Justify Re-detention

32. Petitioner is an asylum seeker who fled Peru in 2024. Immigration agents apprehended Ms. Albino Tito and her partner (now wife), after they crossed the border and detained them. On August 30, 2024, Respondents released Petitioner from Custody on Parole. (See Exhibit B, ICE Form I-830 and Interim Notice Authorizing Parole), with a Notice to Appear for removal proceedings at the Otero Immigration Court. (Venue was later changed to San Francisco.) On the Notice to Appear, DHS classified Petitioner as "an alien present in the United States who has not been admitted or paroled" and did not classify them as an "arriving alien." DHS charged her as inadmissible only under 8 U.S.C. §1182(a)(6)(A)(i), which applies to noncitizens physically present in the country without admission or parole and to noncitizens who enter the country in a location not designated by the Attorney General.

33. DHS agents issued Ms. Albino Tito an "Interim Notice Authorizing Parole." (*See Exhibit*

B), using a standard DHS form, setting forth the conditions of Ms. Albino Tito's conditional parole. Among other requirements, the form stated that Ms. Albino Tito must attend "every scheduled hearing before the immigration court and every appointment as directed by ICE" and comply with State Federal or local laws. It also stated that they must comply with any other specified conditions if identified separately. The other conditions consisted of enrollment in the ATD (Alternatives to Detention) monitoring program and to report the ICE non-detained office in San Francisco. The ATD notice indicated that Petitioner's release was contingent upon participation in the program and that failure to comply with it would result in redetermination of release conditions or arrest and detention.

34. In granting Petitioner release into the interior of the country, Respondents necessarily determined that Petitioner posed no or little risk of flight or dangerousness to the community.

35. Ms. Albino Tito relocated to San Francisco, California and built their life there. After their release from custody, they married their partner and have done everything immigration authorities required them to do. They updated their address with the Immigration Court as required and on February 17, 2025, they filed an application for political asylum, withholding of removal, and protection against the Convention Against Torture with the Immigration Court, which remains pending. They applied for and received work authorization. They are now a caregiver for a disabled woman in Oakland. They have no criminal history.

36. Since Petitioner's release from detention on August 30, 2024 they have been in substantial compliance with all Intensive Supervision Appearance Program (ISAP) and ICE check-in requirements, both via the mobile app and in person. Upon their release from detention they were issued a monitoring bracelet which they wore until their first in person ICE check in on August 29, 2025. After this appointment, they completed monthly check-ins using the BI SmartLINK app. On February 12, 2026, they changed their phone number and immediately reported this change within the app. However, they encountered technical difficulties reinstalling the app on their new device because it requested information they did not have (see Exhibit F). This technical discrepancy caused a temporary lapse in receiving notifications between February 12 and February 27, 2026. At their scheduled appointment on February 27, 2026, they ensured the ICE officer had their correct phone number, and they assisted them in downloading the app to their new device. Since that appointment, they have fully complied with their

new weekly reporting schedule, checking in every Monday for the last two weeks. (See Exhibit A, Declaration of Karina Albino Tito.)

37. Petitioner is in imminent danger of being deprived of liberty without any permissible justification. Respondents previously released Petitioner upon a determination that Petitioner was neither a flight risk nor danger to the community to warrant detention. Nothing has changed to alter that initial determination. Petitioner has no criminal record, and there is no basis to believe they poses a danger to the community. And Petitioner, who is in danger of being detained at their upcoming check-in, is not a flight risk. To the contrary, Petitioner has appeared for every check-in they were required to attend, and consistently informed Respondents about changes in address or other circumstances. Accordingly, this upcoming escalation of supervision and possible detention furthers no legitimate government interest.

38. Petitioner's potential detention will cause them ongoing irreparable harm. Petitioner and their wife are living together. Ms. Albino Tito is working full time and their money supports them and their spouse. If they are detained, their spouse will not be able to pay the rent. Moreover, respondents' planned re-detention of Petitioner will forcibly sever the familial bonds between Petitioner and their spouse. This interference with the right to family integrity – a fundamental liberty interest protected by the Fifth Amendment – constitutes an irreparable harm.

LEGAL FRAMEWORK

A. Under the Garro Pinchi *Order in Effect, Respondents are Enjoined from Re-detaining Petitioner*

39. Petitioner is a *Garro Pinchi* class member. Specifically, Petitioner (a) is in the jurisdiction of the San Francisco ICE Field Office, (b) entered the United States without inspection, (c) was charged with inadmissibility under 8 U.S.C. § 1182 and was released from DHS custody; (d) is in removal proceedings under 8 U.S.C. § 1229a, including any § 1229a proceedings that have been dismissed where the dismissal is not administratively final; and (e) is not subject to detention under 8 U.S.C. § 1226(c).

40. The December 19, 2025 *Garro Pinchi* order stayed the Re-Detention Policy and required Respondents to follow their prior policy within ICE's San Francisco Area of Responsibility is in effect. *See Garro Pinchi*, 2025 WL 3691938, at *34.

41. The *Garro Pinchi* stay order prohibits Respondents from applying the 'Re-Detention Policy' to class members like Petitioner. Because Petitioner's circumstances have not materially changed

since their initial release—specifically, they have no new criminal convictions or evidence of increased flight risk—Respondents are legally barred from re-detaining Petitioner at the scheduled March 13, 2026, check-in. Any such re-detention would constitute a direct violation of the Court's preliminary injunction."

B. The Constitution Protects Noncitizens Like Petitioner from Arbitrary Arrest and Detention.

42. As this Court's intervention is warranted based on the *Garro Pinchi* order alone to prevent Petitioner's unlawful re-detention, this Court need not reach Petitioner's constitutional claim. Nevertheless, the Constitution provides an independent ground to enjoin Respondents from disturbing Petitioner's current liberty.

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

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

45. These protections extend to noncitizens facing detention, as "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

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

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

48. Generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d 671, 683 (D.C. Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

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

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

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Administrative Procedure Act / Unlawful Application of Stayed Policy:

(Request for Relief Pursuant to *Garro Pinchi v. Noem*)

51. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

52. The order granting preliminary relief pending final adjudication of the claims in *Garro Pinchi v. Noem* held that Respondents' new Re-Detention Policy is likely unlawful as arbitrary and

capricious. The order thereby stays the Re-Detention Policy, under which Respondents re-arrested and re-detained previously released noncitizens without an individualized determination that materially changed circumstances as to flight risk or dangerousness warrant re-detention.

53. Despite the *Garro Pinchi* order, Respondents are mandating Petitioner's in-person appearance at an ISAP check-in even though Petitioner has no materially changed circumstances as to flight risk or dangerousness to warrant re-detention.

54. Because Petitioner is a member of the *Garro Pinchi* class, they are entitled to the protections of the stay order issued by this Court. That order stays the implementation of the Re-Detention Policy and requires Respondents to adhere to the prior, longstanding policy of only re-detaining noncitizens upon a showing of a material change in circumstances. As Petitioner has complied with all conditions of their release, no such material change exists.

55. Consequently, Respondents are legally prohibited from applying the Re-Detention Policy to Petitioner at their scheduled March 13, 2026, check-in. To ensure compliance with the *Garro Pinchi* order and to prevent the unlawful deprivation of Petitioner's liberty, this Court should grant the requested relief and enjoin Respondents from taking Petitioner into custody.

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Procedural Due Process—Detention)

56. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

57. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty liberty interest in avoiding re-incarceration after their release. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an IJ's bond determination).

58. Accordingly, "[i]n the context of immigration detention, it is well-settled that 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." *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinermon*, 494 U.S. at 127 (explaining that generally, "the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property."). In the immigration context, for such hearings to comply with due process, the government bears the burden to demonstrate, by clear and convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

59. Petitioner's possible re-detention without a pre-deprivation hearing would violate due process. After deciding to release Petitioner from custody on parole, Respondents cannot be allowed to detain Petitioner with no notice, no explanation of the justification of their re-detention, and no opportunity to contest their re-detention before a neutral adjudicator before being taken into custody.

60. Petitioner has a profound personal interest in their liberty. Because Petitioner would receive no procedural protections, the risk of erroneous deprivation is high. And the government has no legitimate interest in detaining Petitioner without a hearing; bond hearings are conducted as a matter of course in immigration proceedings, and nothing in Petitioner's record suggests that they would abscond or endanger the community before a bond hearing could be held. *See, e.g.*, *Jorge M.F. v. Wilkinson*, No. 21-cv-01434-JST, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021); *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020) ("[T]he government's concern that delay in scheduling a hearing could exacerbate flight risk or danger is unsubstantiated in light of petitioner's strong family ties and his continued employment during the pandemic as an essential agricultural worker.").

THIRD CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process—Detention)

61. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

62. The Due Process Clause of the Fifth Amendment protects all "person[s]" from deprivation of liberty "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 Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690.

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

64. Petitioner is neither a flight risk nor a danger to the community. Respondents' plan of detaining Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner requests that respondents be enjoined from detaining them in violation of the Due Process Clause of the Fifth Amendment.

65. In light of the *Garro Pinchi* order and the absence of any material change in Petitioner's circumstances, there is no legal basis for their re-detention. Accordingly, to prevent the imminent and unlawful deprivation of Petitioner's liberty, this Court should grant the Petition for Writ of Habeas Corpus and issue a Temporary Restraining Order enjoining Respondents from arresting or detaining Petitioner at their March 13, 2026, check-in, or at any time thereafter, absent a showing of a material change in their circumstances.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue a writ of habeas corpus or a Temporary Restraining Order enjoining Respondents from taking Petitioner into custody;
3. Declare that Petitioner's threatened arrest or detention of Petitioner would violate the order granting preliminary relief to the *Garro Pinchi* class;
4. Declare that any arrest or detention of Petitioner without a prior individualized hearing would violate the Due Process Clause of the Fifth Amendment;
5. Enjoin Respondents from transferring Petitioner outside this District or deporting Petitioner pending these proceedings;
6. Enjoin Respondents from re-detaining Petitioner unless Respondents provide at least 7 days' notice to Petitioner that they will seek a pre-deprivation bond hearing before a neutral arbiter at which the

government bears the burden of proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community;

7. Award Petitioner their costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, as amended; 28 U.S.C. § 2412; and on any other basis justified by the law; and

8. Grant such further relief as the Court deems just and proper.

Dated: March 12, 2026

Geri N. Kahn, Esq.

/s/ Geri Kahn

By: _____
Geri N. Kahn

Attorney for Plaintiff
Karina Albino Tito

Verification by Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I have discussed with Petitioner the events described in this Petition. I am submitting this verification on behalf of Petitioner because the extreme urgency of the Friday morning deadline and Petitioner's current state of distress make it impossible to obtain their physical signature in time for this emergency filing. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's class membership in *Garro Pinchi v. Noem*, No. 25-CV-05632-PCP, --- F. Supp. 3d ---, 2025 WL 3691938, at *12, are true and correct to the best of my knowledge.

Date: March 12, 2026

/s Geri N. Kahn/
Geri N. Kahn (SBN 148536)