UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Bernardo Gabriel Borbor Mera,

Petitioner,

v.

Pamela Bondi, Attorney General,

Kristi Noem, Secretary, U.S. Department of Homeland Security,

Department of Homeland Security,

Todd M. Lyons, Acting Director of Immigration and Customs Enforcement,

Immigration and Customs Enforcement,

Executive Office for Immigration Review,

David Easterwood, Acting Director, St. Paul Field Office Immigration and Customs Enforcement,

and,

Ryan Shea, Sheriff of Freeborn County.

Respondents.

0:25-cv-4298

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Respondents are detaining Petitioner, Mr. Bernardo Gabriel Borbor Mera ("Borbor Mera"), in violation of law.

2. Respondents paroled Petitioner into the United States on January 1, 2025, for a one-year period. Petitioner's parole was not terminated in accordance with the law. As such, Petitioner's parole remains valid, and he is unlawfully detained.

3. The continued detention of Borbor Mera serves no legitimate purpose.

4. The risk of erroneous deprivation of liberty here is substantial.

5. To remedy this unlawful detention, Borbor Mera seeks declaratory and injunctive relief in the form of immediate release from detention.

6. Pending the adjudication of his Petition, Borbor Mera seeks an order restraining Respondents from transferring him to a location where he cannot reasonably consult with counsel, such a location to be construed as any location outside of the geographic jurisdiction of the day-to-day operations of ICE's St. Paul Office of Enforcement and Removal Operations in the State of Minnesota.

7. Pending the adjudication of this Petition, Borbor Mera also respectfully requests that Respondents be ordered to provide seventy-two (72) hour notice of any movement of Borbor Mera.

8. Borbor Mera requests the same opportunity to be heard in a meaningful manner, at a meaningful time, and thus requests 72-hour notice prior to any removal or movement of him away from the State of Minnesota.

JURISDICTION AND VENUE

9. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1651 (All Writs Act), and § 2241 (habeas corpus); U.S. Const. art. I, § 9, cl. 2 ("Suspension Clause"); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the Immigration and Nationality Act ("INA").

10. Because Borbor Mera seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court.

11. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Nielsen v. Preap*, 586 U.S. 392 (2019); *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1209–12 (11th Cir. 2016).

12. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), (e)(1)(B), and 2241(d) because Borbor Mera is detained within this District. He is currently detained at the Freeborn County Jail in Albert Lea, Minnesota. Venue is also

proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district.

13. Borbor Mera's petition is properly before this Court. This Court has subject matter jurisdiction over the petition under 28 U.S.C. § 2241.

14. The Supreme Court has repeatedly affirmed the basic principle that district courts have habeas jurisdiction over claims of illegal civil immigration detention. *See Jennings*, 583 U.S. at 293 (finding jurisdiction over challenge to detention during removal proceedings); *Nielsen v. Preap*, 586 U.S. 392, 402 (2019) (same).

15. 8 U.S.C. § 1252(g) does not preclude the Court's jurisdiction over Borbor Mera's challenge to the legality of his detention.

16. This narrow provision is tethered solely to decisions with respect to "three discrete actions" by the Attorney General to "'commence proceedings, adjudicate cases, or execute removal orders.'" *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (citing 8 U.S.C. § 1252(g)). By its terms, § 1252(g) does not apply to detention. *See, e.g.*, *Bello-Reyes v. Gaynor*, 985 F.3d 696, 698, 700 n.4 (9th Cir. 2021) (finding (g) did not bar First Amendment challenge to ICE detention); *Kong v. United States*, 62 F.4th 608, 609 (1st Cir. 2023) (holding that (g) does not preclude jurisdiction over challenges to the legality of the detention).

17. Petitioner's challenge is limited to the legality of his parole termination without any individualized pre-deprivation process and Respondents' subsequent unlawful apprehension and detention of him without the opportunity to seek his release.

18. Petitioner maintains that his parole termination and his detention without the opportunity to seek release or challenge the termination of his parole is a violation of his right to due process, contrary to the will of Congress, contrary to the Immigration & Nationality Act, and disobeys Respondents' clear regulatory mandate.

PARTIES

19. Petitioner Borbor Mera is a citizen of Ecuador. *See* Exh. A.

20. Prior to his detention, he was residing in Georgia.

21. Petitioner was paroled into the United States on January 1, 2025, at the Port of Entry after having made an appointment with the CBP One application.

22. USCBP issued Petitioner a Form I-94 valid through December 31, 2025. *See* Exh. A; Exh. B; Exh. C.

23. Petitioner is detained in the Freeborn County Jail in Albert Lea, Minnesota.

24. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice, which encompasses the Board of Immigration Appeals ("BIA") and

the immigration judges through the Executive Office for Immigration Review ("EOIR"). Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Borbor Mera.

25. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to § 103(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1103(a), routinely transacts business in the District of Minnesota, supervises the St. Paul ICE Field Office, and is legally responsible for pursuing Borbor Mera's detention and removal. As such, Respondent Noem is a legal custodian of Borbor Mera.

26. Respondent Department of Homeland Security ("DHS") is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

27. Respondent Executive Office for Immigration Review ("EOIR") is the adjudicative authority with jurisdiction over the removal and bond cases of Petitioner. Its authority includes individuals detained in Minnesota, Iowa, North Dakota, and South Dakota. This district is known as the Fort Snelling district.

28. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, which oversees the detention of aliens in the United States. Mr. Lyons is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.

29. Respondent Immigration and Customs Enforcement ("ICE") is the subagency within the Department of Homeland Security responsible for implementing and enforcing the Immigration & Nationality Act, including the detention of noncitizens.

30. Respondent David Easterwood is being sued in his official capacity as the Acting Field Office Director for the St. Paul Field Office for ICE within DHS. In that capacity, Field Director Olson has supervisory authority over the ICE agents responsible for detaining Borbor Mera. The address for the St. Paul Field Office is 1 Federal Drive, Fort Snelling, Minnesota 55111.

31. Respondent Sheriff Ryan Shea is being sued in his official capacity as the Sheriff responsible for the Freeborn County Jail. Because Petitioner is detained in the Freeborn County Jail, Respondent has immediate day-to-day control over Petitioner.

EXHAUSTION

32. No statutory requirement of exhaustion applies to Borbor Mera's challenge to the lawfulness of his detention. *See, e.g.*, *Araujo-Cortes v. Shanahan*, 35

F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention."); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *11 (W.D. Wash. Apr. 24, 2025) (citing *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 962 (N.D. Cal. 2019)) ("[T]his Court 'follows the vast majority of other cases which have waived exhaustion based on irreparable injury when an individual has been detained for months without a bond hearing, and where several additional months may pass before the BIA renders a decision on a pending appeal.'"); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025) (citing *Portela-Gonzalez v. Sec'y of the Navy*, 109 F.3d 74, 77 (1st Cir. 1997) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 146 (1992)).

33. Prudential exhaustion is not required when to do so would be futile or "the administrative body . . . has . . . predetermined the issue before it." *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992), superseded by statute on other grounds as stated in *Woodford v. Ngo*, 548 U.S. 81 (2006).

34. To the extent that prudential consideration may require exhaustion in some circumstances, Borbor Mera has exhausted all effective administrative remedies available to him as he has already sought and been denied release. *See* Exh. G; Exh. J. Any further efforts would be futile.

35. Exhausting administrative remedies here are futile because Respondents contend Borbor Mera is subject to mandatory detention.

36. Prudential exhaustion is also not required in cases where "a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *McCarthy*, 503 U.S. at 147. Every day that Borbor Mera is unlawfully detained causes him and his family irreparable harm. *Jarpa v. Mumford*, 211 F. Supp. 3d 706, 711 (D. Md. 2016) ("Here, continued loss of liberty without any individualized bail determination constitutes the kind of irreparable harm which forgives exhaustion."); *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018) (explaining that "a loss of liberty" is "perhaps the best example of irreparable harm"); *Hamama v. Adducci*, 349 F. Supp. 3d 665, 701 (E.D. Mich. 2018) (holding that "detention has inflicted grave" and "irreparable harm" and describing the impact of prolonged detention on individuals and their families).

37. Immigration agencies have no jurisdiction over constitutional challenges of the kind Borbor Mera raises here. *See, e.g.*, *Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations."); *Matter of Akram*, 25 I. & N. Dec. 874, 880 (BIA 2012); *Matter of Valdovinos*,

18 I. & N. Dec. 343, 345 (BIA 1982); *In Re Fuentes-Campos*, 21 I. & N. Dec. 905, 912 (BIA 1997); *Matter of U-M-*, 20 I. & N. Dec. 327 (BIA 1991).

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

38. Borbor Mera is a native and citizen of Ecuador. *See* Exh. A.

39. Borbor Mera arrived in the United States on January 1, 2025. *See* Exh. A.

40. The U.S. Customs and Border Protection ("CBP") inspected Borbor Mera at the Port of Entry after he made an appointment with the CBP One application prior to appearing at the Port of Entry. *See* Exh. A; Exh. B; Exh. C.

41. Respondents served Borbor Mera with a Notice to Appear and paroled him into the United States on the same day. *See* Exh. A; Exh. C.

42. Respondents issued a Form I-94 to Borbor Mera valid through December 31, 2025. *See* Exh. C.

43. On April 11, 2025, Respondents sent a mass form email stating that parole was terminated within 7 days. Petitioner was a recipient of such an email. *See* Exh. D.

44. No reason was provided for the purported termination of his parole. *See id.*

45. Instead, Borbor Mera and the other CBP One parolees were told to depart the United States "immediately," without regard to the fact that the vast majority had pending asylum cases in immigration court and they were still within the authorized period indicated on the parole document. *See id.*

46. Borbor Mera filed a timely asylum application with the immigration court on June 25, 2025. *See* Exh. E.

47. Borbor Mera attended his first immigration court hearing at the Fort Snelling Immigration Court on October 7, 2025.

48. Respondents moved to dismiss Borbor Mera's removal proceedings with the intent of placing him in expedited removal proceedings. The immigration judge granted DHS's motion over his objection. *See* Exh. K.

49. On October 7, 2025, Respondent ICE unlawfully took Borbor Mera into custody without a warrant, notice, or opportunity to be heard on the issue of his detention, and placed him in expedited removal proceedings. *See* Exh. F.

50. On October 9, 2025, Borbor Mera contacted Respondent ICE and requested that Respondent ICE halt Borbor Mera's expedited removal proceedings and release him from custody pursuant to *CHIRLA v. Noem*, No. 25-5289, 2025 WL 2649100 (D.C. Cir. Sept 12, 2025). *See* Exh. G.

51. On October 10, 2025, Respondent ICE filed and served a *new* Notice to Appear. *See* Exh. H; *see also* Exh. I.

52. Borbor Mera has no criminal history, had a pending asylum application that was filed in time, and was attending his first court hearing when he was detained. There is no foundation for perceiving Borbor Mera as a danger to the community or a flight risk.

53. Respondents continue to hold Borbor Mera in ICE custody at the Freeborn County Jail in Albert Lea, Minnesota.

LEGAL FRAMEWORK

CBP One Parole

54. The Immigration and Nationality Act ("INA") provides that the Department of Homeland Security "may . . . in [the Secretary's] discretion parole" a noncitizen into the United States on a "***case-by-case basis*** for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A).

55. Release on parole is an "express exception" to detention and is a "specific provision authorizing release." *Jennings v. Rodriguez*, 583 U.S. 231, 300 (2018).

56. "During the Biden Administration, DHS began directing noncitizens to use the CBP One mobile application as the primary, if not exclusive, mechanism to seek parole and/or asylum at the southwestern border." *Coalition for Human Immigrant Rights v. Noem*, No. 25 Civ 872 (JMC), 2025 WL 2192986, at *8 (D.D.C. Aug. 1, 2025) (citing, *inter alia*, Circumvention of Lawful Pathways, 88 Fed. Reg. 31314, 31317–18 (May 16, 2023)).

Regulation for Terminating Parole

57. If the Department exercises the option of paroling the noncitizen into the United States under 8 U.S.C. § 1182(d)(5), the Department has limited authority to terminate parole granted under § 1182(d)(5).

58. The plain language of 8 U.S.C. § 1182(d)(5) establishes that Respondents may grant or terminate parole under this section *only upon* conducting an individual, case-by-case basis review.

59. 8 U.S.C. § 1182(d)(5)(A) directs that parole may be granted "only on a case-by-case basis" and may be terminated "when the purposes of such parole shall . . . have been served." *See also Doe v. Noem*, 2025 WL 1505688, at *1 (1st Cir. May 5, 2025) (observing that "[c]ommon sense suggests . . . that parole given only on a case-by-case basis is to be terminated only on such a basis" and pointing to individualized statutory language of § 1182(d)(5)).

60. Respondents' regulation, 8 C.F.R. § 212.5(e)(2)(i), controls the termination of parole granted under § 1182(d)(5).

61. Respondents must observe the rules, regulations or procedures which it has established. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

62. The failure of Respondents to follow their own established procedures is a violation of due process. *See Service v. Dulles*, 354 U.S. 363 (1959); *Vitarelli v. Seaton*, 359 U.S. 535 (1950).

63. 8 C.F.R. § 212.5(e)(2)(i) states that termination prior to the expiration of time for which the parole was authorized is only possible "upon accomplishment of the purpose for which parole was authorized or when . . . neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States." 8 C.F.R. § 212.5(e)(2)(i).

64. Respondents' regulation requires written notice to the noncitizen of the termination of parole. 8 C.F.R. § 212.5(e)(2)(i).

65. Here, Respondents made no individualized, case-by-case assessment in terminating Petitioner's parole as required by 8 C.F.R. § 212.5(e)(2)(i).

66. Respondents sent Petitioner a mass boilerplate email stating that Petitioner's parole would be terminated in seven days and providing no further rationale or explanation.

67. This mass boilerplate email did not even contain Petitioner's name anywhere on it.

68. A generic notification of this kind is insufficient to fulfill the written notice requirement.

69. This is a violation of 8 C.F.R. § 212.5(e)(2)(i).

Administrative Procedures Act

70. Under the Administrative Procedures Act ("APA"), Respondents must act in a manner that is not arbitrary or capricious. *See* 5 U.S.C. § 706(2)(A) (directing courts to "hold unlawful and set aside agency action" that is arbitrary and capricious); *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (requiring an agency to articulate a "satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made").

71. "A government agency terminating an alien's status is subject to review under the APA as a final agency action when the termination has lasting consequences that would not be cured even if the agency reinstated status through its internal processes." *Sanchez v. LaRose*, No. 25-CV-2396-JES-MMP, 2025 WL 2770629, at *4 (S.D. Cal. Sept. 26, 2025) (first citing *Jie Fang v. Dir. U.S. Immigr. & Customs Enf't*, 935 F.3d 172,183 (3rd Cir. 2019); and then citing *Doe v. Noem*, 778 F.Supp.3d 1151, 1159 (W.D. Wash. April 17, 2025)).

72. Respondents here have acted in a manner that is arbitrary and capricious by purporting to terminate Petitioner's parole by mass boilerplate email without an individualized assessment.

73. Respondents acted arbitrarily and capriciously, in violation of the APA, when they denied Petitioner the required procedure before terminating his parole.

74. Respondents have acted in a manner that is arbitrary and capricious by placing Petitioner in expedited removal proceedings in violation of the stay issued in *CHIRLA v. Noem*, No. 25-5289, 2025 WL 2649100 (D.C. Cir. Sept 12, 2025).

75. Respondents have acted in a manner that is arbitrary and capricious by issuing a *new* Notice to Appear in attempt to cover up their previous violations in terminating Petitioner's parole and placing him in expedited removal proceedings.

76. Respondents have acted in a manner that is arbitrary and capricious by continuing to detain Petitioner despite their multiple violations in Petitioner's matter and the lack of evidence of danger or flight risk since initially paroling Petitioner.

Due Process

77. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear in immigration court or the person is a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

78. "Freedom 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 v. Davis*, 533 U.S. at 690. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

79. Parolees have a weighty liberty interest under the Due Process Clause. The Supreme Court has noted that, "subject to the conditions of his parole, [a parolee] can be gainfully employed and is free to be with family and friends and to form the other enduring attachments of normal life." *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

80. "[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." *Morrisey v. Brewer*, 408 U.S. at 482. The Court explained that "the liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a grievous loss on the parolee and often others." *Id.* In turn, "[b]y whatever name, the liberty is valuable and must be seen within the protection of the [Fifth] Amendment." *Id.*

81. Petitioner lived up to the parole conditions. He submitted a timely application for asylum before the immigration court and attended his scheduled hearing.

82. "Adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its impairment,

the greater the procedural safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82).

83. On August 29, 2025, *Make the Road New York v. Noem*, 1:25-cv-00190 (D.D.C.), affirmed that parolees have a liberty interest and in the country's interior. The court divined from citing *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 24 (2020) that the Constitution requires the Government to "turn square corners" when acting, which means providing meaningful due process to parolees before terminating parole.

84. In determining whether due process has been violated, the Court should weigh (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

85. As to the first *Mathews v. Eldridge*, 424 U.S. 319 (1976) factor, the private interest affected by the government action, "Petitioner's liberty interest in remaining free from governmental restraint is of the highest constitutional

import." *Zavala*, 310 F. Supp. 2d at 1076; *see also Ashley*, 288 F. Supp. 2d at 670–71 ("[F]reedom from confinement is a liberty interest of the 'highest constitutional import.'") (quoting *St. John v. McElroy*, 917 F. Supp. 243, 250 (S.D.N.Y. 1996)). "[B]eing free from physical detention is 'the most elemental of liberty interests.'" *Günaydın*, 2025 WL 1459154, at *7 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 531 (2004)). Borbor Mera has been detained for weeks. As a parolee, Borbor Mera has a protected liberty interest in remaining out of custody pursuant to his parole. *See, e.g.*, *Pinchi*, 2025 WL 2084921, at *4 ("[Petitioner's] release from ICE custody after her initial apprehension reflected a determination by the government that she was neither a flight risk nor a danger to the community, and [Petitioner] has a strong interest in remaining at liberty unless she no longer meets those criteria.").

86. In assessing the first factor, "courts consider the conditions under which detainees are currently held, including whether a detainee is held in conditions indistinguishable from criminal incarceration." *Günaydın*, 2025 WL 1459154, at *7 (first citing *Hernandez-Lara v. Lyons*, 10 F.4th 19, 28 (1st Cir. 2021) (involving noncitizen detainee held "alongside criminal inmates" at a county jail); and then citing *Velasco Lopez v. Decker*, 978 F.3d 842, 852 (2d Cir. 2020) (observing noncitizen was "not detained" but, rather, was incarcerated

in conditions identical to those imposed on criminal defendants after being convicted of "violent felonies and other serious crimes")). Borbor Mera is being held at the Freeborn County Jail, which houses civil immigration detainees, pre-trial criminal arrestees, and incarcerated prisoners serving criminal sentences. "He is experiencing all the deprivations of incarceration, including loss of contact with friends and family…lack of privacy, and, most fundamentally, the lack of freedom of movement." *Günaydın*, 2025 WL 1459154, at *7.

87. As to the second *Mathews v. Eldridge* factor, this Court must look at the risk that current procedures will cause an erroneous deprivation of a private interest, and the extent to which that risk could be reduced by additional safeguards. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

88. As explained above, it is nearly guaranteed that the current procedures cause an erroneous deprivation of Borbor Mera's liberty interest in remaining free from detention. Borbor Mera's parole was terminated without providing him with a reason for revocation or giving him an opportunity to be heard. *See, e.g.*, *Navarro Sanchez*, 2025 WL 2770629, at *4 (finding revocation of petitioner's parole arbitrary and capricious because respondents did not state any reasons for the revocation); *Noori*, 2025 WL 2800149, at *3 ("Petitioner's parole was revoked without an individualized determination or provided

reasoning, which violated the APA."). Borbor Mera has no criminal history, timely filed his asylum application, and appeared for his court hearing. "Since DHS's initial determination that Petitioner should be paroled because []he posed no danger to the community and was not a flight risk, there is no evidence that these findings have changed." *Salazar v. Casey*, 2025 WL 3063629, at *4 (S.D. Cal. Nov. 3, 2025).

89. Respondents placed in Borbor Mera in expedited removal proceedings in violation of a stay from the U.S. District Court for the District of Columbia halting policies permitting DHS to put individuals who entered on parole at a port of entry into expedited removal proceedings. *CHIRLA v. Noem*, No. 25-5289, 2025 WL 2649100 (D.C. Cir. Sept 12, 2025); Exh. F.

90. "Since mid-May of 2025, the Department of Homeland Security has made a practice of appearing at regular removal proceedings in immigration court, moving to dismiss the proceedings, and then re-arresting the individual in order to place them in expedited removal proceedings." *J.S.H.M v. Wofford*, No. 1:25-CV-01309 JLT SKO, 2025 WL 2938808, at *6 (E.D. Cal. Oct. 16, 2025) (quoting *Salcedo Aceros*, 2025 WL 2637503 at *1-4 (internal footnotes omitted)).

91. When Borbor Mera challenged Respondents' violation of the federal court's order and requested that they halt his expedited removal proceedings and

release him from custody, Respondents attempted to mask their previous violations by issuing a *new* Notice to Appear.

92. Instead of releasing Borbor Mera in light of their violations, Respondents now continue to violate the Constitution, statutes, and their own regulations by continuing to detain Borbor Mera.

93. When Respondents paroled Borbor Mera into the United States, they considered Borbor Mera's facts and circumstances and determined that he was not a flight risk or danger to the community.

94. There have been no changes to the facts or any materially changed circumstances that justify his detention now.

95. Respondents have made no finding that Borbor Mera, an individual with no criminal history anywhere in the world, is a danger to the community.

96. Respondents have also made no finding that Borbor Mera is a flight risk because, in fact, he was arrested while appearing at his immigration proceedings.

97. Respondents' re-detention of Borbor Mera is arbitrary.

98. There is a high risk that Respondents' current procedures cause an erroneous deprivation of a private interest.

99. This erroneous deprivation can be avoided by additional safeguards such as proper notice and an opportunity to be heard.

100. The second *Mathews v. Eldridge* factor is met.

101. As to the third *Mathews v. Eldridge* factor, the government's interest in maintaining the current procedures is minimal here. "[T]he Government's interest in detaining Petitioner without notice, reasoning, and a hearing is 'low.'" *Salazar v. Casey*, 2025 WL 3063629, at *5 (S.D. Cal. Nov. 3, 2025) (first citing *Pinchi*, 2025 WL 2084921, at *5; then citing *Matute*, 2025 WL 2817795, at *6; and then citing *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. Nov. 22, 2019)).

102. To prevail on a claim asserting the deprivation of due process, a petitioner must also show "actual prejudice." *Puc-Ruiz v. Holder*, 629 F.3d 771, 782 (8th Cir. 2010) (citation omitted). Actual prejudice occurs if "an alternate result may well have resulted without the violation." *Id.* (citation omitted) (internal quotations omitted); *see also Lazaro v. Mukasey*, 527 F.3d 977, 981 (9th Cir. 2008) (explaining that prejudice is not necessary where agency action was *ultra vires*).

103. Borbor Mera was paroled into the United States through December 31, 2025, had a pending application for asylum, and was attending his court hearings. If not for Respondents' unlawful actions, Borbor Mera would be home with his family and friends. The fact that he is still detained despite his valid parole is clear prejudice.

104. Respondents' mass termination of parole and detention of individuals like Borbor Mera violates both substantive and procedural due process and the Administrative Procedures Act.

105. Multiple courts have explicitly agreed. *See, e.g.*, *Salazar v. Casey*, 2025 WL 3063629 (S.D. Cal. Nov. 3, 2025); *Francois v. Wamsely*, 2025 WL 3063251 (W.D. Wash. Nov. 3, 2025); *Alvarenga Matute v. Wofford*, 2025 WL 2817795 (E.D. Cal. Oct. 3, 2025); *Noori v. LaRose*, 2025 WL 2800149 (S.D. Cal. Oct. 1, 2025); *Navarro Sanchez v. LaRose*, 2025 WL 2770629 (S.D. Cal. Sept. 26, 2025); *Munoz Materano v. Arteta*, 2025 WL 2630826 (S.D.N.Y. Sept. 12, 2025); *Mendez Los Santos v. LaRose et al.*, No. 25-cv-2216 TWR (MSB), ECF No. 14 (S.D. Cal. Sept. 4, 2025); *Pinchi v. Noem*, 2025 WL 2084921 (N.D. Cal. July 25, 2025); *Y-Z-L-H v. Bostock*, 2025 WL 1898025 (D. Or. July 9, 2025). *See also Mohammed H. v. Trump*, No. 25-1576 (JWB/DTS), 2025 WL 1692739, at *5 (D. Minn. June 17, 2025) (granting a writ of habeas corpus on due process grounds due to a lack of individualized legal justification for changing the petitioner's status).

106. Respondents detained Borbor Mera by terminating his parole in violation of his constitutional rights and the APA. His detention is unlawful.

REMEDY

107. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to Respondents "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an Order to Show Cause 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."

108. Respondents' detention of Borbor Mera violates the Due Process Clause of the United States Constitution. Borbor Mera's ongoing detention violates the Fifth Amendment's guarantee that "[n]o person shall be . . . deprived of life, liberty, or property without due process of law." U.S. Const. amend. V.

109. Due Process requires that detention "bear [] a reasonable relation to the purpose for which the individual [was] committed." *Zadvydas*, 533 U.S. at 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)).

110. Respondents' boilerplate mass termination of CBP One parole and their decision to detain Borbor Mera violates Borbor Mera's rights to substantive due process and procedural due process under the Fifth Amendment of the United States Constitution.

111. Respondents' categorical revocation of Borbor Mera's parole without any description of the reasons therefore and detention of Borbor Mera without consideration of his individualized facts and circumstances is arbitrary and

capricious, out of accordance with the law, violative of both 8 U.S.C. § 1225(b)(2) and 8 U.S.C. § 1226(a)(2), contrary to the Fifth Amendment of the United States Constitution, and constitutes a systematic failure to apply the custody procedural framework set forth at 8 U.S.C. § 1226(a)(2).

112. Borbor Mera seeks immediate release.

113. Although neither the Constitution nor the federal habeas statutes delineate the necessary content of habeas relief, *I.N.S. v. St. Cyr*, 533 U.S. 289, 337 (2001) (Scalia, J., dissenting) ("A straightforward reading of [the Suspension Clause] discloses that it does not guarantee any content to . . . the writ of habeas corpus"), implicit in habeas jurisdiction is the power to order release. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) ("[T]he habeas court must have the power to order the conditional release of an individual unlawfully detained.").

114. The Supreme Court has noted that the typical remedy for unlawful detention is release from detention. *See, e.g.*, *Munaf v. Geren*, 553 U.S. 674 (2008) ("The typical remedy for [unlawful executive detention] is, of course, release."); *see also Wajda v. United States*, 64 F.3d 385, 389 (8th Cir. 1995) (stating the function of habeas relief under 28 U.S.C. § 2241 "is to obtain release from the duration or fact of present custody").

115. That courts with habeas jurisdiction have the power to order outright release is justified by the fact that, "habeas corpus is, at its core, an equitable remedy," *Schlup v. Delo*, 513 U.S. 298, 319 (1995), and that as an equitable remedy, federal courts "[have] broad discretion in conditioning a judgment granting habeas relief [and are] authorized . . . to dispose of habeas corpus matters 'as law and justice require.'" *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987) (citing 28 U.S.C. § 2243). An order of release falls under the Court's broad discretion to fashion relief. *See, e.g.*, *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 636 (D. Mass. 2018) ("Habeas corpus is an equitable remedy. The court has the discretion to fashion relief that is fair in the circumstances, including to order an alien's release.").

116. "As a remedy, courts across the country have ordered the release of individuals stemming from ICE's illegal detention." *Mejia v. Woosley*, No. 4:25-CV-82-RGJ, 2025 WL 2933852, at *5 (W.D. Ky. Oct. 15, 2025) (first citing *Patel*, 2025 WL 2823607, at *6; then citing *Beltran Barrera*, 2025 WL 2690565, at *7; and then citing *Roble v. Bondi*, 2025 WL 2443453, at *5 (D. Minn. Aug. 25, 2025) (ordering petitioner's "release from custody as a remedy for ICE's illegal re-detention")).

117. Immediate release is an appropriate remedy in this case.

CAUSE OF ACTION

COUNT I

Violation of the Fifth Amendment – Substantive Due Process

118. Borbor Mera re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

119. Petitioner's continued detention violates his right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

120. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest.

121. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals.

122. Due process asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Borbor Mera of his liberty. Borbor Mera has spent weeks in civil immigration detention.

123. 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." *Zadvydas*, 533 U.S. at 693.

124. The government's detention of Borbor Mera is unjustified. Respondents have not demonstrated that Borbor Mera needs to be detained. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). There is no credible argument that Borbor Mera cannot be safely released back to his community.

125. Borbor Mera's detention is also punitive and bears no "reasonable relation" to any legitimate purpose for detaining him. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972) ("nature and duration" of civil confinement must "bear some reasonable relation to the purpose for which the individuals is committed"); *Zadvydas*, 533 U.S. at 690 (finding immigration detention is civil and thus ostensibly "nonpunitive in purpose and effect"). His "detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons." *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

126. Because of Borbor Mera's profound legal interest in his liberty as a noncitizen with valid parole, his detention violates his due process rights. *See generally*

Mathews v. Eldridge, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest).

127. Petitioner's ongoing detention violates the Due Process Clause of the Fifth Amendment.

COUNT II

Violation of the Fifth Amendment – Procedural Due Process: Parole Termination

128. Borbor Mera re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

129. 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." *Zadvydas*, 533 U.S. at 693.

130. Borbor Mera has a profound legal interest in his liberty as a noncitizen with valid parole. *See generally Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest).

131. Respondents terminated Petitioner's parole in a mass boilerplate email with no prior notice, no individualized assessment, no notice of the facts that formed the basis for the parole termination, and no opportunity to respond.

132. Respondents violated Petitioner's Due Process rights by violating their statute and regulation.

133. Respondents' summary revocation of Petitioner's parole without justification, consideration of his individualized circumstances, prior notice, or an opportunity to be heard violates the Due Process Clause.

COUNT III

Violation of the Fifth Amendment – Procedural Due Process: Detention

134. Borbor Mera re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

135. 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." *Zadvydas*, 533 U.S. at 693.

136. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that detention be reasonably related to its purpose and accompanied by adequate procedures to ensure that detention is serving its legitimate goals.

137. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained.

138. Because Respondents detained Petitioner by revoking his parole in violation of the Due Process Clause, *see* Count II, his detention is unlawful.

139. DHS also did not advise Borbor Mera that it sought to detain him and claim that he is subject to mandatory detention. Moreover, Borbor Mera was

detained despite there being no evidence that he is a danger to the community or a flight risk. Indeed, Borbor Mera was detained without any opportunity to even be heard on these issues.

140. Because of Borbor Mera's profound legal interest in his liberty as a noncitizen with valid parole, his detention violates his due process rights. *See generally Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest).

141. Respondents violated Petitioner's Fifth Amendment Due Process rights by terminating his parole, moving to dismiss his removal proceedings, arresting him, placing him in expedited removal proceedings, and continuing to detain him.

142. Respondents violated Petitioner's Due Process rights by violating their statute and regulation.

143. Petitioner's sudden and continuing detention, with no process at all, much less prior notice, no showing of changed circumstances, or an opportunity to respond, violates his due process rights.

COUNT IV

Violation of the Immigration & Nationality Act

144. Borbor Mera re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

145. Respondents' action against Petitioner aggrieved Petitioner under the APA.

146. Under 5 § U.S.C. § 706(a), final agency action can be set aside if it is "not in accordance with law . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; . . . [or] without observance of procedure required by law." 5 U.S.C. § 706(2)(A), (C)-(D).

147. Respondents' erroneous interpretation of the Immigration & Nationality Act is contrary to the plain language of the statute and its implanting regulations.

148. Respondents failed to enforce and administer the Immigration & Nationality Act, 8 U.S.C. § 1182, and 8 C.F.R. § 212.5(e)(2)(i) in accordance with the intent of Congress and the plain language of the regulation.

149. Respondents acted in excess of their statutory authority or limitation.

150. Respondents acted in excess of their regulatory authority or limitation.

151. Respondents' action constitutes a final agency decision.

152. Petitioner has no administrative remedy available to him.

COUNT V

Violation of the APA – Failure to Comply with Regulatory Mandate & *Accardi* Doctrine

153. Borbor Mera re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

154. Respondents have not complied with 8 C.F.R. § 212.5(e)(2)(i).

155. Petitioner's parole can only be terminated, beyond the authorized time expiring, "upon accomplishment of the purpose for which parole was

authorized or ... [if] neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States." 8 C.F.R. § 212.5(e)(2)(i).

156. Petitioner's parole can only be "terminated upon written notice." Id.

157. Here, Respondents sent Petitioner a mass boilerplate email stating that Petitioner's parole would be terminated in seven days.

158. Respondents made no individualized, case-by-case assessment in terminating Petitioner's parole.

159. This mass boilerplate email did not even contain Petitioner's name anywhere on it.

160. A generic notification of this kind is insufficient to fulfill the written notice requirement.

161. This is a violation of 8 C.F.R. § 212.5(e)(2)(i).

162. Respondents' action also violates the mandate of *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).

163. Respondents must observe the rules, regulations or procedures which it has established. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

164. Respondents acted in excess of their regulatory authority or limitation.

165. Respondents' action constitutes a final agency decision.

166. Petitioner has no administrative remedy available to him.

167. Respondents' action violates the APA.

COUNT VI

Violation of the APA – Arbitrary and Capricious: Parole Termination

168. Borbor Mera re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

169. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

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

171. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

172. In *Y-Z-H-L v Bostock*, 2025 WL 1898025, at *10-12 (D. Or. July 9, 2025), the court explained the parole process in immigration cases and noted that before

parole may be revoked, the parolee must be given written notice of the impending revocation, which must include a cogent description of the reasons therefore.

173. Under the APA, immigration parolees are entitled to determinations related to their parole revocations that are not arbitrary, capricious, or an abuse of discretion. *Id.* at *10.

174. 5 U.S.C. § 706(2)(A) provides that a final agency action can be set aside if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," including if it fails to make a rational connection between the facts found and the decision made. 5 U.S.C. § 706(2)(A).

175. Respondents failed to articulate the facts that formed a basis for their decision to terminate Petitioner's parole status in violation of the APA, let alone any rational connection between the facts found and the decision made.

176. By categorically revoking Petitioner's parole without any description of the reasons and detaining the Petitioner without consideration of his individualized facts and circumstances, Respondents have violated the APA.

177. Respondents' action is therefore arbitrary and capricious.

178. Respondents' action violates the APA.

COUNT VII

Violation of the APA – Arbitrary and Capricious: Detention

179. Borbor Mera re-alleges and incorporates by reference each allegation contained in the preceding paragraphs as if set forth fully herein.

180. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

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

182. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

183. When Respondents paroled Petitioner into the United States, they considered Petitioner's facts and circumstances and determined that he was not a flight risk or danger to the community.

184. There have been no changes to the facts or any materially changed circumstances that justify his detention now.

185. Respondents have made no finding that Petitioner, an individual with no criminal history anywhere in the world, is a danger to the community.

186. Respondents have also made no finding that Petitioner is a flight risk because, in fact, he was arrested while appearing at his immigration court hearing.

187. By detaining Petitioner categorically, Respondents have abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial determination to parole him into the United States that support detention.

188. Respondents acted arbitrarily and capriciously in detaining Petitioner.

189. Respondents abused their discretion in detaining Petitioner.

190. Respondents' action is therefore arbitrary and capricious.

191. Respondents' action violates the APA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Bernardo Gabriel Borbor Mera, asks this Court for the following relief:

1. Assume jurisdiction over this matter.

2. Issue an Order to Show Cause under 28 U.S.C. § 2243 commanding Respondents to demonstrate, within three days or within whatever time period the Court deems reasonable, why the Court should not grant this writ.

3. Issue an order restraining Respondents from attempting to move Borbor Mera from the State of Minnesota during the pendency of this Petition.

4. Issue an order requiring Respondents to provide 72-hour notice of any intended movement of Borbor Mera.

5. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C. § 153.

6. Declare that Petitioner's detention without an individualized determination violates Petitioner's Fifth Amendment Due Process rights

7. Declare that Petitioner's parole was not lawfully terminated, his parole remains active, and he is unlawfully detained.

8. Declare that Respondents' action is arbitrary and capricious.

9. Order Petitioner's immediate release from custody.

10. Set aside Respondents' policy of detaining parolees without individualized determination before the Immigration Court at Fort Snelling, Minnesota.

11. Order that prior to any re-detention of Petitioner, Petitioner is entitled to notice of the reasons for revocation of his parole and a hearing before a neutral decision maker to determine whether detention is warranted, where the Government shall bear the burden of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight.

12. Grant Borbor Mera reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A).

13. Grant all further relief this Court deems just and proper.

DATED: November 11, 2025

Respectfully submitted,

/s/ David Wilson
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Attorneys for Petitioner

Verification by
Petitioner Pursuant to 28 U.S.C. § 2242

I am submitting this verification because I am the Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding my detention status, are true and correct to the best of my knowledge.

/s/ Bernardo Gabriel Borbor Mera
Bernardo Gabriel Borbor Mera Date: November 11, 2025