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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

KARINA ALBINO TITO, Petitioner, v. SERGIO ALBARRAN, *et al.*, Respondents.	Case No. 3:26-cv-02178-TLT **RETURN**

Respondents provide the following abbreviated return to the Petition for Writ of Habeas Corpus (Dkt. No. 1).

I. Merits of The Petition.

The legal issues presented in this Petition concern whether Petitioner has standing to enjoin any speculative future U.S. Immigration and Customs Enforcement's ("ICE") detention of Petitioner, and whether Petitioner's claim is ripe. While reserving all rights, including the right to appeal, Respondents respectfully submit this abbreviated response in lieu of formal return to preserve the legal issues and to conserve judicial and party resources.

Consistent with the Respondents' arguments in opposition to Petitioner's motion for a temporary restraining order ("TRO") and response to the order to show cause, which Respondents incorporate here, the government's position is that Petitioner's petition is premature because it is not challenging their

current custodial arrangement and they lack Article III standing to challenge any future speculative, hypothetical detention by ICE. Respondents acknowledge that this Court reached the opposite conclusion in its orders granting Petitioner's motions for TRO and preliminary injunction (Dkt. Nos. 11, 21).

Respondents bring to this Court's attention a recent decision out of this District that reached a contrary conclusion, finding that a petitioner's request for injunctive relief "triggered by an impending ICE check-in where he feared re-detention" was not ripe *See Thai v. Lyons*, No. 25-cv-06293, 2026 WL 1303056 at *3 (N.D. Cal. May 12, 2026)[1]. In *Thai,* the petitioner was scheduled to attend a check-in at the San Francisco ICE office, at which he feared he would be re-detained. *Id.* at *1. Thai was not detained at that appointment, and the Court found that he "also made no showing that ICE is likely to detain him at any point in the future." *Id.* at *3. The Court went on to find that Thai's conjecture that "others have 'been re-detained while complying with their ICE check-ins'" was "insufficient to show that Thai has pleaded an imminent or actual injury." *Id.* Additionally, the Court found that "Thai has not shown a 'credible threat' of future wrongful detention. *Id.* (citing *Babbitt v. United Farm Workers Nat. Union*, 442 U.S. 289, 298 (1979)).

Here, Petitioner feared escalation of supervision and detention at their March 13, 2026 ICE check-in. *See* Dkt. Nos. 1 at 10; 1-1 at 2. However, the record is absent of any evidence, aside from Petitioner's purely subjective fear, that ICE had any plan to detain Petitioner at that check-in. Notably, Petitioner's unusually-scheduled check-in, where they believed they would be detained, occurred on March 13, 2026 at 9:00 a.m., prior to the TRO enjoining detention issued by this Court. Dkt. No. 2 at 10. Additionally, ICE's arrest of Petitioner at that check-in would require, in Petitioner's subjective opinion, that ICE would intentionally violate a District-wide injunction.

For the same reasons, Petitioners claim that Respondents are violating the injunction in *Garro Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 3691938, at *12 (N.D. Cal. Dec. 19, 2025) is without merit. *See* Dkt. No. 1 at 12. Petitioner's petition, and this Court's orders granting a TRO and preliminary

[1] Although *Thai* involved a petitioner with a final order of removal who had been placed on an Order of Supervision, the Court seemingly did not factor that into its analysis, nor differentiate how Thai's position would be different from that of a petitioner still in removal proceedings.

injunction, effectively created a motion to enforce a preliminary injunction that Respondents had no intention of violating. *See* Dkt. No. 2 at 11.

However, Respondents acknowledge that the reasoning in this Court's earlier decision in this case would control the result here if the Court adheres to that decision. Thus, while Respondents do not consent to issuance of the writ and reserve all rights, including the right to appeal, Respondents hereby rely upon, and incorporate by reference, the legal arguments it presented in opposition to Petitioner's motion for TRO and preliminary injunction, *see* Dkt. Nos. 9, 14, and respectfully submits that the Court can decide the issue without further briefing. However, should the Court prefer to receive a formal return in this matter, Respondents will file such a brief upon the Court's request.

II. Requested Relief.

Respondents respectfully submit that any ruling on this habeas petition must allow for re-detention upon a final administrative removal order. Petitioner's habeas petition asks this Court categorically to enjoin their re-detention without a pre-detention hearing before a neutral arbiter. *See generally* Dkt. No. 1. But any indefinite injunction would interfere with Respondents' ability to execute a valid order of removal and would both exceed the Court's jurisdiction and contravene the Supreme Court's unambiguous holding in *Zadvydas v. Davis*, 533 U.S. 678 (2001), that mandatory detention without a bond hearing during the removal period is constitutionally permitted.

Petitioner's immigration proceedings will continue even after the Court rules on their habeas petition. At some point, Petitioner may be subject to a final order of removal. Assuming Petitioner becomes subject to a final order of removal, their detention is mandatory under the INA. *See* 8 U.S.C. § 1231(a)(2)(A) ("During the removal period, the Attorney General shall detain the alien. Under no circumstance during the removal period shall the Attorney General release an alien who has been found inadmissible under section 1182(a)(2) or 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B) of this title"). The Supreme Court has upheld the constitutionality of both the mandatory 90-day detention during the removal period and the presumptively reasonable six-month discretionary detention period following the removal period, both without the requirements of any bond hearing. *See Zadvydas*, 533 U.S. at 701. Thus, if Petitioner becomes subject to a future final order of removal, their detention will be both constitutionally permissible and statutorily required. Any ruling by

this Court, therefore, must allow for the detention of Petitioner to execute a final removal order. *See Aguilar Garcia v. Kaiser*, No. 3:25-cv-5070, 2025 WL 2998169, at *4 (N.D. Cal. Oct. 24, 2025) (denying motion for preliminary injunction in petition seeking pre-detention hearing after petitioner's detention authority shifted to § 1231(a)(2)).

DATED: May 13, 2026

Respectfully submitted,

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