Geri N. Kahn (State Bar No. 148536)
geri@gerinkahn.com
Geri N. Kahn, Esq.
465 California Street, Suite 607
San Francisco, CA 94104
Telephone: 415-397-5446
Facsimile: 707-312-8271

Attorney for Petitioner
Karina Albino Tito

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

Karina Albino Tito,

Petitioner,

vs.

SERGIO ALBARRAN, *et al.*,

Respondents.

Case No. 3:26-cv-2178 - TLT

PETITIONER'S TRAVERSE TO RESPONDENTS' ABBREVIATED RETURN

I. INTRODUCTION

Petitioner Karina Albino Tito respectfully submits this Traverse to Respondents' Abbreviated Return (Dkt. 24). Respondents explicitly concede that "the reasoning in this Court's earlier decision in this case would control the result here" (Respondents' Return, p. 3), and agree that the Court can decide the petition for writ of habeas corpus without further merits briefing. Petitioner welcomes this concession.

However, because Respondents seek to narrow the scope of final relief and introduce a non-binding, factually distinct case decided less than a month ago (*Thai v. Lyons*), Petitioner submits this brief Traverse to clarify the record and request immediate entry of Final Judgment granting the Writ of Habeas Corpus.

II. ARGUMENT

A. THE RECENT DECISION IN *THAI V. LYONS* IS FACTUALLY INAPPOSITE AND DOES NOT UNDO PETITIONER'S IMMINENT INJURY

Respondents rely heavily on *Thai v. Lyons*, No. 25-cv-06293, 2026 WL 1303056 (N.D. Cal. May 12, 2026), to argue that Petitioner's claims are unripe. *Thai* is completely distinguishable. In *Thai*, the

petitioner's claim relied on the generalized assertion that "others have 'been re-detained while complying with their ICE check-ins,'" which the court deemed insufficient to plead an imminent, actual injury. (2026 WL 1303056, at *3 and *4) In contrast, this Court has already recognized that Petitioner Albino Tito's fear is anchored in an objective, individualized enforcement action: the explicit and completely unexplained "escalation" of their supervision by an ICE officer on February 27, 2026. And this escalation is ongoing. In addition, in *Thai*, the government assured the petitioner that they would not arrest the petitioner at their check-in. No such promise has been made by the government here.

Moreover, Respondents' statement that Petitioner was not detained at 9:00 a.m. on March 13—hours before the physical issuance of the TRO—does not wipe away this injury. ICE was fully aware that a federal Habeas Petition and TRO application had been filed the previous evening.

More importantly, the threat to Petitioner's liberty remains active and ongoing. As noted in the Court's Preliminary Injunction Order, Respondents' own counsel explicitly stated they "could not guarantee" Petitioner would not be detained at her upcoming check-ins. (See Dkt. 21, p. 4) A conditional parole status under an active, unexplained administrative escalation is a present, continuous restriction on liberty. *Thai* has no bearing on these unique facts.

B. THE FINAL JUDGMENT SEPARATES CURRENT PROCEEDINGS FROM SPECULATIVE FUTURE REMOVAL PERIODS

In Section II of their Return, Respondents request that any final ruling explicitly allow for detention if Petitioner becomes subject to a final administrative removal order under 8 U.S.C. § 1231(a)(2). (Dkt. 24, p. 3.)

Respondents are getting ahead of themselves. Petitioner is currently in active, ongoing immigration removal proceedings; they are *not* subject to a final administrative order of removal. Petitioner's current custodial status is governed by the statutory framework applicable to individuals awaiting hearings, and their constitutional right to Procedural Due Process is active now.

Petitioner does not dispute the basic statutory text of 8 U.S.C. § 1231(a)(2) or the general holding of *Zadvydas v. Davis*, 533 U.S. 678 (2001). If, at some future date, a final, un-stayed administrative order of removal shifts the statutory detention authority to § 1231, the legal framework alters accordingly.

However, the possibility of a future final removal order cannot be used as a backdoor loophole to deny Petitioner Due Process during their current period of liberty.

To ensure clarity, the final permanent injunction can specify that its terms govern Petitioner's detention throughout the pendency of their current immigration proceedings.

III. CONCLUSION

Respondents have openly admitted that this Court's prior reasoning controls and that no further merits briefing is required. Accordingly, Petitioner respectfully requests that this Court:

1. GRANT the Petition for Writ of Habeas Corpus;

2. ENTER FINAL JUDGMENT in favor of Petitioner; and

3. CONVERT the terms of the Preliminary Injunction (Dkt. 21) into a permanent injunction, ensuring Respondents cannot re-detain Petitioner during their current immigration proceedings without providing seven (7) days' written notice and a pre-detention hearing before a neutral decisionmaker.

Dated: June 11, 2026

/s/ Geri Kahn
By: _____
Geri N. Kahn

Attorney for Petitioner
Karina Albino Tito