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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**


9 JAMEURAHMAN NOORI,
10 Plaintiff,

11 vs.

12 CHRISTOPHER LAROSE, warden of
13 Otay Mesa Detention Center
14 SIDNEY AKI, San Diego Field Office
15 Director, Immigration and Customs
16 Enforcement and Removal Operations
17 ("ICE/ERO");
18 TODD LYONS, Acting Director of
19 Immigration Customs Enforcement
20 ("ICE");
21 KRISTI NOEM, Secretary of the
22 Department of Homeland Security
23 ("DHS");
24 PAMELA BONDI, Attorney General of
25 the United States,
26 U.S. DEPARTMENT OF HOMELAND
27 SECURITY;
28 U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT';

Respondents.

Case No.: '25CV3006 BAS MMP

Agency Number: A 

PETITION FOR WRIT OF HABEUS
CORPUS

ORAL ARGUMENT REQUESTED

EXPEDITED HEARING
REQUESTED

PETITION FOR WRIT OF HABEUS CORPUS ORAL ARGUMENT REQUESTED EXPEDITED HEARING
REQUESTED - 1

INTRODUCTION

1. The Taliban are a radical insurgent group that the United States, alongside the legitimate government of Afghanistan, has been battling for nearly 20 years. In August of 2021, the Taliban successfully took over the entire country when they entered and took control of Kabul, the capital of Afghanistan.

2. For several years prior to their takeover of the country, the Taliban were infiltrating the countryside and smaller communities. Part of their fear campaign was to threaten those that worked for the pre-August 2021 government or worked for agencies that supported that government. They were particularly hostile to those that worked for or supported the US Military effort in Afghanistan and their family members. Mr. Noori had family that worked with the US Military and they encouraged him to do so as well. Mr. Noori had studied English and had hoped to become a translator for the armed forces. He was successful in his job application at Baghram Air Base and was placed on their wait list for employment. Somehow this became known and the Taliban approached his parents and village leaders and threatened him and demanded he not work for the military. The Petitioner believed that life in Afghanistan was no longer tenable and he left Afghanistan.

1 3. Mr. Noori eventually made his way to Mexico waited in Mexico
2 City for almost three months for an appointment via the CBP One app to request
3 entry into the United States. Mr. Noori was granted humanitarian parole on June
4 17, 2024 by the respondents.
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6 4. Respondents commenced removal proceedings against him in
7 immigration court upon his initial entry. However, on December 12, 2024, IJ
8 Grande granted a motion to terminate because he had been granted humanitarian
9 parole. This allowed petitioner to file his asylum case with USCIS, to obtain work
10 authorization and proceed with his quest for asylum without any further
11 involvement of EOIR.
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15 5. On October 3, 2025, petitioner was attempting to make an UBER
16 customer at Camp Pendleton Marine Base. When he approached the gate he
17 presented his ID and, without any explanation he was directed to move over to the
18 side of the lane. The Military Police arrived and blocked his car so he could not
19 leave. He asked several times if he was free to go. He was told he could not leave.
20 He presented proof of his work authorization and his pending asylum application
21 with USCIS which guarantees his presence in the United States until the
22 application is adjudicated. No base personal ever explained what law he had
23 violated that allowed them to hold him their prisoner. He was told simply to wait
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1 for ICE to arrive. He was held against his will for nearly 3 hours. Finally he was
2 told that he was being taken to another location for another interview. He asked
3 again why he was being detained and he was told that since he didn't have a green
4 card he needed to be interviewed again. He asked several times during his
5 imprisonment if he could leave but the Military Police said no. He was then
6 handcuffed and placed in the Military Police vehicle. He was not told why he was
7 arrested. He was not told what law he had violated. He was not advised of his
8 Miranda rights. He was simply shackled and transported to another gate for
9 'another interview' but this turned out to be a lie. When they arrived at the other
10 gate he was handed over to waiting ICE officials. With no cause and no
11 explanation and no warrant he was put in the ICE vehicle and transferred to the
12 ICE facility in downtown San Diego. He spent two nights in the downtown
13 overcrowded facility. He was then transferred to the Otay Mesa facility. He was
14 subsequently served with a new Notice to Appear which has commenced a new
15 240 removal proceedings.

22 6. One of the benefits that petitioner enjoyed with parole and filing an
23 affirmative application with USCIS is that he effectively gets two chances to file
24 for asylum. One with USCIS and, if that is not successful, another *de novo*, chance
25 with a defensive application while in removal. This is a huge benefit for the
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1 petitioner. Yet, in a deceptive sleight of hand Respondents now seek to eject Mr.
2 Noori from his own asylum case, detain him, force him to seek only defensive
3 asylum and to remain in custody for that entire process. Respondents do so based
4 not on Mr. Noori's personal circumstances or individualized facts, nor due to any
5 mistake made by previously dismissing his 240 removal proceedings, but because
6 of Respondents' interpretation of President Trump's whim and categorical
7 determination that, the Fifth Amendment notwithstanding, noncitizens are not
8 entitled to due process.
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12 7. But Respondents cannot evade the law so easily. The U.S.
13 Constitution requires the Respondents provide at least the rights available to him
14 when he was granted Humanitarian Parole and when he filed his application for
15 asylum¹.
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18 8. Accordingly, to vindicate Petitioner's rights, this Court should grant
19 the instant petition for a writ of habeas corpus. Mr. Noori asks this Court to find
20 that Respondents' attempt to detain him are arbitrary and capricious and in
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25 ¹ See, e.g., NBC News, Meet the Press interview of President Donald Trump (May 4, 2025),
26 <https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-interviewed-meet-press-mod-rcna203514> (in response to a question whether noncitizens
27 deserve due process under the Fifth Amendment, President Trump replied "I don't know. It
28 seems—it might say that, but if you're talking about that, then we'd have to have a million or 2
million or 3 million trials.").

1 violation of the law, and to immediately issue an order preventing his transfer out
2 of this district.
3

4 JURISDICTION

5 9. This action arises under the Constitution of the United States and
6 the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.
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8 10. This court has subject matter jurisdiction under 28 U.S.C. § 2241
9 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the
10 United States Constitution (Suspension Clause).
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12 11. This Court may grant relief under the habeas corpus statutes, 28
13 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq.,
14 the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8
15 U.S.C. § 1252(e)(2).
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18 VENUE

19 12. Venue is proper because Petitioner is in Respondents' custody in
20 San Diego, California. Venue is further proper because a substantial part of the
21 events or omissions giving rise to Petitioner's claims occurred in this District,
22 where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).
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25 13. For these same reasons, divisional venue is proper under Local
26 Rule HC.1
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REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

14. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

15. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

16. Petitioner is “in custody” for the purpose of § 2241 because he is arrested and detained by Respondents.

PARTIES

17. Jameurahman Noori (“Petitioner”) is a 27-year-old citizen of Afghanistan born  1997. He is a resident of San Diego, California, and is present within the state of California as of the time of the filing of this petition.

18. Respondent Christopher Larosse is the Warden of the Otay Mesa Detention Center and is a legal custodian of Petitioner.

1 19. Respondent Sydney Aki is the Field Office Director for the San
2 Diego Field Office, Immigration and Customs Enforcement and Removal
3 Operations ("ICE"). The San Diego Field Office is responsible for local custody
4 decisions relating to non-citizens charged with being removable from the United
5 States, including the arrest, detention, and custody status of non- citizens. The San
6 Diego Field Office's area of responsibility includes San Diego, California and the
7 Otay Mesa Detention Center. Respondent Sidney Aki is a legal custodian of
8 Petitioner.
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12 20. Respondent Todd Lyons is the acting director of U.S. Immigration
13 and Customs Enforcement, and he has authority over the actions of respondent
14 Sidney Aki and ICE in general. Respondent Lyons is a legal custodian of
15 Petitioner.
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18 21. Respondent Kristi Noem is the Secretary of the Department of
19 Homeland Security (DHS) and has authority over the actions of all other DHS
20 Respondents in this case, as well as all operations of DHS. Respondent Noem is a
21 legal custodian of Petitioner and is charged with faithfully administering the
22 immigration laws of the United States.
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1 22. Respondent Pamela Bondi is the Attorney General of the United
2 States, and as such has authority over the Department of Justice and is charged
3 with faithfully administering the immigration laws of the United States.
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5 23. Respondent U.S. Immigration Customs Enforcement is the federal
6 agency responsible for custody decisions relating to non-citizens charged with
7 being removable from the United States, including the arrest, detention, and
8 custody status of non-citizens.
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10 24. Respondent U.S. Department of Homeland Security is the federal
11 agency that has authority over the actions of ICE and all other DHS Respondents.
12

13 25. This action is commenced against all Respondents in their official
14 capacities.
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16 17 18 **LEGAL FRAMEWORK**

19 26. The Refugee Act of 1980, the cornerstone of the U.S. asylum
20 system, provides a right to apply for asylum to individuals seeking safe haven in
21 the United States. The purpose of the Refugee Act is to enforce the “historic policy
22 of the United States to respond to the urgent needs of persons subject to
23 persecution in their homelands.” Refugee Act of 1980, § 101(a), Pub. L. No. 96-
24 212, 94 Stat. 102 (1980).
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1 27. The “motivation for the enactment of the Refugee Act” was the
2 United Nations Protocol Relating to the Status of Refugees, “to which the United
3 States had been bound since 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424,
4 432-33 (1987). The Refugee Act reflects a legislative purpose “to give ‘statutory
5 meaning to our national commitment to human rights and humanitarian concerns.’”
6 *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).
7

8 28. The Refugee Act established the right to apply for asylum in the
9 United States and defines the standards for granting asylum. It is codified in
10 various sections of the INA.
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12 29. The INA gives the Attorney General or the Secretary of Homeland
13 Security discretion to grant asylum to noncitizens who satisfy the definition of
14 “refugee.” Under that definition, individuals generally are eligible for asylum if
15 they have experienced past persecution or have a well-founded fear of future
16 persecution on account of race, religion, nationality, membership in a particular
17 social group, or political opinion and if they are unable or unwilling to return to
18 and avail themselves of the protection of their homeland because of that
19 persecution of fear. 8 U.S.C. § 1101(a)(42)(A).
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22 30. Although a grant of asylum may be discretionary, the right to
23 apply for asylum is not. The Refugee Act broadly affords a right to apply for
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1 asylum to any noncitizen “who is physically present in the United States or who
2 arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).
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4 31. Because of the life-or-death stakes, the statutory right to apply for
5 asylum is robust. The right necessarily includes the right to counsel, at no expense
6 to the government, see 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the
7 right to counsel, see 8 U.S.C. § 1158(d)(4), and the right to access information in
8 support of an application, see § 1158(b)(1)(B) (placing the burden on the applicant
9 to present evidence to establish eligibility.).
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12 32. Noncitizens seeking asylum are guaranteed Due Process under the
13 Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306
14 (1993).
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16 33. Noncitizens who are applicants for asylum are entitled to a full
17 hearing in immigration court before they can be removed from the United States. 8
18 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative
19 appellate review before the Board of Immigration Appeals of removal orders
20 entered against them and judicial review in federal court upon a petition for
21 review. 8 U.S.C. § 1252(a) *et seq.*
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1 34. Immigration detention is a form of civil confinement that
2 “constitutes a significant deprivation of liberty that requires due process
3 protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).
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5 35. Immigration detention should not be used as a punishment and
6 should only be used when, under an individualized determination, a noncitizen is a
7 flight risk because they are unlikely to appear for immigration court or a danger to
8 the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
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11 36. Humanitarian Parole must be terminated upon written notice after
12 an individualized determination that the humanitarian purposes no longer apply. 8
13 C.F.R. § 212.5(e)(2)(i).
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16 **FACTUAL BACKGROUND**
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18 37. Petitioner is a citizen of Afghanistan. He was born 
19 1997 in Afghanistan.
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21 38. Petitioner was threatened with death in Afghanistan by the Taliban
22 and other terrorists in Afghanistan.
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24 39. On or about June 17, 2024, pursuant to an invitation from the U.S.
25 Government via the CBP One application, Petitioner came to the port of entry San
26 Ysidro, California to seek asylum. On June 17, 2024, Respondents granted him
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1 humanitarian parole and released him into the United States, based on the
2 individualized facts in his case, under 8 U.S.C. § 1182(d)(5) and released him from
3 custody pursuant to the same statute.
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5 40. On or about June 17, 2024, Respondents commenced removal
6 proceedings against Petitioner under 8 U.S.C. § 1229a in San Diego, California.
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8 41. On December 12, 2024, Judge Grande granted a motion to
9 terminate his removal proceedings to allow him to pursue his claims affirmatively
10 while he enjoyed his humanitarian parole. The order dismissing case was entered
11 on December 12, 2024.
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13 42. On information and belief, Petitioner regularly complied with and
14 appeared for ICE check-ins.
15

16 43. Petitioner applied for affirmative asylum with USCIS on
17 December 12, 2024. The acknowledgement of receipt sent to the petitioner from
18 respondents in paragraph 2 reads “You may remain in the United States until your
19 asylum application is decided.” The next step in his case is to attend an asylum
20 interview with USCIS.
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22 44. Subsequently, Respondents issued work authorization to Petitioner
23 pursuant to 8 C.F.R. § 274a.12(c)(08).
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1 45. On October 3, 2025, Mr. Noori was attempting to take an UBER
2 customer home on the Camp Pendleton Base. When he arrived at the entry gate the
3 gate guard did not allow him to proceed but asked him to pull to the side. Mr.
4 Noori complied. Subsequently the Military Police arrived, blocked Mr. Noori's car
5 so he could not leave and held him against his will. He asked several times if he
6 could leave and the Camp Pendleton authorities refused. They informed him that
7 they were holding him because he did not have a green card. Mr. Noori produced
8 copies of his documents and his work authorization proving that he was legally
9 here in the United States and the officers had no reason to detain him. He was held
10 their prisoner for approximately three hours.
11

12 46. Eventually the Military Police told Mr. Noori they were taking
13 him somewhere for another interview. They then handcuffed Mr. Noori and put
14 him in a Military Vehicle. They drove him to this 'new interview' where ICE
15 agents were waiting. They handed him over to the ICE officers who then put him
16 in their vehicle, and transported him to their downtown San Diego holding area. He
17 was never given a written notice that his parole was being terminated. He was not
18 given any particularized reason for why he was being placed into detention. He
19 was never presented with a warrant for his arrest. He was never given any Mirand
20 warnings. He was eventually transported to Otay Mesa Detention Center 3 days
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1 later. On October 6, 2025, three days after he was detained, a new Notice to
2 Appear was filed with the court. This act took jurisdiction of his asylum
3 application away from USCIS, basically denying his petition without review or
4 consideration. Mr. Noori must now begin his asylum application process again
5 while in detention.
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8 47. Mr. Noori was never presented with a warrant for his arrest. The
9 ICE agents did not provide him any process. The ICE agents did not offer him any
10 opportunity to be heard prior to arresting and detaining him.
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12 48. On January 20, 2025, President Donald Trump issued several
13 executive actions relating to immigration, including “Protecting the American
14 People Against Invasion,” an executive order (EO) setting out a series of interior
15 immigration enforcement actions. The Trump administration, through this and
16 other actions, has outlined sweeping, executive branch-led changes to immigration
17 enforcement policy, establishing a formal framework for mass deportation. The
18 “Protecting the American People Against Invasion” EO instructs the DHS
19 Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to
20 prioritize civil immigration enforcement procedures including through the use of
21 mass detention.
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1 49. On information and belief, Respondents are detaining Petitioner
2 regardless of the individual facts and circumstances of his case.
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4 50. On information and belief, Respondents are using the immigration
5 detention system as a means to punish individuals for asserting rights under the
6 Refugee Act.
7

8 51. On information and belief, Petitioner has no criminal history.
9

10 CLAIMS FOR RELIEF

11 COUNT ONE

12 Violation of Fifth Amendment Right to Due Process

13 Procedural Due Process

14 52. Petitioner restates and realleges all paragraphs as if fully set forth
15 here.
16

17 53. The Due Process Clause of the Fifth Amendment to the U.S.
18 Constitution prohibits the federal government from depriving any person of “life,
19 liberty, or property, without due process of law.” U.S. Const. Amend. V. Due
20 process protects “all ‘persons’ within the United States, including [non-citizens],
21 whether their presence here is lawful, unlawful, temporary, or permanent.”
22 *Zadvydas*, 533 U.S. at 693.
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1 54. Due process requires that government action be rational and non-
2 arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
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4 55. While asylum is a discretionary benefit, the right to apply is not. 8
5 U.S.C. § 1158(a)(1). Any noncitizen who is “physically present in the United
6 States or who arrives in the United States (whether or not at a designated port of
7 arrival . . .), irrespective of such [noncitizen’s] status, may apply for asylum.” *Id.*
8

9 56. Because the denial of the right to apply for asylum can result in
10 serious harm or death, the statutory right to apply is robust and meaningful. It
11 includes the right to legal representation, and notice of that right, *see id.* §§
12 1229a(b)(4)(A), 1362, 1158(d)(4); the right to present evidence in support of
13 asylum eligibility, *see id.* § 1158(b)(1)(B); the right to appeal an adverse decision
14 to the Board of Immigration Appeals and to the federal circuit courts, *see id.* §§
15 1229a(c)(5), 1252(b); and the right to request reopening or reconsideration of a
16 decision determining removability, *see id.* § 1229a(c)(6)-(7).
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21 57. Applying for asylum with USCIS comes with a particular benefit.
22 It allows the petitioner a second opportunity to file for asylum should USCIS deny
23 the original application. This is a substantial benefit that the respondents initially
24 bestowed upon the petitioner when they agreed to dismiss his initial removal
25 proceedings. The detention of petitioner and refiling of an NTA with no
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1 explanation and no apparent rational, other than to put another immigrant in
2 detention was a clear violation of Mr. Noori's right to due process.
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4 58. Here, Petitioner was not advised by DHS that they sought to
5 terminate his affirmative application in order to place him in detention and
6 removal, depriving him of the bundle of rights associated with his pending asylum
7 application. Because of his legal interest in his pending asylum application, this
8 violated due process. *See generally Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)
9 (requiring notice and an opportunity to be heard before deprivation of a legally
10 protected interest).
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14 **COUNT TWO**

15 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**

16 **Not in Accordance with Law and in Excess of Statutory Authority**

17 **Unlawful Detention**

18
19 59. Petitioner restates and realleges all paragraphs as if fully set forth
20 here.
21

22 60. Under the APA, a court shall “hold unlawful and set aside agency
23 action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).
24

25 61. An action is an abuse of discretion if the agency “entirely failed to
26 consider an important aspect of the problem, offered an explanation for its decision
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1 that runs counter to the evidence before the agency, or is so implausible that it
2 could not be ascribed to a difference in view or the product of agency expertise.”
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4 *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551U.S. 644, 658 (2007)
5 (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*,
6 463 U.S. 29, 43 (1983)).
7

8 62. To survive an APA challenge, the agency must articulate “a
9 satisfactory explanation” for its action, “including a rational connection between
10 the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551,
11 2569 (2019) (citation omitted).
12

13 63. By categorically revoking Petitioner’s humanitarian parole and
14 transferring him to Otay Mesa Detention Center without consideration of his
15 individualized facts and circumstances, Respondents have violated the APA.
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18 64. Respondents have made no finding that Petitioner is a danger to
19 the community.
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21 65. Respondents have made no finding that Petitioner is a flight risk.
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23 66. By detaining the Petitioner categorically, Respondents have
24 further abused their discretion because there have been no changes to his facts or
25 circumstances since the agency made its initial determination to parole him into the
26 United States that support detention.
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1 67. Respondents have already considered Petitioner's facts and
2 circumstances and determined that he was not a flight risk or danger to the
3 community when they granted him humanitarian parole. There have been no
4 changes to the facts that justify this revocation of his parole.
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7 **COUNT THREE**

8 **Violation of Fifth Amendment Right to Due Process**

9 **Procedural Due Process**
10

11 68. Petitioner restates and realleges all paragraphs as if fully set forth
12 here.
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14 69. The Due Process Clause of the Fifth Amendment to the U.S.
15 Constitution prohibits the federal government from depriving any person of "life,
16 liberty, or property, without due process of law." U.S. Const. Amend. V. Due
17 process protects "all 'persons' within the United States, including [non-citizens],
18 whether their presence here is lawful, unlawful, temporary, or permanent."
19 Zadvydas, 533 U.S. at 693; accord Flores, 507 U.S. at 306.
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22 70. Due process requires that government action be rational and non-
23 arbitrary. See U.S. v. Trimble, 487 F.3d 752, 757 (9th Cir. 2007).
24

25 71. While the government has discretion to detain individuals under 8
26 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this
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1 discretion is not “unlimited” and must comport with constitutional due process. *See*
2 *Zadvydas*, 533 U.S. at 698.
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4 72. Here, Respondents have chosen to revoke Petitioner’s release in
5 an arbitrary manner and not based on a rational and individualized determination
6 of whether he is a safety or flight risk, in violation of due process. Because no
7 individualized custody revocation has been made and no circumstances have
8 changed to make Petitioner a flight risk or a danger to the community,
9 Respondents’ revocation of Petitioner’s release violates his right to procedural due
10 process.
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15 **PRAYER FOR RELIEF**

16 WHEREFORE, Petitioner respectfully requests this Court to grant the
17 following:
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- 19 (1) Assume jurisdiction over this matter;
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21 (2) Issue an Order to Show Cause ordering Respondents to show
22 cause why this Petition should not be granted within three days;
23
24 (3) Declare that Petitioner’s detention without an individualized
25 determination violates the Due Process Clause of the Fifth Amendment;
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(4) Declare that the denial of petitioner's affirmative asylum claim by detaining him and commencing new 240 removal proceedings without an individualized determination to return him to 240 removal proceedings violates the Due Process Clause of the Fifth Amendment;

(5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody;

(6) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;

(7) Grant any further relief this Court deems just and proper.

Dated: November 5, 2025.

/s/ Brian J. McGoldrick
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