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9  
10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 ABOLFAZL SOLEIMANI,  
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Case No.: 25-cv-3082-DMS-DEB

v.

CHRISTOPHER LAROSE, warden of  
Otay Mesa Detention Center  
SIDNEY AKI, San Diego Field Office  
Director, Immigration and Customs  
Enforcement and Removal Operations  
("ICE/ERO");  
TODD LYONS, Acting Director of  
Immigration Customs Enforcement  
("ICE");  
KRISTI NOEM, Secretary of the  
Department of Homeland Security  
("DHS");  
PAMELA BONDI, Attorney General of  
the United States,  
U.S. DEPARTMENT OF HOMELAND  
SECURITY;  
U.S. IMMIGRATION AND CUSTOMS  
ENFORCEMENT;  
Respondents.

PETITIONER'S TRAVERSE TO  
PETITION

1 INTRODUCTION

2 Abolfazl Soleimani is a citizen of Iran who was granted humanitarian  
3 parole on September 06, 2024, to seek asylum in the United States. ECF 1-3 p.2.  
4 He was also issued an NTA upon his entry which commenced removal  
5 proceedings. Mr. Soleimani filed his asylum application with EOIR on January  
6 20, 2025. But despite complying with all his check-in requirements and  
7 submitting his asylum application, on June 6, 2025, Mr. Soleimani was violently  
8 stopped at gunpoint, dragged out of his vehicle, shackled and put into an  
9 unmarked vehicle. ECF 1-2 p 4-5. He was so traumatized that he lost  
10 consciousness and was transported to a local hospital. ECF 1-2 p. 5 Eventually he  
11 was transported to a holding facility in Los Angeles where he was detained for 5  
12 days. He was not charged with a crime at that time; there was no determination  
13 that probable cause existed for his warrantless stop and arrest. ECF 1-2 p.5  
14 Eventually he was transported to Otay Mesa Detention Center where he has been  
15 held ever since. ECF 1-2 p. 6.

16 Mr. Soleimani filed a habeas petition on November 10, 2025 to contest his  
17 unlawful arrest and detention on June 6, 2025. His arrest was unlawful for being  
18 made without cause in violation of the Fourth Amendment to the Constitution.  
19 His arrest and detention are unlawful as they occurred without due process  
20 guaranteed by the Fifth Amendment to the Constitution and because they violate  
21 the Administrative Procedures Act and for other reasons as set out more fully  
22 below.

23 This Court has jurisdiction to consider the claims asserted in  
24 Mr. Soleimani's habeas petition, for three reasons. First, Mr. Soleimani's claims  
25 are inextricably intertwined with the government's authority to detain him, which  
26 this Court has jurisdiction to review. Second, this Court has jurisdiction to  
27 consider whether the agency has complied with due process and its mandatory,  
28 nondiscretionary duties. Finally, even if Mr. Soleimani's claims *were* precluded

1 by the Immigration and Nationality Act, which they are not, this Court could  
2 review them under the Suspension Clause. Thus, no jurisdictional bars prevent  
3 this Court from reviewing Mr. Soleimani's claims.

4 Mr. Soleimani's claims also succeed on the merits. The government has not  
5 formally revoked Mr. Soleimani's humanitarian parole which renders the  
6 government's actions unlawful. If the agency did not revoke his parole, then it  
7 violated that parole by detaining him. However, if the agency claims they *did*  
8 revoke his parole, then it did so in violation of the statute and regulations, which  
9 require written notification and a determination that the purposes of the parole  
10 have been served. Either way, the agency's actions violated the Administrative  
11 Procedures Act and procedural due process. Further, nothing about Mr.  
12 Soleimani's trip home from the store was suspicious. When the masked men  
13 stopped him and his friend, they did not have a warrant. They did not articulate  
14 what law he had broken. They had no reasonable suspicion to stop them and they  
15 had no probable cause to arrest him. This is in direct violation of the Fourth  
16 Amendment to the Constitution. Thus, this Court should order the release of Mr.  
17 Soleimani, bar his re-detention without further order of this court, bar his removal  
18 from this district and reinstate his humanitarian parole status.

19 **STATEMENT OF FACTS**

20 **I. Mr. Soleimani does not contest the government's authority to**  
21 **commence, adjudicate or execute removal proceedings.**

22 The government's first argument against the petition is that his claim is  
23 barred because he contests the government's right to initiate, adjudicate or  
24 execute removal proceedings. This completely misstates the argument. Mr.  
25 Soleimani does not contest the government's ability to initiate, adjudicate or  
26 execute his removal proceedings. Mr. Soleimani contends that his detention was  
27 unlawful at its commencement. He was paroled into the United States so was here  
28 lawfully for the duration of his parole or until such time that his parole had

1 expired or his parole had been properly revoked. Neither of those conditions had  
2 been met when he was violently arrested on June 6, 2025. The government  
3 completely dismisses this unlawful arrest and detention on June 6, 2025. The  
4 government's contention seems to be that whatever happened on June 6, 2025  
5 doesn't matter because they have a new mandatory detention policy. Based on this  
6 new policy, they assert the Constitution is meaningless. It doesn't appear to matter  
7 that the Government had already released Mr. Soleimani from detention – in  
8 direct opposition to this belief he is subject to mandatory detention. There are  
9 processes for revocation of parole and for lawfully detaining someone. The  
10 government asserts they are not bound by any of this. This is nothing short of  
11 lawlessness.

12 **I. Mr. Soleimani was paroled into the United States and allowed to apply**  
13 **for asylum and work authorization.**

14 Mr. Soleimani wanted to wait for a CBP One appointment to enter the  
15 United States. However, those bringing him to the border did not want to wait and  
16 at gunpoint forced him to cross the border. ECF 1-2 p 3. He was detained for a  
17 period in Louisiana but then was granted parole. This means, of course, that the  
18 government made a particularized determination that Mr. Soleimani was not a  
19 flight risk and not a danger to society. His parole document clearly sets out that  
20 his parole can be terminated on notice or at the expiration date, September 5,  
21 2025. He was also issued a Notice to Appear and placed in removal proceedings.

22 After his release, Mr. Soleimani complied with all his check-in  
23 requirements and submitted his asylum application to EOIR. While driving down  
24 the street, Mr. Soleimani is violently arrested and placed into custody with no  
25 notice or explanation.

26 The masked men who arrested him did not have a warrant for his arrest.  
27 They did not explain what law he had violated. They did not allege that he had  
28 violated the conditions of his parole or that his parole was being revoked. Instead,

1 they illegally stopped him, broke into the car he was in, dragged him out,  
2 handcuffed him and transported him to the ICE facility in downtown Los Angeles  
3 before eventually taking him to the Otay Mesa Detention Center. It is notable that  
4 the government does not present any evidence to this court of a warrant for Mr.  
5 Soleimani’s arrest. The government does not present any evidence that they  
6 somehow properly revoked his parole. They provide no evidence or argument that  
7 the actions of the masked men on June 6, 2025 were lawful.

8 **LEGAL ANALYSIS**

9 In his habeas petition, Mr. Soleimani challenges the detention that violated  
10 his right against unlawful seizure and that violated his humanitarian parole. There  
11 are two pertinent legal questions in this analysis: 1) whether the Court has  
12 jurisdiction to consider these claims; and 2) whether these claims succeed on the  
13 merits. The answer to both is yes.

14 **I. This Court has jurisdiction to consider Mr. Soleimani’s claims.**

15 In cases raising similar claims, the government has argued that this Court  
16 lacks jurisdiction to consider or grant relief under 8 U.S.C. §§ 1252(g) and  
17 1252(b)(9). This argument fails here for at least three independent reasons. First,  
18 Mr. Soleimani’s claims are inextricably intertwined with the government’s  
19 authority to detain him, which this Court has jurisdiction to consider. Second, this  
20 Court has jurisdiction to review whether the agency has complied with due  
21 process and its mandatory, nondiscretionary duties. Finally, even if Mr.  
22 Soleimani’s claims *were* precluded by the statute, which they are not, this Court  
23 could review them under the Suspension Clause.

24 **A. Mr. Soleimani’s claims challenge the government’s authority to**  
25 **detain him.**

26 Courts have jurisdiction to “decide a purely legal question that does not  
27 challenge the Attorney General’s discretionary authority.” *Ibarra-Perez v. United*  
28 *States*, 154 F.4th 989, 996 (9th Cir. 2025) (quotations omitted). In *Ibarra-Perez*,

1 the Ninth Circuit squarely held that “§ 1252(g) does not prohibit challenges to  
2 unlawful practices merely because they are in some fashion connected to removal  
3 orders.” *Id.* at 997. Accordingly, the question is whether Mr. Soleimani’s claims  
4 “challenge the Attorney General’s discretionary authority.” *Id.* at 996.

5 They do not. First, Mr. Soleimani’s claims relate to the government’s  
6 authority to detain him, and courts have widely held that review of issues related  
7 to detention is not barred by § 1252(g) or (b)(9). *See, e.g., Flores–Torres v.*  
8 *Mukasey*, 548 F.3d 708, 711 (9th Cir. 2008) (holding that habeas jurisdiction  
9 exists to review a challenge to immigration detention based on a citizenship  
10 claim); *Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023) (holding that  
11 “assertions of illegal detention [were] plainly collateral to ICE’s prosecutorial  
12 decision to execute [a detainee’s removal]” and thus not subject to § 1252’s  
13 jurisdictional bars); *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000)  
14 (“[S]ection 1252(g) does not bar courts from reviewing an alien detention  
15 order[.]”); *Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999) (§ 1252(g) did  
16 not apply to a “claim concern[ing] detention”). To undersigned counsel’s  
17 knowledge, every judge in this district has held that it has jurisdiction to consider  
18 claims that an individual is unlawfully detained.

19 Importantly, all of the claims Mr. Soleimani asserts in his habeas petition  
20 relate to the government’s authority to detain him. In his habeas, Mr. Soleimani’s  
21 asks this Court to find that the denial of his liberty interest granted to him though  
22 his parole violated procedural due process and the Administrative Procedures Act.

23 The government paroled Mr. Soleimani into the United States on  
24 September 6, 2024. EFC 1-3 p. 2. Mr. Soleimani’s parole document states that  
25 this parole does not expire until September 5, 2025. *See id.* The government never  
26 claimed before his detention that it revoked this parole, nor has it provided  
27 evidence that it was revoked. Yet ICE detained Mr. Soleimani as though it *had*  
28 been revoked.

1           Importantly, a person shall only be “returned to the custody from which he  
2 was paroled” when “the purposes of such parole . . . have been served.” 8 U.S.C.  
3 § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e) (parole may only be terminated  
4 “upon accomplishment of the purpose for which parole was authorized”); *Y-Z-L-*  
5 *H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at \*12 (D. Or. July 9,  
6 2025) (noncitizen should not be returned to custody unless the purposes of the  
7 parole have been served). Additionally, parole shall only be “terminated upon  
8 written notice to the alien.” 8 C.F.R. § 212.5(e)(2)(i). So under the statute and the  
9 regulations, parole revocation (and thus the noncitizen’s re-detention) only occurs  
10 when the parole’s purpose is served and the noncitizen receives written notice of  
11 the revocation.

12           Here, neither occurred. Mr. Soleimani was paroled into the United States to  
13 apply for asylum, and “the purposes of such parole” have not yet “been served”  
14 because his asylum claim has not been adjudicated. 8 U.S.C. § 1182(d)(5)(A).  
15 Moreover, there is no indication that Mr. Soleimani’s parole had been revoked,  
16 nor did he receive any written notification of a revocation, as the regulations and  
17 the document itself require. 8 C.F.R. § 212.5(e). So, by arresting and placing Mr.  
18 Soleimani in detention, the government violated its own parole order, in violation  
19 of statutory and regulatory authority. By these actions, this Court has jurisdiction  
20 to review the status of Mr. Soleimani’s parole and the government’s authority to  
21 detain him.

22           In sum, Mr. Soleimani’s unlawful arrest affected the government’s  
23 authority to detain him by 1) effectively revoking his parole, in violation of the  
24 statute and regulations, and 2) attempting to subject him to mandatory detention.  
25 The Supreme Court recently clarified that when petitioners’ claims for relief  
26 “necessarily imply the invalidity of their confinement and removal,” such claims  
27 “fall within the core of the writ of habeas corpus.” *Trump v. J. G. G.*, 672 (2025)  
28 (quotations omitted). Because the government’s authority to detain Mr. Soleimani

1 is thus inextricably intertwined with the claims in his habeas petition, this Court  
2 has jurisdiction to consider them.

3 **B. This Court has jurisdiction to consider claims alleging that the**  
4 **government failed to comply with its mandatory duties and due**  
5 **process.**

6 Even if Mr. Soleimani’s claims were *not* inextricably intertwined with the  
7 government’s authority to detain him, they would still not be jurisdictionally  
8 barred. That is because the jurisdictional bars of § 1252 do not bar review of  
9 claims that ICE is “failing to carry out non-discretionary statutory duties and  
10 provide due process.” *J.R. v. Bostock*, No. 2:25-CV-01161-JNW, 2025 WL  
11 1810210, at \*3 (W.D. Wash. June 30, 2025); *see also D.V.D. v. U.S. Dep’t of*  
12 *Homeland Sec.*, 778 F. Supp. 3d 355, 377–78 (D. Mass. 2025) (§ 1252(g) did not  
13 bar review of “the purely legal question of whether the Constitution and relevant  
14 statutes require notice and an opportunity to be heard”).

15 That is precisely what Judge Curiel recently held in a similar case. In *Sayed*  
16 *Nasser Soleimani v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at  
17 \*1 (S.D. Cal. Oct. 1, 2025) (no relation to the petitioner), the petitioner was (like  
18 this Mr. Soleimani) an asylum seeker from Afghanistan who “presented himself at  
19 the U.S. Port of Entry in San Ysidro, California and applied for admission with a  
20 CBP One application.” Immigration officials “paroled him into the United States”  
21 under a similar type of parole as Mr. Soleimani. *Id.* But after the government  
22 cancelled the petitioner’s removal proceedings and placed him in expedited  
23 removal, he filed a habeas petition, and the government argued that §§ 1252(g)  
24 and (b)(9) stripped the court of jurisdiction to hear his claims. *Id.* at \*5.

25 Nevertheless, Judge Curiel found that he had jurisdiction to hear the claims,  
26 noting that “Petitioner does not challenge the decision to commence proceedings.”  
27 *Id.* at \*6. Instead, “Petitioner challenges the legality of the revocation of  
28 humanitarian parole in violation of the law and dismissal of ongoing removal  
proceedings without due process.” *Id.* So even assuming the agency’s revocation

1 of parole “constitutes a decision or action to adjudicate cases,” that action is not  
2 “in the discretion” of the agency under § 1252(g) where it was “not performed in  
3 accordance with the mandatory procedures.” *Id.* (quoting *Sharkey v. Quarantillo*,  
4 541 F.3d 75, 86 (2d Cir. 2008) (alterations omitted)).

5 Other courts have held the same. In *Dep't of Homeland Sec. v. Regents of*  
6 *the Univ. of California*, 140 S. Ct. 1891, 1907 (2020), the Supreme Court held  
7 that § 1252(b)(9) “does not present a jurisdictional bar” where those bringing suit  
8 “are not asking for review of an order of removal,” “the decision to seek  
9 removal,” or “the process by which removability will be determined.” (quotations  
10 and alterations omitted). And in *Vasquez Garcia v. Noem*, 25-cv-02180-DMS-  
11 MMP, 2025 WL 2549431, Dkt. 7 at \*8 (S.D. Cal. Sept. 3, 2025), Judge Sabraw  
12 held that “§ 1252(g) does not limit the Court’s jurisdiction in the present case”  
13 because the petitioners were “enforcing their constitutional rights to due process  
14 in the context of the removal proceedings—not the legitimacy of the removal  
15 proceedings or any removal order.”

16 Here, Mr. Soleimani similarly challenges the legality of the government’s  
17 arbitrary decision to cancel his parole and declare him subject to mandatory  
18 detention. Because these actions were “not performed in accordance with the  
19 mandatory procedures,” they were not undertaken “in the discretion” of the  
20 agency. *Soleimani*, 2025 WL 2800149, at \*6; *see also United States ex rel.*  
21 *Accardi v. Shaughnessy*, 347 U.S. 260, 265–68 (1954) (holding that agencies must  
22 adhere to their own binding regulations, both substantively and procedurally).  
23 Accordingly, this Court is not jurisdictionally barred from reviewing them.

24 **C. Mr. Soleimani’s claims do not fall within the plain language of**  
25 **§ 1252 and if they did, the statute would violate the Suspension**  
26 **Clause and Due Process.**

27 Finally, Mr. Soleimani’s claims do not fall within the plain language of the  
28 § 1252(g) and § 1252(b)(9) jurisdictional bars. And even if they did, this Court

1 could still review them under the Suspension Clause.

2 Section 1252(g) precludes judicial review of an agency decision to  
3 “commence proceedings, adjudicate cases, or execute removal orders.” “The  
4 Supreme Court has instructed that we should read § 1252(g) narrowly.” *Ibarra-*  
5 *Perez v. United States*, 154 F.4th 989, 991 (9th Cir. 2025) (citing *Reno v. Am.-*  
6 *Arab Anti-Discrimination Comm. (AADC)*, 525 U.S. 471, 487 (1999); *Dep’t of*  
7 *Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020). That is  
8 because, as a general matter, establishing unreviewability is a “heavy burden,”  
9 and “where substantial doubt about the congressional intent exists, the general  
10 presumption favoring judicial review of administrative action is controlling.”  
11 *Block v. Cmty. Nutrition Inst.*, 467 U.S. 340, 351 (1984).

12 Here, Mr. Soleimani’s challenge does not fall within any of the three  
13 categories of § 1252(g). He does not challenge the agency’s decision to  
14 “commence proceedings” under § 1252(g) because his asylum proceedings had  
15 already “commenced”. Nor does he challenge the agency’s decision to  
16 “adjudicate” his case—only the arbitrary decision to detain him. And Mr.  
17 Soleimani could not challenge the agency’s ability to “execute [his] removal  
18 order” given that he doesn’t have one. Reading § 1252(g) “narrowly,” *Ibarra-*  
19 *Perez*, 154 F.4th at 991, thus shows that Mr. Soleimani’s claims do not fall within  
20 any of these three categories.

21 The same is true of § 1252(b)(9). This section bars “[j]udicial review of all  
22 questions of law and fact, including interpretation and application of  
23 constitutional and statutory provisions, arising from any action taken or  
24 proceeding brought to remove an alien from the United States[.]” 8 U.S.C.  
25 § 1252(b)(9). But the Ninth Circuit holds that this statute, by its plain language,  
26 applies only to “judicial review of an order of removal” and does not eliminate the  
27 ability of a court to review claims that are “independent of challenges to removal  
28 orders.” *Singh v. Gonzales*, 499 F.3d 969, 978 (9th Cir. 2007) (quotations

1 omitted). Rather, § 1252(b)(9) was designed to limit noncitizens to “one bite of  
2 the apple with regard to challenging an order of removal,” precluding, for  
3 instance, claims that the BIA erred in finding an individual “ineligible for asylum,  
4 withholding of removal, and relief under the [Convention Against Torture].”  
5 *Martinez v. Napolitano*, 704 F.3d 620, 622–23 (9th Cir. 2012). Thus, determining  
6 jurisdiction under § 1252 “requires a case-by-case inquiry turning on a practical  
7 analysis” of the noncitizen’s circumstances. *Singh v. Holder*, 638 F.3d 1196, 1211  
8 (9th Cir. 2011).

9 Here, Mr. Soleimani does not challenge any decision that the BIA or a  
10 circuit court could review as part of a final order of removal. Nor could he, since  
11 the agency has yet to issue a decision regarding his removal. Rather, he seeks  
12 review of the agency’s parole revocation which does not relate to the substance of  
13 his removal proceedings. Thus, neither provision in § 1252 strips this Court of  
14 jurisdiction to hear his claims.

15 But even if the government’s expansive reading of § 1252 were correct, this  
16 Court could still hear Mr. Soleimani’s claims under the Suspension Clause. Under  
17 the Suspension Clause, “[t]he Privilege of the Writ of Habeas Corpus shall not be  
18 suspended, unless when in Cases of Rebellion or Invasion the public Safety may  
19 require it.” U.S. Const. Art. I ¶ 9, cl. 2. Courts have held that even when  
20 “Congress intended to strip all courts of jurisdiction over [a petitioner’s] claim,  
21 the Suspension Clause of the Constitution nonetheless requires that [he] may  
22 bring his challenge through the writ of habeas corpus.” *Ragbir v. Homan*, 923  
23 F.3d 53, 57–58 (2d Cir. 2019), cert. granted, judgment vacated sub nom. *Pham v.*  
24 *Ragbir*, 141 S. Ct. 227 (2020). In determining the reach of the Suspension Clause,  
25 courts are required to consider “(1) the citizenship and status of the detainee and  
26 the adequacy of the process through which that status determination was made;  
27 (2) the nature of the sites where apprehension and then detention took place; and  
28 (3) the practical obstacles inherent in resolving the prisoner’s entitlement to the

1 writ.” *Boumediene v. Bush*, 553 U.S. 723, 766 (2008).

2 In *Soleimani*, Judge Curiel applied these factors to hold that review was  
3 also available under the Suspension Clause. *See* 2025 WL 2800149, at \*9. Judge  
4 Curiel explained that “although Petitioner is not a citizen, he was paroled into the  
5 United States upon a finding that he was not a flight risk or a danger to the  
6 community,” and has “remained here for more than a year,” “received a work  
7 authorization,” and “developed ties to the community.” *Id.* Judge Curiel also  
8 noted that the petitioner was “apprehended and detained within the United  
9 States,” and there was “no evidence that Petitioner is a danger to the community  
10 or a flight risk—in fact, Respondents decided to parole Petitioner when he arrived  
11 without ties to the community after determining that he did not have any criminal  
12 history and then approved a work authorization.” *Id.* Judge Curiel thus concluded  
13 that “even if Section 1252 precluded the Court from reviewing Respondents’  
14 decision to terminate Petitioner’s parole and detain him, the Court would have  
15 jurisdiction to review this decision under the Suspension Clause.” *Id.*

16 Here, the facts in Mr. Soleimani’s case are materially identical to those in  
17 *Soleimani*. Mr. Soleimani was “paroled into the United States upon a finding that  
18 he was not a flight risk or a danger to the community,” has “remained here for  
19 nearly a year,” and “developed ties to the community.” *Id.* Thus, as in *Soleimani*,  
20 the *Boumediene* factors weigh in his favor, and at a minimum, this Court has  
21 jurisdiction to review his claims under the Suspension Clause.

22 **II. On the merits, the government’s actions violated the Administrative  
23 Procedures Act and due process.**

24 Moving to the merits, Mr. Soleimani presents two claims. First, he argues  
25 that the agency’s effective revocation of his parole violated the Administrative  
26 Procedures Act and procedural due process. Second, he asserts that his  
27 warrantless arrest on June 6, 2025 violated his rights against unreasonable search  
28 and seizure guaranteed by the Fourth Amendment to the constitution.

**A. Revoking Mr. Soleimani’s parole and subjecting him to detention**

1 **violates the Administrative Procedures Act and Due Process.**

2 As recounted above, the government paroled Mr. Soleimani into the United  
3 States to allow him to apply for asylum. ECF 1-3 p. 2. According to Mr.  
4 Soleimani’s parole document this parole did not expire until September 5, 2025.  
5 *Id.* But when ICE detained Mr. Soleimani on June 6, 2025, it did not say whether  
6 it was revoking his parole or not. Either way, the government’s actions violate the  
7 Administrative Procedures Act and Due Process.

8 **1. The government’s actions violated the Administrative**  
9 **Procedures Act.**

10 Under the Administrative Procedures Act (APA), an agency action may be  
11 held unlawful and set aside if it is “arbitrary, capricious, an abuse of discretion, or  
12 otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). An action is an  
13 abuse of discretion if the agency “entirely failed to consider an important aspect  
14 of the problem, offered an explanation for its decision that runs counter to the  
15 evidence before the agency, or is so implausible that it could not be ascribed to a  
16 difference in view or the product of agency expertise.” *Nat’l Ass’n of Home*  
17 *Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle*  
18 *Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43  
19 (1983)). For a challenged agency action to be upheld, the agency “must explain  
20 the evidence which is available, and must offer a rational connection between the  
21 facts found and the choice made.” *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983)  
22 (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United*  
23 *States*, 371 U.S. 156, 168 (1962)).

24 Here, regardless of whether the agency formally revoked Mr. Soleimani’s  
25 parole or not, it violated the APA. If the agency did *not* revoke his parole, then it  
26 inexplicably violated its own parole decision by detaining Mr. Soleimani in June  
27 2025—three months before his parole was set to expire on September 5, 2025.  
28 Doing so violated the APA because the agency did not provide notice in which it

1 “offered a rational connection between the facts found and the choice made”—  
2 i.e., the fact that Mr. Soleimani was still on parole, yet the agency decided to  
3 detain him. *Motor Vehicle Mfrs*, 463 U.S. at 52. And nothing suggests that there  
4 was a “rational” reason for this choice, given that Mr. Soleimani had filed an  
5 asylum application, complied with all the conditions of his parole, and had no  
6 criminal history. This was the epitome of an “arbitrary” and “capricious” act  
7 under the APA. 5 U.S.C. § 706(2)(A).

8 But assuming the agency *had* revoked his parole, it also violated the APA.  
9 As explained, a person shall only be “returned to the custody from which he was  
10 paroled” when “the purposes of such parole . . . have been served.” 8 U.S.C.  
11 § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be  
12 terminated “upon accomplishment of the purpose for which parole was  
13 authorized”); *Y-Z-L-H*, 2025 WL 1898025, at \*12 (same). Alternatively, the  
14 regulations permit revocation of parole when “neither humanitarian reasons nor  
15 public benefit warrants the [noncitizen’s] continued presence.” 8 C.F.R.  
16 § 212.5(e)(2)(i). But under either scenario, parole shall only be “terminated upon  
17 written notice to the alien.” 8 C.F.R. § 212.5(e)(2)(i). So, under the statute and the  
18 regulations and pursuant to the parole document given to Mr. Soleimani upon his  
19 release, the agency may only revoke parole and re-detain a noncitizen when the  
20 parole’s purpose is served or no humanitarian reasons warrant it *and* the  
21 noncitizen receives written notice.

22 None of this occurred here. Because “the purpose[ ] of [Mr. Soleimani’s]  
23 parole” was to allow him to apply for asylum, that purpose has not yet “been  
24 served” because his asylum claim has not been adjudicated. 8 U.S.C. §  
25 1182(d)(5)(A). Moreover, the “humanitarian reasons” for Mr. Soleimani’s  
26 parole—to allow him to seek protection from the government of Iran—have not  
27 changed. 8 C.F.R. § 212.5(e)(2)(i). What’s more, Mr. Soleimani never received  
28 any written notification of a revocation under 8 C.F.R. § 212.5(e). So, if the

1 agency revoked his parole, this decision violated both the statute and the  
2 regulation and was “not in accordance with law” under the APA. 5 U.S.C. §  
3 706(2)(A).

4 That is precisely what Judge Curiel concluded in *Soleimani*, 2025 WL  
5 2800149, at \*13. Relying on the same authority cited above, *Soleimani* concluded  
6 that “to meet statutory and regulatory requirements, revocation should only occur  
7 when (1) the parole’s purpose is served or (2) when humanitarian reasons and  
8 public benefit are no longer warranted, and the noncitizen is provided written  
9 notice.” *Id.* The first requirement was not met because the petitioner “applied for  
10 asylum and was still in the middle of those proceedings when Respondents issued  
11 and executed the revocation.” *Id.* And even though the petitioner was provided a  
12 “generic notification” of his revocation, the second requirement was not met  
13 because “humanitarian reasons still warrant the Petitioner’s presence in the  
14 country.” *Id.* At a minimum, Judge Curiel held, parole revocation “requires an  
15 individualized determination,” which the government had not provided because it  
16 failed to explain “why the Petitioner would now be considered a flight risk or  
17 danger to the community.” *Id.*

18 Here, as in *Soleimani*, the government failed to meet the statutory and  
19 regulatory requirements for parole revocation. In fact, the government here did  
20 not even provide Mr. Soleimani a “generic notification” of revocation, as it did in  
21 *Soleimani*. *Id.* Thus, the government here “has acted arbitrarily and capriciously  
22 in violation of the APA.” *Id.*

23 **2. The government’s actions violated procedural due process.**

24 Not only did the government’s effective revocation of parole violate the  
25 APA, it also violated procedural due process. The Fifth Amendment guarantees  
26 that “[n]o person shall be ... deprived of life, liberty, or property, without due  
27 process of law.” U.S. Const. amend. V. To determine a violation of procedural  
28 due process, courts weigh the traditional factors of (1) the private interest at issue,

1 (2) the risk of erroneous deprivation of that interest through the procedures used,  
2 and (3) the government's interest. *Mathews v. Eldridge*, 424 U.S. 319, 334–35  
3 (1976). Here, these factors easily weigh in Mr. Soleimani's favor.

4 First, the private interest at issue is Mr. Soleimani's deprivation of liberty—  
5 i.e., remaining on parole, rather than being detained. *See Morrissey v. Brewer*, 408  
6 U.S. 471, 482-483 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)  
7 (“Freedom from imprisonment—from government custody, detention, or other  
8 forms of physical restraint—lies at the heart of the liberty that [the Due Process]  
9 Clause protects.”). Not only is Mr. Soleimani's general liberty interest substantial,  
10 he has an added interest in remaining out of custody so he can work with his  
11 attorney to prepare his asylum case. What's more, Mr. Soleimani's work  
12 authorization is contingent on his parole status, and revocation of his parole will  
13 directly impact his ability to provide for himself and his family. Thus, the first  
14 factor weighs heavily in Mr. Soleimani's favor.

15 Second, the procedures the agency used to determine whether to revoke  
16 Mr. Soleimani's parole presented a high risk of erroneous deprivation of liberty.  
17 To date, the agency's actions surrounding Mr. Soleimani's parole have  
18 completely failed to comply with the statute, the regulations, and even the  
19 agency's own decision. After granting Mr. Soleimani parole in September 2024,  
20 the agency inexplicably revoked this parole three months before it expired. ECF  
21 1-3 p.2. It did so even though Mr. Soleimani had attended all his check-in  
22 appointments, had no criminal history, and had timely filed an asylum application.  
23 The agency did not claim that “the purposes of such parole . . . have been served,”  
24 8 U.S.C. § 1182(d)(5)(A), nor that the “humanitarian reasons” for his parole no  
25 longer existed, 8 C.F.R. § 212.5(e)(2)(i). Because consideration of any of these  
26 factors should have led to a different result, the risk of erroneous deprivation of  
27 Mr. Soleimani's parole without these procedures was high, and this factor weighs  
28 heavily in his favor.

1 Finally, any government interest in revoking Mr. Soleimani’s parole is  
2 minimal. Mr. Soleimani has complied with all his check-in requirements, has no  
3 criminal history, has timely applied for asylum, and does not represent a danger or  
4 a flight risk. All the government need do is comply with its *own decision* to grant  
5 Mr. Soleimani parole until at least September 5, 2025. Thus, the *Mathews v.*  
6 *Eldrige* factors weigh heavily in Mr. Soleimani’s favor, and his revocation of  
7 parole violates procedural due process.

8 **B. Mr. Soleimani’s arrest violated the Fourth Amendment’s**  
9 **protection against unreasonable search and seizure.**

10 The Fourth Amendment protects “[t]he right of the people to be secure in  
11 their persons ... against unreasonable searches and seizures.” U.S. Const. Amend.  
12 IV. The Supreme Court has recognized that immigration arrests and detentions are  
13 “seizures” within the meaning of the Fourth Amendment. *INS v Lopez-Mendoza*,  
14 468 U.S. 1032, 1044f(1984) (acknowledging that deportation proceedings are civil,  
15 but the Fourth Amendment still applies to the “Seizure” of the person.)

16 The Fourth Amendment requires that arrests entail a neutral, judicial  
17 determination of probable cause. See *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975).  
18 That neutral, judicial determination can occur either before the arrest in the form of  
19 a warrant, or promptly afterward, in the form of a prompt judicial probable cause  
20 determination. *Id.* Arrest and detention of a person, including of a noncitizen, absent  
21 a neutral judicial determination of probable cause violates the Fourth Amendment  
22 of the Constitution. *Id.* See also *Cnty. Of Riverside v McLaughlan*, 500 U.S. 44, 57  
23 (1991). This determination must occur within 48 hours of detention, which includes  
24 weekends, unless there is a bona fide emergency or other extraordinary  
25 circumstances. *Id.*

26 Congress enacted a strong preference that immigration arrests be based on  
27 warrants. See *Arizona v. United States*, 567 U.S. 387, 407-08 (2012). The  
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1 Immigration and Nationality Act thus provides immigration officers with only  
2 limited authority to conduct warrantless arrests. See 8 C.F.R § 287.8(c)(2)(ii).

3 Mr. Soleimani, at the moment of the arrest by Respondents, was lawfully  
4 present based on the Respondents' prior grant of release and parole. He did not  
5 receive any judicial determination of probable cause for his arrest or continued  
6 detention by Respondents.

7 The Government cannot salvage this seizure by invoking generalized  
8 immigration enforcement interests. The Fourth Amendment's reasonableness  
9 inquiry is fact-specific and demands individualized justification for both the arrest  
10 and the extended detention. See *United States v Brignoni-Ponce*, 422 U.S. 873, 882-  
11 84 (1975). *Gerstein*, 420 U.S. at 114. Mr. Soleimani was granted release from DHS  
12 custody in 2024 and did not pose any danger to any person in the community at  
13 large.

14 Respondents' warrantless arrest of Mr. Soleimani constitutes an  
15 unreasonable and unlawful seizure in violation of the Fourth Amendment.

16  
17 **Conclusion**

18 Because this Court has jurisdiction to consider Mr. Soleimani's claims, and  
19 because these claims succeed on the merits, this Court should GRANT the habeas  
20 Petition and ORDER

- 21 1. Mr. Soleimani's immediate release;
- 22 2. Prohibit his re-detention without further order of this court;
- 23 3. Prohibit his removal from this district;
- 24 4. Prohibit any form of Alternative to Detention including an ankle monitor,  
25 home check in schedule or the continued confiscation of any documents or  
26 property he had when detained;
- 27 5. Award counsel attorney fees;
- 28 6. And any other relief the court deems appropriate.

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Respectfully submitted,

Dated: November 20, 2025

/s/Brian J. McGoldrick  
Brian J. McGoldrick, Esq.  
Counsel for Petitioner

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**CERTIFICATE OF SERVICE**

I, Brian J. McGoldrick, CERTIFY

I am over the age of 18 and not a party to this matter. My business address is 4916 Del Mar Avenue, San Diego, CA 92107. On November 18, 2025, I served a copy of this **Petitioner’s Traverse to Petition** by the method and to the parties listed below:

On November 20, 2025, I accessed the electronic mailing list for CM/ECF users in this case and representatives of all parties are CM/ECF users and are noticed as follows:

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