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Attorney for Plaintiff
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; KRISTI NOEM, Secretary of the United States Department of Homeland Security[1], PAMELA BONDI, Attorney General of the United States, acting in their official capacities,

Respondents.

Case No. 3:26-cv-2178

REPLY TO RESPONDENTS' RESPONSE TO MOTION FOR EX PARTE TEMPORARY RESTRAINING ORDER

I. Petitioner has standing because voluntary cessation does not make the case moot

The Respondents argue that because Petitioner was not arrested at her 9:00 a.m. appointment, her injury is speculative and unripe. (Defendants' Response to Motion for TRO, ("Response"), p. 4.) It is a well-settled principle that "a defendant's voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice." *Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc.*, 528 U.S. 167, 189 (2000). Here, Respondents only refrained from arresting and/or

[1] Petitioner clarifies that Respondent Markwayne Mullin was named in error and herby dismisses him as a party. Petitioner further acknowledges that Kristi Noem's tenure ends March 31, 2026, and seeks relief against the office of the Secretary, regardless of the individual holder.

detaining Petitioner after being served with an emergency TRO application and a motion to relate this case to the *Garro Pinchi* class action. Respondents cannot "moot" a case by simply pausing their unlawful re-detention policy the moment a lawyer walks through the door, only to resume it at the next unscheduled or periodic check-in.

II. Petitioner is challenging her current circumstances

In addition to weekly mobile check-in, Petitioner is scheduled for a check-in on March 27, 2026 (ICE at Sansome Street), and on June 5, 2026 at the ISAP location on Tehama Street. If Respondents would assure Petitioner that she would not be detained, she would not seek a TRO. They have made no such promise. Indeed, when we were at Petitioner's last check-in just two weeks ago, the ICE officer said that Petitioner's supervision was being "escalated." The officer claimed that she did not know the reason. ICE has provided no transparency behind their practices. There are stories every day of people being unlawfully detained. Given Plaintiff's precarious legal status in the United States as an asylum seeker, she has every reason to fear that she may be illegally detained.

Respondents cite to the case of *J.P. v. Santacruz, et al.*, No. 25-cv-1640, 2025 WL 2633198 (C.D. Cal. Aug. 27, 2025), dismissing a challenge to the plaintiff's future detention and/or arrest. (Response at p. 4) Not all courts have followed this case. *See Carballo v. Semaia, 5:25-cv-03176-SPG-AJR (C.D. Cal. Feb 10, 2026)* – case not moot after release on bond; *Aleroev v. Santacruz*, EDCV 26-375-MWF (SP) (C.D. Cal. Feb 19, 2026 – declined to find *Santacruz* applicable after plaintiff had already been in custody and released.

Courts in the Northern District have found jurisdiction and standing in cases similar to Petitioner's. For example, in *He v. Lyons*, 3:25-cv-10639-JSC (N.D. Cal. Feb 03, 2026), the plaintiff filed a Habeas and TRO in advance of check-in appointment for a woman under supervision. In this case the plaintiff was not in custody, but was under an order of supervision where she had geographical travel restrictions and mandatory check-ins. These geographical restrictions were sufficient for her to be considered in custody for habeas purposes. The Court also found that Ms. He had met the injunction factors, finding that she had a protected interest in remaining out of custody and that she was likely to suffer harm because she could be detained as soon as the TRO expired.

Respondents claim that Petitioner is challenging "potential future detention" rather than her current restraints. This is a distinction without a difference. Petitioner challenges the terms and conditions of her current custody—specifically, the threat that her liberty will be further restricted (via physical incarceration) without the "material change in circumstances" required by the *Garro Pinchi* Preliminary Injunction. The threat of a "constructive arrest" or a sudden shift in custody levels is a live controversy regarding the legality of her current supervision status.

Petitioner is not seeking a "Court-Ordered Escort Service," (Response, p. 6), but is seeking the enforcement of a preliminary injunction issued by this Court in *Garro Pinchi*. The "burden" is on the government to merely follow the law and the Court's prior orders.

III. CONCLUSION

For the reasons set forth above and in the moving papers, Petitioner's request for relief is not moot. While the immediate threat of arrest during the 9:00 a.m. check-in today, March 13, 2026, has subsided, the underlying injury—the threat of re-detention without due process under an unlawful agency policy—persists. Respondents' "voluntary cessation" of their arrest efforts this morning, likely prompted only by the filing of this action, does not divest this Court of jurisdiction.

Petitioner is a member of the *Garro Pinchi* provisional class and is entitled to the protections of the Preliminary Injunction issued in that matter. To prevent a cycle of emergency filings and "near-miss" arrests at every future check-in, Petitioner respectfully requests that the Court:

1. **Grant the Preliminary Injunction** (or maintain the TRO status) as to Petitioner, prohibiting Respondents from taking Petitioner into physical custody or further restricting her liberty (including the imposition of GPS monitoring) absent a material change in circumstances;
2. **Maintain Jurisdiction** over this matter pending the final resolution of the *Garro Pinchi* litigation; and
3. **Dismiss Respondent Markwayne Mullin** as a party, as Petitioner acknowledges he was named in error.

Dated: March 13, 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)