

FILED

Name / Nombre:

FERNANDO GARCIA-CORTES

JUL 08 2026

A Number / Número A:



Address / Dirección:

611 Frontage Road
McFarland CA 93250

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Fernando Garcia-Cortes

[Full Name / Nombre Completo]

Petitioner,

v.

Case No. 1:26CV005265-EJD(HE)

Current or Acting Warden of
Golden State Annex
ICE Detention Facility [write/escriba Mesa
Verde, Golden State Annex, California City,
or Central Valley Annex], 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.

**Petition for Writ of Habeas Corpus
(Immigration Detention)**

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner is currently detained by Immigration and Customs Enforcement ("ICE") at Golden State Annex [write the name of the detention center where you are detained // *escriba el nombre del centro de detención donde está detenido*] Detention Center.

2. Petitioner has been detained in immigration custody since approximately 06/03/2025 [write the approximate date when ICE arrested and detained you for your current detention // *escriba la fecha aproximada en que ICE lo arrestó y detuvo para esta detención actual*].

3. Prior to Petitioner's current, ongoing detention, Petitioner lived in Madera, CA [city, state // *ciudad, estado donde vivía antes de su detención actual*]. Respondents Department of Homeland Security (DHS) and/or its component agencies, including ICE, Customs and Border Patrol (CBP), and/or U.S. Citizenship and Immigration Services (USCIS) knew about Petitioner. Respondents had previously encountered Petitioner and had chosen to release Petitioner and/or allow them to remain non-detained, upon a determination that Petitioner was neither dangerous nor a flight risk.

4. Since Respondents' prior determination that Petitioner was neither dangerous nor a flight risk, there has been no material change in Petitioner's individual circumstances as to dangerousness or flight risk. Petitioner lived a law-abiding life in the United States and diligently pursued their immigration claims before the agency or in immigration court.

5. Despite the lack of materially changed circumstances as to Petitioner's dangerousness or flight risk, Respondents re-arrested Petitioner.

6. Immigration detention is civil. It is permissible for only two reasons: to ensure a noncitizen's appearance at immigration hearings and to prevent danger to the community. Petitioner's arrest cannot be explained by either justification. Respondents previously determined that Petitioner is neither dangerous nor a flight risk, and Petitioner's conduct while free confirmed Respondents' determination was correct.

7. The Constitution protects Petitioner, like all noncitizens, from arbitrary

1 deprivations of liberty. The Constitution also guarantees Petitioner due process of law. The
 2 government's power over immigration is broad, but it "is subject to important constitutional
 3 limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001): "Freedom from bodily restraint has
 4 always been at the core of the liberty protected by the Due Process Clause from arbitrary
 5 governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

6 8. The Fourth Amendment prohibits the re-arrest of immigrants without a "material
 7 change in circumstance." *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd*
 8 *sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). For a re-arrest to comport
 9 with the Fourth Amendment, the government must have new probable cause separate from the
 10 probable cause that supported a person's initial arrest. *Id.*

11 9. To the extent that Petitioner was re-arrested, the re-arrest violated the Fourth
 12 Amendment because it was not supported by a new probable cause.

13 10. Furthermore, Petitioner may be a member of the certified class in *Garro Pinchi v.*
 14 *Noem*, 813 F. Supp. 3d 973 (N.D. Cal. 2025). That litigation challenges DHS's new policy of re-
 15 detaining class members despite no change in their individual circumstances as to their
 16 dangerousness or flight. *Garro Pinchi* found that DHS adopted that new re-detention policy in or
 17 around May 2025, and held the policy is likely unlawful under the Administrative Procedure Act
 18 (APA). *Id.* at 995-96, 1036. The court granted "Plaintiffs' motion to stay DHS's re-detention
 19 policy pending final resolution of their APA claims," and "postpone[d] the effective date of the
 20 re-detention policy within ICE's San Francisco Area of Responsibility until the entry of a final
 21 judgment in this action." *Id.* at 1040.

22 11. To the extent Petitioner is a member of the *Garro Pinchi* class, Respondents appear
 23 to have re-detained Petitioner in violation of the *Garro Pinchi* order cited above, which remains
 24 in effect. Accordingly, Petitioner's ongoing detention is unlawful.

25 12. Petitioner's arrest and detention have caused them ongoing, irreparable harm.
 26 Every additional day Petitioner spends unlawfully detained subjects them to compounding harm.

27 13. Petitioner is entitled to immediate release.

28 14. Petitioner respectfully requests a writ of habeas corpus ordering the government to

1 immediately release them from their unlawful detention. To preserve this Court's jurisdiction,
2 Petitioner further requests an order prohibiting Respondents from transferring them outside the
3 District or deporting them for the duration of this habeas proceeding.

4 **JURISDICTION**

5 15. Petitioner is detained by Respondents at Golden State Annex
6 [escriba el nombre del centro de detención donde está detenido] Detention Center.

7 16. This action arises under the Due Process Clause of the Fifth Amendment to the U.S.
8 Constitution. Jurisdiction is proper under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651
9 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), 28 U.S.C. § 2241 (habeas
10 corpus), Article I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause), and the Due Process
11 Clause of the Fifth Amendment.
12

13 **VENUE**

14 17. Venue is proper in this district and division pursuant to 28 U.S.C. §§ 2241(a) and
15 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district, Petitioner's
16 immediate physical custodian is in this district, at least one Respondent is in this district, and a
17 substantial part of the events giving rise to the claims in this action took place in this district.

18 **REQUIREMENTS OF 28 U.S.C. § 2243**

19 18. The Court should grant the petition for writ of habeas corpus "forthwith," as
20 Petitioner's unlawful detention constitutes compounding and irreparable harm. 8 U.S.C. § 2243.

21 19. Furthermore, to the extent Petitioner is a member of the *Garro Pinchi* class, the
22 legal issues have already been resolved for *Garro Pinchi* class members.

23 20. Habeas corpus is "perhaps the most important writ known to the constitutional law
24 affording as it does a swift and imperative remedy in all cases of illegal restraint or
25 confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963). "The application for the writ usurps the
26 attention and displaces the calendar of the judge or justice who entertains it and receives prompt
27 action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120
28 (9th Cir. 2000) (citation modified).

PARTIES

21. Petitioner is a noncitizen currently civilly detained by Respondents.

22. Respondent Warden or Acting Warden of Golden State Annex

[*escriba el nombre del centro de detención donde está detenido*] Detention Facility is the Facility Administrator of the detention center where Petitioner is detained, a private, for-profit detention facility that contracts with ICE to detain individuals suspected of civil immigration violations. Respondent Warden or Acting Warden is Petitioner's immediate physical custodian and is sued in their official capacity.

23. Respondent Acting or Current Field Office Director of the San Francisco ICE Field Office 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 Petitioner's detention. Respondent maintains an office and regularly conducts business in this District. Respondent Acting or Current Field Office Director is a legal custodian of Petitioner and is sued in their official capacity.

24. Respondent Acting or Current Director of ICE 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/or remove Petitioner. ICE's policies, practices, and procedures, including those relating to the detention of immigrants. Respondent Acting or Current ICE Director is a legal custodian of Petitioner and is sued in their official capacity.

25. Respondent Acting or Current Secretary of DHS has ultimate authority over DHS. In that capacity and through their agents, Respondent has broad authority over and responsibility for the operation of the immigration laws; routinely transacts business in this District; and is legally responsible for pursuing any effort to detain and/or remove Petitioner. Respondent Acting or Current DHS Secretary is a legal custodian of Petitioner and is sued in their official capacity.

26. Respondent Acting or Current Attorney General of the United States is the most senior official in the U.S. Department of Justice (DOJ). In that capacity and through their agents, they are 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 Board of Immigration Appeals. Respondent Acting or Current Attorney General is named in their official capacity.

EXHAUSTION

27. In habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). 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 modified)). 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).

LEGAL BACKGROUND

28. 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*, 872 F.3d at 990 (quoting *Zadvydas*, 533 U.S. at 693). These due process rights are both substantive and procedural. These rights protect Petitioner from arbitrary arrest and detention.

29. First, the procedural component of the Due Process Clause prohibits the government from imposing physical restraints without adequate procedural safeguards.

30. Generally, “the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property.” *Zimmerman v. Burch*, 494 U.S. 113, 127 (1990). This is so even where that freedom is lawfully revocable. *See Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (re-detention after release on probation requires pre-deprivation hearing); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, for parole); *see also Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982) (returning to prison a person even *mistakenly* released on parole would violate due process).

31. 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.*

32. This reasoning applies with equal if not greater force to people subject to civil immigration detention authority, like Petitioner. Noncitizens living in the United States like Petitioner have a protected liberty interest in their ongoing freedom from confinement, regardless of their immigration status. *See Zadvydas*, 533 U.S. at 690. And, “[g]iven the civil context [of immigration detention], [their] liberty interest is arguably greater than the interest of parolees.” *Ortega v. Bonmar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019); *see also Vilela v. Robbins*, No. 1:25-cv-01393-KES-HBK (HC), 2025 WL 3101334, at *6 n.5 (E.D. Cal. Nov. 6, 2025).

33. *Second*, “[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).

34. 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.

35. 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).

36. Finally, the Fourth Amendment prohibits law enforcement, including immigration officers, from re-arresting people who have been previously arrested absent a new intervening cause. *Saravia*, 280 F. Supp. at 1196. Immigration authorities may not conduct re-arrests without new probable cause so as to avoid “harassment by continual rearrests.” *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971) (Stevens, J.) (prohibiting re-arrest without change in circumstances in criminal context); see also *U.S. v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975) (applying Fourth Amendment principles from criminal context to “limit” scope of immigration agents’ seizure authority); *Gonzalez v. ICE*, 975 F.3d 788, 817 (9th Cir. 2020) (Fourth Amendment limits apply equally to seizures in criminal and civil immigration context).

STATEMENT OF FACTS

A. ICE Begins Arresting and Detaining Noncitizens Previously Released or Previously Permitted To Live in the Community, Without Any Materially Changed Circumstances

37. 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).

38. Moreover, the authority to arrest is always subject to the Fourth Amendment’s requirement of probable cause.

39. For more than 40 years, Respondents’ practice was to arrest and detain noncitizens who had been released or whom Respondents had previously allowed to live in the community, only after making an individualized determination that the noncitizen’s circumstances had materially changed, such that the noncitizen posed a flight risk or danger to the public. See generally *Garro Pinchi*, 813 F. Supp. 3d at 994–95.

40. In the second Trump administration, that changed. Respondents began arresting and detaining noncitizens who had been previously released or whom Respondents had previously permitted to live in the community, 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. See generally *Garro Pinchi*, 813 F. Supp. 3d at 996.

41. Dozens, if not hundreds, of federal courts in California have found these arrests and detentions are, or likely are, unconstitutional. See, e.g., *R.A.N.O. v. Wofford*, 820 F. Supp. 3d 1094, 1105 (E.D. Cal. 2026) (E.D. Cal. Jan. 6, 2026); *Huang v. Albarran*, 818 F. Supp. 3d 1154, 1166 (E.D. Cal. 2026); *Meneses v. Santacruz*, 811 F. Supp. 3d 1158, 1163 (C.D. Cal. 2025); *Kharitonova v. Albarran*, No. 3:26-CV-01362-JSC, 2026 WL 531441, at *4 (N.D. Cal. Feb. 25, 2026); *E.E.O.H. v. Noem*, No. 1:26-CV-01266-JLT-SAB, 2026 WL 850363, at *5 (E.D. Cal. Mar. 26, 2026); *report and recommendation adopted*, No. 1:26-CV-01266 JLT SAB, 2026 WL 967670 (E.D. Cal. Apr. 9, 2026). This district has been flooded with such challenges, and judges have overwhelmingly concluded that Respondents' new practice of arresting and detaining individuals without an individualized determination of materially changed circumstances violates the Constitution and the law.

Respondents Arrest and Detain Petitioner Despite No Material Change in Circumstances to Justify Arrest or Detention

42. Petitioner last entered the United States on/around July 13 1992
[escriba el mes y el año en que ingresó a los Estados Unidos más recientemente].

43. [Check the box that applies to you. // Marque la casilla que corresponda a su caso.]

☐ Petitioner entered the United States without inspection by immigration agents.
[El/La peticionario/a ingresó a los Estados Unidos sin ser inspeccionado por agentes de inmigración antes de ingresar.]

☒ Petitioner entered the United States at a port of entry, such as an airport or a border checkpoint, and an immigration agent permitted Petitioner to physically enter the country. [El/La peticionario/a ingresó a los Estados Unidos por un puerto de entrada, tal como un aeropuerto o un puesto de control fronterizo, y un agente de inmigración le permitió ingresar físicamente al país.]

44. Petitioner settled into life in the United States. [El/La petionario/a se instaló en la vida en los Estados Unidos.]

Check all boxes that apply to you // Marque todas las casillas que correspondan a usted:

☒ Petitioner rented or owned a home. [El/La petionario/a alquilaba o era propietario/a de una vivienda.]

☒ Petitioner lived with their family or other loved ones. [El/La petionario/a vivía con su familia u otros seres queridos.]

☒ Petitioner joined a religious community, such as a church, temple, or mosque. [El/La petionario/a se unió a una comunidad religiosa, tal como una iglesia, un templo o una mezquita.]

☒ Petitioner worked regularly to provide for themselves. [El/La petionario/a trabajaba regularmente para mantenerse a sí mismo.]

Describe any work history while living in the U.S. // Describa cualquier historia laboral mientras residía en los EE. UU. I am a licensed

General Contractor and own my company called

[REDACTED] Certified by Contractors state (classification)

License Board Active License [REDACTED]

Expires on 03/31/2027. verifiable at www.CSIB.Ca.gov

[REDACTED]

☒ Petitioner bought or leased a car. [El/La petionario/a compró o arrendó un automóvil.]

☒ Petitioner lived with and cared for their child (under 18 years old). [El/La petionario/a convivió con su hijo (menor de 18 años) y cuidó de él/ella.]

☒ Petitioner enrolled their child (under 18 years old) in daycare or school. [El/La petionario/a inscribió a su hijo/a (menor de 18 años) en una guardería o escuela.]

☒ Petitioner enrolled themselves in school or other classes. [El/La petionario/a se inscribió en la escuela u otras clases.]

☒ Petitioner volunteered regularly in the community. [El/La petionario/a se ofrecía

regularmente como voluntario/a en la comunidad.]

☒ Petitioner applied for immigration benefits, such as (circle all that apply) *El/La*
petionario/a solicitó beneficios de inmigración, tales como (encierre en un
circulo todos los que correspondan): asylum; withholding; protection under the
 Convention Against Torture (CAT); Special Immigrant Juvenile Status (SIJS),
 Temporary Protected Status (TPS), U-visa, T-visa; family-based petition.

Add any other immigration benefits you applied for. // Agregué cualquier

otro beneficio migratorio que haya solicitado.]: *Tourist visa issued*

in July 13, 1992 and Work Authorization

☒ Explain any other ways you and/or your loved ones settled into life in the United
 States that you want the Court to know. // Explique cualquier otra forma en que
 usted y/o sus seres queridos se adaptaron a la vida en los EE. UU. que desee poner
 en conocimiento del Tribunal.]: *I have thirteen (13) children*

native of U.S. that four (4) of them are minors. I
also have eighteen (18) Grand children. All my family lives in
the United States, married to Americans, and have great
ties to the community, such as neighbors, school, and
church. I am adapted myself to the laws of U.S.

45. Respondents knew Petitioner was present in the United States and allowed
 Petitioner to remain at liberty. [Los demandados sabían que el/la Peticionario/a se encontraba
 presente en los Estados Unidos y permitieron que permaneciera en libertad.]

Check all boxes below that apply to you, and fill in any additional information. [Marque

todas las casillas siguientes que correspondan a su caso y complete cualquier información

adicional.]

☐ Petitioner was previously arrested and detained by immigration agents (whether for a short or long time) and then released (for example: on bond, parole, own recognizance, etc.). *[El/La peticionario/a fue arrestado y detenido previamente por agentes de inmigración (ya sea por un periodo corto o largo) y posteriormente puesto en libertad (por ejemplo: bajo fianza, libertad condicional, bajo su propia palabra, etc.).]*

Explain any further details you can provide, such as when you were previously arrested/detained and released, under what law/authority you were released, and any other details you know or can remember. *[Explique cualquier detalle adicional que pueda proporcionar, tales como cuándo fue arrestado/detenido y puesto en libertad anteriormente, bajo qué ley o autoridad fue puesto en libertad, y cualquier otro detalle que conozca o pueda recordar.]:*

☐ Petitioner was required to check-in with ICE and/or ISAP, and attended all ICE and/or ISAP check-ins scheduled for them. *[Se requirió que el/la peticionario/a se presentara ante ICE y/o ISAP, y asistió a todas las presentaciones ante ICE y/o ISAP programadas para él/ella.]*

Explain any further details you can provide, such as when you attended check-ins, who you spoke to, and what happened at the check-ins. *[Explique cualquier detalle adicional que pueda proporcionar, tales como cuándo asistió a los controles, con quién habló y qué sucedió durante los mismos.]:*

☐ Petitioner attended *most* ICE and/or ISAP check-ins scheduled for them. [El/La

petionario/a asistió a la mayoría de las presentaciones ante ICE y/o ISAP programadas para él/ella.]

Explain any check-ins you missed, why, and anything you did to try and fix the mistake. [Explica cualquier registro de entrada que hayas omitido, el motivo y cualquier medida que hayas tomado para intentar corregir el error.]:

☐ Petitioner attended at least one ICE and/or ISAP check-ins scheduled for them.

[El/La petionario/a asistió a al menos una de las citas de registro programadas con ICE y/o ISAP.]

Explain any check-ins you missed, why, and anything you did to try and fix the mistake. [Explica cualquier registro de entrada que hayas omitido, el motivo y cualquier medida que hayas tomado para intentar corregir el error.]:

☒ Petitioner attended every immigration court hearing scheduled for them. [El/La petionario/a asistió a todas las audiencias ante el tribunal de inmigración programadas para él/ella.]

☐ Petitioner attended most immigration court hearings scheduled for them. [El/La petionario/a asistió a la mayoría de las audiencias ante el tribunal de inmigración programadas para él/ella.]

Explain any immigration court hearings you missed, why, and anything you did to try and fix the mistake. [Explique cualquier audiencia ante el tribunal de inmigración a la que no asistió, el motivo y cualquier medida que haya tomado para intentar subsanar el error.]: I never missed any Court

hearings. Before my arrest I always filed proper documents to let the Government know about my conditions (if changed) or any change of address. Also I attended all appointments scheduled by the authorities. In detention I attended all the hearings as well.

☒ Petitioner attended at least one immigration court date. [El/La petionario/a asistió al menos a una fecha en el tribunal de inmigración.]

Explain any further details you can provide, such as when you attended immigration court, what happened, and what you expected would happen next.

[Explique cualquier detalle adicional que pueda proporcionar, tales como cuándo asistió al tribunal de inmigración, qué sucedió y qué esperaba que ocurriera a continuación.]: I am waiting for the BIA to make

a decision on pending Appeal Case I filed a few months ago.

☒ Petitioner submitted applications related to their immigration case to U.S. Citizenship and Immigration Services (USCIS) and/or the immigration court.

[El/La petionario/a presentó solicitudes relacionadas con su caso de inmigración ante el Servicio de Ciudadanía e Inmigración de los Estados Unidos (USCIS) y/o el tribunal de inmigración.]

Explain any further details you can provide, such as what the applications were for, when you submitted them, what happened after you submitted them, whether you attended any interviews for them, and what you expected would happen next. [Explique cualquier detalle adicional que pueda proporcionar, tales como el propósito de las solicitudes, cuándo las presentó, qué sucedió después de enviarlas, si asistió a alguna entrevista relacionada con ellas y qué esperaba que ocurriera a continuación.]:

on 08/20/1993 my father applied for INA 245(i) to adjust my Status.

on 06/02/2025 my daughter filed I 130 for adjusting my status.

I would expect to be granted the permanent residency by BIA.

☒ Petitioner provided immigration authorities with Petitioner's home and/or mailing address. [El/La petionario/a proporcionó a las autoridades de inmigración su domicilio y/o dirección postal.]

☒ If Petitioner moved to a new home, Petitioner informed immigration authorities of every new home and/or mailing address. [Si el/La Petionario/a se mudó a un nuevo domicilio, informó a las autoridades de inmigración sobre cada nuevo domicilio]

y/o dirección postal.]

☒ If Petitioner moved to a new home, Petitioner informed immigration authorities of most of the new home and/or mailing addresses. [Si el/la Peticionario/a se mudó a un nuevo domicilio, informó a las autoridades de inmigración sobre la mayoría de los nuevos domicilios y/o direcciones postales.]

Explain any new home and/or mailing addresses you did not inform immigration authorities about, why, and anything you did to try and fix the mistake.

[Explique cualquier nuevo domicilio y/o dirección postal sobre el cual no haya informado a las autoridades de inmigración, el motivo de ello y cualquier medida que haya tomado para intentar subsanar el error.]: I am not aware

of any mistake that I've ever done regarding new home and/or mailing address without notifying the Immigration authorities about to the best of my knowledge.

☐ Petitioner was previously required to wear an ankle monitor and/or pay a bond to DHS. [Anteriormente, se le exigió al/la peticionario/a portar un monitor de tobillo y/o pagar una fianza al DHS.]

Explain any further details you can provide, such as when you wore an ankle monitor and/or paid a bond. [Explique cualquier detalle adicional que pueda proporcionar, tal como cuándo llevó un monitor de tobillo y/o pagó una fianza.]:

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☒ Explain any other ways you know that DHS, ICE, CBP, and/or USCIS was aware of your presence in the United States prior to your current detention, that you want the Court to know. // Explique cualquier otra forma que usted conozca por la cual el DHS, el ICE, el CBP y/o el USCIS tuvieran conocimiento de su presencia en los EE.UU. con anterioridad a su actual detención, y que usted desee que el Tribunal conozca.: In 1993 my father filed the proper documents with the Government to obtain my residency.

46. In releasing Petitioner and/or allowing Petitioner to remain at liberty, Respondents necessarily determined that Petitioner was not a flight risk.

47. In releasing Petitioner and/or allowing Petitioner to remain at liberty, Respondents necessarily determined that Petitioner was not a danger to the community. [Check all boxes that apply to you.// Marque todas las casillas que correspondan a usted.]:

☐ Petitioner has no criminal record (no convictions) in the United States. [El/La peticionario/a no tiene antecedentes penales (sin condenas) en los Estados Unidos.]

☐ Petitioner has not been convicted of any crimes since their most recent release from immigration custody. [El/La peticionario/a no ha sido condenado/a por ningún delito desde su liberación más reciente de la custodia de inmigración.]

☒ Petitioner has only a minimal criminal record (one or more convictions, but they are

not serious) in the United States. [El/La peticionario/a tiene únicamente antecedentes penales mínimos (una o más condenas, pero estas no son graves) en los Estados Unidos.]

Explain, including why your conviction(s) is/are not serious. [Explique, incluyendo por qué su(s) condena(s) no es/son grave(s).]:

I did vacate my charges. However the Government appealed. As of now I am waiting for the decision of the appeal Court for vacating the criminal charges. My convictions are very old and are not serious. That is why the Court granted to vacate them all on 01/22/26 the superior court of California, County of Madera found good cause to vacate judgement in case # MCR01794896M23475 per PL 1473.7 by Hon.

Brian W. Enos

☒ Petitioner has one or more criminal conviction(s), which Respondents DHS, ICE, and/or CBP knew about. Even though Respondents knew about Petitioner's criminal record, they chose not to detain Petitioner. [El/La Peticionario/a cuenta con una o más condenas penales, de las cuales los Demandados DHS, ICE y/o CBP tenían conocimiento. A pesar de que los Demandados conocían los antecedentes penales del Peticionario, optaron por no detenerlo.]

Explain further. For example, perhaps you had a check-in, interview, or immigration court at some point after your conviction(s), but ICE allowed you to remain out of custody. Also explain how much time passed between ICE knowing about your conviction and your current detention. [Explique con mayor detalle. Por

ejemplo, tal vez haya tenido una presentación de control, una entrevista o una audiencia ante un tribunal de inmigración en algún momento posterior a su(s)

condena(s), pero ICE le permitió permanecer fuera de custodia. Explique también cuánto tiempo transcurrió entre el momento en que ICE tuvo conocimiento de su

condena y su detención actual.]:

I was arrested by ICE without written warrant, Reasoning, and notice while I walked

1 to the Federal building for interview regarding
2 adjusting the status.
3
4
5
6

7 48. To the extent Petitioner has any *new* criminal arrests, charges, or convictions since
8 their most recent release from immigration custody and/or interaction with immigration authorities
9 prior to Petitioner's current detention, those new arrests, charges, or convictions do not indicate
10 Petitioner is dangerous. *See, e.g., Moises V. A. v. Wofford*, No. 1:25-cv-01419-SKO, 2026 WL
11 252237, at *4 (E.D. Cal. Jan. 30, 2026) ("Although Respondents assert that Petitioner has been
12 charged with several crimes, the charges remain pending, and Petitioner remains innocent until
13 proven guilty. No neutral arbiter has determined that Petitioner is a flight risk or danger to the
14 community. No neutral arbiter has determined that circumstances had materially changed
15 sufficiently to justify revocation of parole."); *Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO,
16 2025 WL 2617256, at *6 (E.D. Cal. Sept. 9, 2025) (to comply with due process, a person who
17 sustains a conviction while released on conditional liberty is still "entitled to a determination as to
18 whether that violation warrants modification of [their prior] release order"); *Tinoco v. Noem*, No.
19 1:25-cv-01762-DC-IDP (HC), 2025 WL 3567862, at *6 (E.D. Cal. Dec. 14, 2025) (misdemeanor
20 DUI conviction did not justify re-detention of noncitizen where "no neutral arbiter has
21 determined whether those facts show that Petitioner is a flight risk or danger to the community").

22 ☐ Check this box if you believe you have any new arrests, charges, or convictions
23 since your most recent release from immigration custody and/or interaction with
24 immigration authorities, but before to your current detention, that you want to
25 explain to the court. If you checked this box, explain further, and explain why you
26 are not dangerous despite the new arrest, charge, or conviction. [*Marque esta*
27 *casilla si considera que tiene nuevos arrestos, cargos o condenas desde su*
28 *liberación más reciente de la custodia de inmigración y/o desde su interacción con*

1 *las autoridades de inmigración, pero previa a su detención actual, y que usted*
 2 *desea explicar ante el tribunal. Si ha marcado esta casilla, proporcione una*
 3 *explicación detallada y explique por qué no representa un peligro a pesar de la*
 4 *nueva detención, cargo o condena.];*

5 _____
 6 _____
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 49. To the extent Petitioner has any alleged technical violations of Petitioner's ISAP or
 13 supervision conditions since their most recent release from immigration custody and/or interaction
 14 with immigration authorities prior to Petitioner's current detention, "[c]ourts have repeatedly
 15 rejected the argument that ICE can re-detain a noncitizen for technical violations 'without regard
 16 to whether that technical violation means that one is a flight risk or danger.'" *A.F.A.M. v. Albarran*,
 17 No. 25-cv-10492-AMO, 2025 WL 3752190, at *4 (N.D. Cal. Dec. 22, 2025) (collecting cases);
 18 *Tinoco v. Noem*, 818 F. Supp. 3d 1141, 1152 (E.D. Cal. 2025) (alleged violations of supervision
 19 conditions did not justify re-detention of noncitizen where "no neutral arbiter . . . has determined
 20 whether those facts show that Petitioner is a flight risk or danger to the community").

21 ☐ Check this box if you believe you have any technical violations of ISAP or other
 22 supervision conditions that you want to explain to the court. If you checked this
 23 box, explain further. [*Marque esta casilla si considera que ha incurrido en alguna*
 24 *violación técnica del ISAP u otras condiciones de supervisión que desee explicar*
 25 *ante el tribunal. Si ha marcado esta casilla, explique con mayor detalle.];*

50. For the reasons explained above, Petitioner was neither a flight risk or danger while Respondents allowed Petitioner to live in the community.

51. Despite Petitioner's constitutionally protected interest in their liberty and lack of materially changed circumstances as to dangerousness or flight risk, Respondents arrested and detained Petitioner arrested on (date) 06/03/2025 [escriba la fecha aproximada en que ICE lo arrestó y lo volvió a detener], in (city, state) Pesno, California [escriba la ciudad y el estado donde fue arrestado].

52. The facts surrounding Petitioner's arrest and detention are as follows. [Describe where you were arrested for your current detention, anything the arresting agents said to you about why you were being arrested, and any other details you want the Court to know. If you were arrested while appearing at court, a check-in, or appointment with immigration authorities, state that. // Describa el lugar donde fue arrestado en relación con su detención actual, cualquier cosa que los agentes que efectuaron el arresto le hayan dicho sobre el motivo de su detención, y cualquier otro detalle que desee poner en conocimiento del Tribunal. Si fue arrestado mientras comparecía ante un tribunal, acudía a una presentación periódica o asistía a una cita con las autoridades de inmigración, indíquelo.]: I was arrested by ICE without any explanation during the appointment with the Immigration Authorities for interview regarding the Adjustment of Status.

53. Medical conditions [Afecciones médicas]—Check all boxes that apply to you.
[Marque todas las casillas que correspondan a usted.]:

☐ Petitioner has no medical conditions requiring ongoing care to report at this time.

[El/La petionario/a no tiene condiciones médicas que requieran atención
continua que reportar en este momento.]

☐ Petitioner has medical conditions requiring ongoing care to report at this time.

[El/La petionario/a tiene afecciones médicas que requieren atención continua y
que declara en este momento.]

These include [Estas incluyen]:

☒ Petitioner's detention is making their medical conditions worse. [La detención
del/de la petionario/a está agravando sus condiciones médicas.]

Explain how. For example, any difficulty accessing medication or medical
equipment, difficulty seeing a doctor when needed, how being detained has made
your medical conditions worse, etc. [Explique cómo. Por ejemplo, cualquier
dificultad para acceder a medicamentos o equipos médicos, dificultad para ver a
un médico cuando es necesario, cómo el haber estado detenido ha empeorado sus

afecciones médicas, etc.]:

I have problems with dentals. one
of my teeth had a Cavity and I could not keep it because
of the pain so I had to have it removed. However that
made my teeths to move and make a gap between them
which is changing my bite set and I am affraid
to Chew my food properly because of the fear

1 to break them. I lost a cap on another tooth
 2 and was advised by the dentist here to
 3 seek help as soon as I get out. This is a
 4 matter of emergency for me to fix the problem
 5 by getting the fillings and implants.
 6

7 54. Petitioner is being deprived of liberty without permissible justification.
 8 Respondents previously released Petitioner, and/or previously encountered Petitioner and allowed
 9 them to live in the community, upon a determination that Petitioner was neither a flight risk nor
 10 danger to the community to warrant detention. Nothing material has changed to justify altering
 11 that initial determination. Therefore, Petitioner's ongoing detention is not related to either of the
 12 permissible justifications for civil immigration litigation: danger or flight risk. Petitioner's ongoing
 13 detention furthers no legitimate government interest.

14 55. To the extent Respondents re-arrested Petitioner without any material change in
 15 circumstances, the re-arrest was without new probable cause, in violation of Petitioner's Fourth
 16 Amendment right against unreasonable seizures.

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

18 56. Petitioner brings to the Court's attention that Petitioner may be a member of the
 19 provisionally certified class in *Garro Pinchi v. Noem*, 813 F. Supp. 3d 973 (N.D. Cal. 2025).

20 57. In October 2025, three plaintiffs filed a complaint under the Administrative
 21 Procedure Act (APA) challenging DHS's new policy of re-detaining previously released
 22 noncitizens without materially changed circumstances as to dangerousness or flight risk. *Garro*
 23 *Pinchi*, No. 5:25-cv-05632-PCP, Dkt. No. 38 (Class Action Complaint and Amended Petition for
 24 Writ of Habeas Corpus) (N.D. Cal. filed Oct. 10, 2025). The plaintiffs filed a motion to "stay" the
 25 challenged policy pending final judgment on their claims and a motion for provisional class
 26 certification. *Id.* at Dkt. No. 48 (Notice of Motion and Motion to Stay Effective Date of Agency
 27 Action or Preserve Status or Rights) (N.D. Cal. filed Oct. 16, 2025).

28 58. On December 19, 2025, the *Garro Pinchi* court issued an order granting the

1 plaintiffs' motions to provisionally grant class certification and stay agency action. *Garro Pinchi*,
2 813 F. Supp. 3d at 1039–40.

3 59. *Garro Pinchi* certified the following class: “All noncitizens in the jurisdiction of
4 the San Francisco ICE Field Office who (1) entered or will enter the United States without
5 inspection; (2) have been or will be charged with inadmissibility under 8 U.S.C. § 1182 and have
6 been or will be released from DHS custody; and who (3) are in removal proceedings under 8 U.S.C.
7 § 1229a, including any § 1229a proceedings that have been dismissed where the dismissal is not
8 administratively final; and (4) are not subject to detention under 8 U.S.C. § 1226(c).” *Garro*
9 *Pinchi*, 813 F. Supp. 3d at 1010–11.

10 60. Relevant to the class definition, the jurisdiction of the San Francisco ICE Field
11 Office covers California from the Oregon border to (and including) Kern County; Hawaii; Guam;
12 and the Northern Mariana Islands. Within California, the Sacramento, Stockton, San Jose/Morgan
13 Hill, Fresno, and Bakersfield sub-field ICE offices are all within the San Francisco Area of
14 Responsibility. A map depicting the geographic the jurisdiction of the San Francisco ICE Field
15 Office is available at <https://www.ice.gov/doclib/about/offices/ero/pdf/eroFieldOffices.pdf>.

16 61. *Garro Pinchi* certified one subclass: “All members of the Class whose release from
17 DHS custody was or will be on bond, conditional parole, or their own recognizance under 8 U.S.C.
18 § 1226(a) and/or 8 C.F.R. § 236.1(c)(8).” *Garro Pinchi*, 813 F. Supp. 3d at 1010–11.

19 62. On the merits, *Garro Pinchi* held that the new re-detention policy is likely arbitrary
20 and capricious because, based on the preliminary record: Respondents failed to provide a reasoned
21 explanation for their new policy at the time of its implementation; any post hoc rationalization
22 Respondents provided for the new policy was based on legal error; Respondents failed to consider
23 released noncitizens' serious reliance interests when implementing the new policy; and
24 Respondents failed to adequately consider noncitizens' protected liberty interests when
25 implementing the new policy. *Garro Pinchi*, 813 F. Supp. 3d at 1027.

26 63. *Garro Pinchi* held that DHS's new interpretation of 8 U.S.C. § 1225(b)(2) did not
27 justify the agency's adoption of the new policy. *Garro Pinchi*, 813 F. Supp. 3d at 1028–33. The
28 court held that the new policy was likely unlawful regardless of whether the underlying statutory

1 authority for re-detention was 8 U.S.C. § 1225(b)(2) or § 1226(a), and stayed the policy from
 2 applying to any class member detained under color of either statute. *Id.* at 1037.

3 64. *Garro Pinchi* further concluded that class members would suffer irreparable harm
 4 without preliminary relief, and that the balance of equities and public interest favored such relief.
 5 *Garro Pinchi*, 813 F. Supp. 3d at 1018.

6 65. Accordingly, *Garro Pinchi* granted preliminary relief and stayed Respondents' new
 7 re-detention policy, effective immediately. *Garro Pinchi*, 813 F. Supp. 3d at 1040. The order has
 8 the effect of requiring Respondents to revert to their longstanding prior policy of *not* re-arresting
 9 and re-detaining class members without an individualized determination that there are materially
 10 changed circumstances as to the class member's dangerousness or flight risk. *See Paulsen v.*
 11 *Daniels*, 413 F.3d 999, 1008 (9th Cir. 2005) ("The effect of invalidating an agency rule is to
 12 reinstate the rule previously in force.").

13 **D. Petitioner is Experiencing Irreparable Harm**

14 66. Petitioner's arrest and detention are causing them ongoing irreparable harm.
 15 Respondents previously released Petitioner, and/or previously encountered Petitioner and allowed
 16 them to live in the community, necessarily entailing a determination that Petitioner was neither a
 17 danger to the community nor a flight risk to warrant detention. No material change in
 18 circumstances warranted departing from that previous determination.

19 67. Due to Petitioner's ongoing detention, they are suffering irreparable harm, and
 20 every additional day Petitioner spends in unlawful detention subjects them to further irreparable
 21 harm. [*Debido a la detención continua del/de la Peticionario/a, este está sufriendo un daño*
 22 *irreparable; y cada día adicional que el/la Peticionario/a permanece en detención ilícita lo somete*
 23 *a un daño irreparable aún mayor.*].

24 68. Petitioner is being irreparably harmed in the following ways: (Describe specifically
 25 how your detention is harming you. Examples could include separation from family, isolation from
 26 your community, inability to work, difficulty practicing your religion, medical conditions that are
 27 worsening, harms to your children or other family members, difficulty communicating with your
 28 lawyer, etc.) [*El/La Peticionario/a está sufriendo un daño irreparable de las siguientes maneras:*

(Describa específicamente de qué manera su detención le está causando perjuicios. Los ejemplos podrían incluir la separación de su familia, el aislamiento de su comunidad, la imposibilidad de trabajar, la dificultad para practicar su religión, el agravamiento de condiciones médicas, perjuicios a sus hijos u otros familiares, la dificultad para comunicarse con su abogado, etc.):

I am facing Irreparable harm daily in Illegal detention Similar to Criminal Condition by Private Owned Company for earning profits. I have hard time sleeping at nights because of eight (8) fluorescent lights on with the noise of the GEO Staff walking around me every thirty (30) minutes with military boots, rattling chains and excessories like keys they have with them. My family is dealing with extreme financial hardship and many loans and debt accumulated during my detention. My wife is stressing too much with many children in my absence. I am detained for over one year in a civil detention without proper nutrition. The meals are the same every day with few pieces of lettuce, hand full of beans and a piece of bread which has caused to loosing hair cracking nails, weight loss, and lack of vitamins to cause Gum Bleeding with the salt as a cure. It is Summer time However the facility is so cold due to Control of the disease that new detainees bring in every day. I am always cold and shivering for lack of enough clothing which makes me staying in my bed with a finger tick mattress and a couple of blankets and a sheet. Every day new detainees arrive to this

Facility by ICE from prison and with them they bring the culture of fight and drama due to many years of imprisonment. I have witness how two detainees or more fight in the middle of the dorm or in the shower where there is no cameras and by the time the GBO staffs come in with their pepperspray and hand cuffed them. Some detainees end up leaving the dorm in the wheelchair, bloody and bleeding on the floor on the way to the hospital which terrifies me and I state that I fear for my life in detention.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution (Procedural Due Process—Detention)

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

70. As part of the liberty protected by the Due Process Clause, Petitioner has a weighty interest in avoiding re-incarceration after Respondents released them from custody and/or encountered them and allowed them to live in the community. *See Young*, 520 U.S. at 146–47; *Gagnon*, 411 U.S. at 781–82; *Morrissey*, 408 U.S. at 482–83; *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).

71. 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); *Zinerman*, 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.”).

72. 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).

73. Petitioner’s detention without a pre-deprivation hearing violated due process. After deciding to release Petitioner from custody and/or encountering Petitioner and allowing them to live in the community because custody was not required to protect against flight risk or dangerousness, Respondents detained Petitioner with no notice, no explanation of the justification of their detention, and no opportunity to contest their detention before a neutral adjudicator before being taken into custody.

74. Petitioner has a profound personal interest in their liberty. Because Petitioner received 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 Petitioner’s record sufficiently shows they would not 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.”).

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution (Substantive Due Process—Detention)

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

76. 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

1 imprisonment—from government custody, detention, or other forms of physical restraint—lies
 2 at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

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

6 78. Petitioner is neither a flight risk nor a danger to the community. Respondents’
 7 detention of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being
 8 detained in violation of the Due Process Clause of the Fifth Amendment.

9 79. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation”
 10 to any legitimate government purpose. *Id.* (immigration detention is civil and thus ostensibly
 11 “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s detention appears to be
 12 “not to facilitate deportation, or to protect against risk of flight or dangerousness, but to
 13 incarcerate for other reasons,” *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring)—namely,
 14 to effectuate Respondents’ unlawful new policy of detaining individuals previously released
 15 and/or encountered and permitted to live in the community, without any materially changed
 16 circumstances to justify detention.

17 **THIRD CLAIM FOR RELIEF**

18 **Violation of the Fourth Amendment to the United States Constitution**

19 **(Petitioner’s Re-Arrest Constitutes an Unreasonable Seizure)**

20 80. Only to the extent that Petitioner was re-arrested, Petitioner re-alleges and
 21 incorporates by reference the paragraphs above and brings this Claim:

22 81. The Fourth Amendment protects the right of all persons present in the United
 23 States to be free from unreasonable seizures by government officials. Petitioner therefore has
 24 the right to be free from unreasonable seizures.

25 82. As a corollary to that right, the Fourth Amendment prohibits re-arrest on the
 26 same charge without a material change in circumstances.

27 83. Petitioner was re-arrested on the same charge without a material change in
 28 circumstances. Petitioner’s re-arrest violated the Fourth Amendment.

FOURTH CLAIM FOR RELIEF

**Violation of the Administrative Procedure Act/ Unlawful Application of Stayed Policy:
(Request for Relief Pursuant to *Garro Pinchi v. Noem*)**

84. **Only to the extent that Petitioner is a *Garro Pinchi v. Noem* class member,**

Petitioner re-alleges and incorporates by reference the paragraphs above and brings this Claim.

85. In *Garro Pinchi v. Noem*, 813 F. Supp. 3d at 973, the court issued an order on December 19, 2025 granting preliminary relief pending final adjudication of the class's claims.

The court held that Respondents' new policy of re-detaining people without an individualized determination of materially changed circumstances is likely unlawful as arbitrary and capricious. The order stayed the new policy, prohibiting Respondents from re-arresting and re-detaining previously released noncitizens without an individualized determination that materially changed circumstances as to flight risk or dangerousness warrant re-detention.

86. Respondents re-arrested and re-detained Petitioner even though Petitioner had no materially changed circumstances as to flight risk or dangerousness to warrant re-detention.

87. As Petitioner is a member of the certified class in *Garro Pinchi*, Petitioner's ongoing detention is unlawful and Petitioner is entitled to immediate release.

88. Every moment that Respondents continue to detain Petitioner and deprive them of their liberty, Respondents violate the Administrative Procedure Act and the court's binding order in *Garro Pinchi*.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody on the same conditions that governed their liberty prior to Petitioner's current detention;
- 3) Declare that Petitioner's arrest and ongoing detention violate the Due Process Clause of the Fifth Amendment;
- 4) **Only to the extent that Petitioner was re-arrested,** declare that Petitioner's re-arrest violates the Fourth Amendment;

- 5) Only to the extent that Petitioner is a Garro Pinchi class member, declare that Petitioner's arrest and ongoing detention violate the order granting preliminary relief to the *Garro Pinchi* class;
- 6) Enjoin Respondents from re-detaining Petitioner absent further order of this Court; *or, in the alternative*, unless Respondents provide at least 14 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) Order Respondents to return all of Petitioner's property confiscated during their arrest and processing into detention, including but not limited to personal identification, employment authorization document, medical insurance cards, money, documents related to any legal proceedings, and personal effects;
- 8) Enjoin Respondents from transferring Petitioner outside this District or deporting Petitioner pending these proceedings; and
- 9) Grant such further relief as the Court deems just and proper.

Respectfully submitted,

06/29/2026
Date [Fecha]

FERNANDO GARCIA-CORTES
Printed Name [Nombre Impreso]


Signature [Firma]

Pro se Petitioner

Declaration Under Penalty of Perjury

1
2 1. I am in detention, and I placed this petition in the detention center's mail system on
3 [Estoy detenido/a y coloqué esta petición en el sistema de correo del centro de detención el]: [write
4 the date/escriba la fecha] 06/29/2026

5 2. I declare under penalty of perjury that I am the petitioner, I have read this petition or
6 had it read and/or interpreted to me, and the information in this petition is true and correct to the best
7 of my knowledge. I understand that a false statement of a material fact may serve as the basis for a
8 prosecution for perjury. [Declaro, bajo pena de perjurio, que soy el/la peticionario/a; que he leído
9 esta petición—o que me ha sido leída y/o interpretada—y que la información contenida en la misma
10 es verdadera y correcta, a mi leal saber y entender. Comprendo que una declaración falsa sobre un
11 hecho sustancial puede servir de base para un procesamiento por perjurio.]
12

13 3. I was able to complete this declaration because [Pude completar esta declaración
14 porque]:

15
16 ☒ I am able to read English and/or Spanish, and I could follow the directions in this
17 declaration to fill it out myself. [Soy capaz de leer inglés y/o español, y pude seguir
18 las instrucciones de esta declaración para completarla por mi mismo.]

19 ☐ I am not able to complete this declaration independently, due to language barriers
20 or other accessibility issues. Therefore, one or more persons assisted me. Their full
21 name(s) is/are [No puedo completar esta declaración de forma independiente
22 debido a barreras lingüísticas u otros problemas de accesibilidad. Por lo tanto,
23 una o más personas me han asistido. Su(s) nombre(s) completo(s) es/son]:
24
25

26 //

27 //

28 //

1. I am executing this declaration at: *[check one / marque uno]*

2. ☐ Mesa Verde Detention Facility, 425 Golden State Ave, Bakersfield, CA 93301.

3. ☒ Golden State Annex, 611 Frontage Road, McFarland, CA 93250.

4. ☐ California City Detention Facility, 22844 Virginia Blvd., California City, CA 93505.

5. ☐ Central Valley Annex, 254 Taylor Avenue, McFarland, CA 93250.

8. Respectfully submitted,

9. 06/29/2026
10. Date *[Fecha]*

FERNANDO GARCIA-CORTES
11. Printed Name *[Nombre Impreso]*

12. 
13. Signature *[Firma]*

14. *Pro se Petitioner*