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CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY DEPUTY CLERK

Francisco Herrera Arzate.
A# [REDACTED]
ICE Detention Facility
In care of Golden State Annex
611 Frontage Road
McFarland, California 93250-10754

PRO SE

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

1:26 CV 05220 DJC CKD (H2)
Case No. _____

Francisco Herrera Arzate.
[A# [REDACTED]]

Petitioner

V.

Tanya Andrews, Warden of the Golden State Annex
Detention Facility, Current or Acting Field Office
Director, San Francisco Field Office, United States
Immigration and Customs Enforcement; Current or
Acting Director, United States Immigration and
Customs Enforcement; Current or Acting Secretary,
United States Department of Homeland Security;
and Current or Acting United States Attorney General,

Respondents.

**MOTION FOR TEMPORARY
RESTRAINING ORDER**

INTRODUCTION

1. Petitioner is Mexico, national that has been living in the country for ___ years, currently detained by Immigration and Customs Enforcement (ICE) at the Golden State Annex detention Center pending removal proceedings. Petitioner's I-589 Application for Asylum, Withholding of Removal and CAT is currently pending.
2. Petitioner has been detained in immigration custody for over 1 months now even though no neutral decision maker – whether a federal judge or immigration judge (I J) - has conducted a hearing to determine whether this lengthy incarceration is warranted based on danger to the community or flight risk.
3. Petitioner's prolonged detention without a hearing on either or not he represents a danger to the society or flight risk violates the Due Process Clause of the 5th Amendment.
4. The Petitioner was arrested during his interview for adjustment of Status without any warning or any respect to his due Process rights.
5. Petitioner is entitled of relief, and the court possesses the Authority under 28 U.S.C. ARTICLE 2241 to order his release from the Respondent(s) unlawful detention. This is why the petitioner comes in front of this Honorable Court, to present a motion for a Temporary Restraining Order, ordering his immediate release or the opportunity to receive a bond hearing.

JURISDICTION

6. The Petitioner is detained in the custody of Respondents at Golden State Annex detention center.
7. This action arises under the Due Process Clause of the 5th Amendment of the U.S Constitution. Jurisdiction is proper under 28 U.S.C Article 1331 (Federal Question), 2241 (Habeas Corpus); U.S Const. Art I, 2 (Suspension Clause); and 5 U.S.C Article 702 (Administrative Procedure Act) This Court may grant relief under the Habeas corpus statutes, 28 U.S.C Article 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C Article 2201 *et seq.*, and the All Writs Act 28 U.S.C Article 1651.
8. Congress has preserved judicial review of challenges to prolonged immigration detention. *See Jennings v. Rodriguez*, 138 S. Ct 830, 839 – 841 (2018) (holding that 8 U.S.C Article 1226 (e) , 1252 (b) (9) do not bar review of challenges to prolonged Immigration detention) ; *see also id.* At 876 (Breyer, J., dissenting). (“8 U.S.C Article 1252 (b)(9)... by its terms applies only with respect to review of an order of removal”).

VENUE

9. Venue is proper in this District because this is the district in which Petitioner is confined See *Doev. Garland*, 109 F. 4th 1188, 1197 – 99 (9th Cir. 2024).

LEGAL SUPPORT

A. Due Process and prolonged detention exceeding 6 months without a bond hearing is unconstitutional.

10. It is well established that the due process Clause of the 5th Amendment protect anyone present in the Country legally or illegally. Therefore before being arrested, Petitioner should have been afforded not only a notice from ICE of their intention to arrest him, but also the opportunity to be heard and the determination that he's in the fact a danger to the community or a flight risk.

Detention without a bond hearing is unconstitutional when it exceeds six months. See *Demore*, 538 U.S at 529 – 30 (upholding only “brief” detentions under Section 1226 (c), which last “roughly a month and a half in the vast majority of cases in which it is invoked, and about 5 months in the minority of cases in which the noncitizen chooses to appeal”); *Zadvydas*, 533 U.S AT 701 (“Congress previously doubted the constitutionality of detention for more than 6 months”). *Rodriguez v Nielsen*, case No. 18 – CV – 04187 – TSH, 2019 WL 7491555, at *6 (N.D.Cal Jan 7, 2019) (“Detention becomes prolonged after 6 months and entitles the Petitioner to a bond Hearing”).

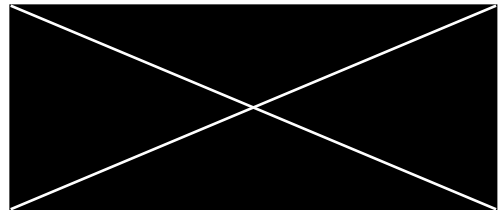
REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Grant a Temporary Restraining Order;
- 3) Grant such further relief as the Court deems just and proper.

06/30/26
Date

Francisco Herrera Arzate
Printed Name


Signature