

I. INTRODUCTION

1. Petitioner, Sem Moreno Sanchez, has been in detention since May 28, 2025, and remains in custody currently at the Joe Corley processing Center located at 500 Hilbig Road Conroe, TX 77301.

2. Mr. Moreno entered with CBP One and was granted a parole valid for two years following his entry, and was placed in INA § 240, 8 U.S.C. §1229a removal proceedings.

3. The Department of Homeland Security (“DHS”) moved to dismiss his INA § 240, 8 U.S.C. §1229a removal proceedings with the goal of placing him in expedited removal proceedings pursuant to INA § 235, 8 U.S.C. § 1225. The Immigration judge *denied* the Motion to Dismiss.

4. Mr. Moreno was arrested and detained on May 28, 2025, when he exited the courtroom.

5. Mr. Moreno remains in INA § 240, 8 U.S.C. §1229a removal proceedings.

6. Absent an order from this Court, Petitioner will continue to suffer irreparable harm caused by his unlawful detention and violation of his constitutional rights.

7. To remedy this, Mr. Moreno asks this Court to, under 28 U.S.C. § 2241, issue a writ of habeas corpus directing Respondents to release Mr. Moreno because his continued confinement violates the Administrative Procedure Act (“APA”), procedural due process, and substantive due process.

8. Mr. Moreno requests this Court to order Respondents to show cause demonstrating why he should not be released within three days. 28 U.S.C. § 2243.

II. JURISDICTION

9. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101.

10. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

11. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201, and the All Writs Act, 28 U.S.C. § 1651.

III. VENUE

12. Venue is proper in this district pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1391 because Mr. Moreno is detained at the Joe Corley Processing Center, within the Southern District of Texas, and Petitioner’s immediate physical custodian is in this District.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents “forthwith,” unless the 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.” *Id.* The respondent is also required to “make a return certifying the true cause of the detention.” *Id.*

14. 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).

V. PARTIES

15. Petitioner, Sem Moreno Sanchez, is currently detained at the Joe Corley Processing Center. He has been in custody since May 28, 2025. Mr. Moreno is in the custody and under the direct control of Respondents and their agents.

16. Respondent, Joe M. Smith, is named in his official capacity as the Warden of Joe Corely Processing Center. In this capacity, he is responsible for the immediate execution of detention over Petitioner and is the immediate custodian of Petitioner. Respondent Smith’s address is 500 Hilbig Road Conroe, TX 77301.

17. Respondent, Bret Bradford, is named in his official capacity as Houston Field Office Director of the ICE Enforcement & Removal Operations (“ERO”). In this capacity, he is responsible for the administration of immigration laws and the execution of immigration confinement and the institution of removal proceedings in Conroe, TX, which is the jurisdiction where Petitioner is confined. As such, he is a custodian of Petitioner. Respondent Bradford’s address is 126 Northpoint Drive Houston, TX 77060.

18. Respondent, Todd Lyons, is named in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States and is legally responsible for pursuing any effort to remove Mr. Moreno and confine him pending removal. As such, he is a custodian of Mr. Moreno. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.

19. Respondent, Kristi Noem, is named in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a); is legally responsible for pursuing any effort to confine and remove the Petitioner; and as such is a custodian of Mr. Moreno.

Respondent Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

20. Respondent, Pamela Bondi, is named in her official capacity as Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(g); and as such is a custodian of Mr. Moreno. Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

VI. STATEMENT OF FACTS

21. Petitioner is a native and citizen of Venezuela. *See* Exh. B.

22. Upon information and belief, Petitioner has no criminal history.

23. On or about March 5, 2024, Mr. Moreno entered the United States with CBP One and was issued an I-94, Arrival/Departure Record, granting him parole until March 4, 2026. *See* Exh. C.

24. After being detained by immigration, Mr. Moreno was released and was given a Notice to Appear ("NTA") placing him in INA § 240, 8 U.S.C. §1229a removal proceedings. *See* Exh. D.

25. On February 28, 2025, Mr. Moreno submitted his I-589, Application for Asylum, Withholding of Removal, and Convention Against Torture ("CAT") with the Executive Office for Immigration Review ("EOIR"). *See* Exh. E.

26. Mr. Moreno attended his scheduled hearings with the EOIR.

27. On January 23, 2025, Acting Secretary of the Department of Homeland Security, Benjamine C. Huffman, issued a memorandum for ICE, Customs and Border Protection (“CBP”), and USCIS instructing officers to “take all steps necessary to review” cases of anyone “amendable to expedited removal but to whom expedited removal has not been applied”. Benjamine C. Huffman, Acting DHS Secretary, *Guidance Regarding How to Exercise Enforcement Discretion*, (Jan. 23, 2025) (“Huffman Memo”). These necessary steps include “terminat[ing] any ongoing removal proceedings”. *Id.*

28. On January 24, 2025, DHS published a Notice that expanded the application of expedited removal. Office of the Secretary, Dep’t of Homeland Security, *Designating Aliens for Expedited Removal*, 15 Fed. Reg. 8139 (“January 2025 Designation”). The designation was “effective on” January 21, 2025.

29. On or about April 11, 2025, Respondents purported to revoke Petitioner’s parole through a mass, generic notification system.

30. On May 28, 2025, Mr. Moreno attended his scheduled hearing before the Immigration Judge at the New York – Varick Immigration Court located at 201 Varick Street, 5th Floor Room 507, New York, NY 10014. However, instead of proceeding with Mr. Moreno’s EOIR proceedings to adjudicate his I-589, the Department of Homeland Security (“DHS”) moved to dismiss the proceedings. Immigration Judge Wendy Wedderburn *denied* DHS’s motion to dismiss. *See* Exh F.

31. Despite the motion to dismiss being denied, Petitioner was arrested by ICE agents after exiting the courtroom. The ICE agents did not provide Petitioner with any process or access

to counsel. The ICE agents did not offer him any opportunity to be heard prior to arresting and detaining him.

32. Mr. Moreno then request a Custody Redetermination Hearing, where Mr. Moreno was denied bond on June 10, 2025, claiming Mr. Moreno is mandatory detention.

33. Upon information and belief, Petitioner has not yet been placed in expedited removal and remains in INA § 240, 8 U.S.C. §1229a removal proceedings.

VII. LEGAL FRAMEWORK

34. When a noncitizen is deemed inadmissible under 8 U.S.C. § 1182(a)(7), the immigration officer must order the noncitizen's removal, unless the noncitizen indicates an intention to apply for asylum or fear of persecution. *See* 8 U.S.C. § 1225(b)(1)(A)(i). The noncitizen may be placed in "expedited removal" proceedings, which contain a condensed asylum process and require that the noncitizen remain detained throughout the process. *See* 8 U.S.C. § 1225(b)(1).

35. The noncitizen also may be placed in 8 U.S.C. § 1229a removal proceedings, which have more robust due process protections. Section 1182, however, has a subsection, which allows noncitizens, even those in mandatory detention, to be "paroled" into the United States. 8 U.S.C. § 1182(d)(5)(A). A noncitizen detained at the border may be formally paroled into the United States only "for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A).

36. Noncitizens are eligible for expedited removal if they are: (1) "arriving in the United States," that is, appearing at a port of entry; or (2) have "not been admitted or paroled into the United States" and they cannot affirmatively show that they have been "physically present in the United States continuously for the 2-year period immediately prior to the date of the

determination of inadmissibility.” *Espinoza v. Kaiser*, No. 25-cv-01101, 2025 WL 2675785, at *5 (E.D. Cal. Sept. 18, 2025) (citing *Coalition For Humane Immigrant Rights, v. Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986, at *5 (D.D.C. Aug. 1, 2025)); *see also Pedro Yimi Cardin Alvarez v. David Rivas*, No. CV 25-02943-PHX GMS, 2025 WL 2898389, at * 12 (D. Ariz. Oct. 7, 2025); *see also E.V. v. Kevin Raycraft*, No. 4:25-cv-2069, 2025 WL 2938594, at * 2 (N.D. Ohio Oct. 16, 2025)

37. “[U]nder 8 U.S.C. § 1225(b)(1)(A)(iii)(II), a person who has been paroled without first having been placed in expedited removal cannot be designated for expedited removal.” *Espinoza v. Kaiser*, 2025 WL 2675785, at *5 (E.D. Cal. Sept. 18, 2025) (emphasis in original; citing *Coalition*, 2025 WL 2192986, at *3 (D.D.C. Aug. 1, 2025)); *see also Munoz Materano v. Arteta*, No. 25-cv-6137, 2025 WL 2630826, at *11 (S.D.N.Y. Sept. 12, 2025) (adopting the holding in *Coalition*); *see also Pedro Yimi Cardin Alvarez*, WL 2898389, at * 13 (D. Ariz. Oct. 7, 2025).

VIII. CLAIMS FOR RELIEF

COUNT ONE

Violation of the Administrative Procedure Act

38. The allegations in the above paragraphs are realleged and incorporated herein.

39. Under the APA, a court shall “hold unlawful and set aside agency action” that is arbitrary, capricious, abuse of discretion or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A).

40. 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 of 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. Assn. of United States, Inc. v. State Farm Mut. Automobile Ins. Co.*, 463 U.S. 29, 43 (1983)).

41. To withstand an APA challenge, an agency must provide a satisfactory explanation for its decision, demonstrating a rational link between the facts it identified and the action it took. *See Dep't of Commerce v. New York*, 588 U.S. 752, 773 (2019).

42. By categorically revoking Petitioner's parole, without considering his individualized facts and circumstances, Respondents have violated the APA.

43. Respondents have already evaluated Petitioner's individual facts and circumstances and concluded that he does not pose a flight risk or a danger to the community. There have been no changes in those circumstances that would justify revoking his release on his own recognizance. The prior decision by Respondents to grant him release under the same conditions demonstrates that, based on an individualized assessment, they do not view him as a threat or likely to flee. Additionally, Petitioner complied with the requirement to appear at his immigration court hearing, which cannot reasonably be used to claim he is a flight risk.

COUNT TWO
Violation of the Procedural Due Process Clause of the Fifth Amendment to the U.S. Constitution.

44. The allegations in the above paragraphs are realleged and incorporated herein.

45. In expedited removal, individuals receive no meaningful opportunity to challenge key issues such as admissibility, parole, or continuous physical presence. *See* 8 U.S.C. § 1225(b)(1)(A); 8 C.F.R. § 235.3. The burden rests entirely on the noncitizen to prove these facts to the satisfaction of an immigration officer, without guaranteed time to prepare, access to counsel, or ability to gather or present evidence. *Id.* Unlike in § 240 removal proceedings, there

are no procedural safeguards such as judicial review, evidentiary hearings, or neutral adjudication. Instead, a low-level DHS officer acts as both prosecutor and decision-maker. *Id.*

46. When the Government interferes with a liberty interest, “the procedures attendant upon that deprivation [must be] constitutionally sufficient.” *Ky. Dep’t of Corr. v. Thompson*, 490 U.S. 454, 460 (1989). The constitutional sufficiency of procedures is determined by weighing three factors: (1) the private interest that will be affected by the official action, (2) the risk of erroneous deprivation of that interest through the available procedures, and (3) the Government’s interest. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

47. Freedom from imprisonment, including government detention, is central to the liberty protected by the Fifth Amendment. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Mr. Moreno’s has a substantial personal interest given that his interest is his freedom from arbitrary government detention, the liberty that “lies at the heart of the [Due Process] Clause protects”. *See id.*

48. The risk of an erroneous deprivation of Mr. Moreno’s liberty under the current procedures is extraordinarily high. At the time DHS sought dismissal of his §240 removal proceedings, Mr. Moreno was actively pursuing claims for asylum, withholding of removal, and protection under the CAT, which are claims that implicate serious statutory and constitutional protections. By pursuing the dismissal of § 240 proceedings, Respondents are attempting to effectively stripped Mr. Moreno of both procedural safeguards and a forum to adjudicate his claims. The absence of any meaningful review mechanism, combined with the limited avenues for judicial oversight under the expedited removal framework, significantly increases the likelihood that Mr. Moreno’s liberty has been erroneously and unlawfully restricted. Outside of

this Petition for Writ of Habeas Corpus, Mr. Moreno has no access to a court with jurisdiction to review the legality of his detention.

49. Furthermore, Petitioner cannot legally be subjected to expedited removal proceedings while his full INA § 240 proceedings are still pending. *See Noori v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *14 (S.D. Cal. Oct. 1, 2025); *Javier Tomas Munoz v. Paul Arteta, et. al.*, No. 25 CIV. 6137 (ER), 2025 WL 2630826, at *11 (S.D.N.Y. Sept. 12, 2025).

50. The Government's interest in Mr. Moreno's continued detention is minimal under the current circumstances. While the Government generally has a legitimate interest in enforcing immigration laws and effectuating removal for individuals with final orders, that interest does not extend to detaining individuals indefinitely without any active proceedings or legal basis. Mr. Moreno was previously released after his entry into the United States and complied fully with all reporting and court appearance obligations during the pendency of his §240 removal proceedings. He also affirmatively sought immigration relief in the form of asylum, withholding of removal, and CAT protection.

51. Thus, Petitioner's detention violates procedural due process.

COUNT THREE
Violation of the Substantive Due Process Clause of the Fifth Amendment to the U.S. Constitution

52. The allegations in the above paragraphs are realleged and incorporated herein.

53. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

54. 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 (2001).

55. Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. See *id.* at 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). With respect to immigration confinement, the Supreme Court has recognized two special justifications: (1) preventing flight and (2) preventing danger to the community. See *id.* at 690.

56. Preventing flight, which is meant to ensure compliance with court appearances, is not a legitimate concern in Mr. Moreno’s case. He has never demonstrated any indication of being a flight risk, as shown by his consistent compliance with all reporting requirements and court appearances throughout the duration of his § 240 removal proceedings. In fact, Mr. Moreno was detained by ICE while he was attending his scheduled immigration court hearing, further demonstrating his full compliance and intent to follow the legal process. Mr. Moreno was actively pursuing legal avenues to regularize his immigration status when Respondents abruptly disrupted the lawful process in which he was fully engaged. Under these circumstances, continued detention cannot be justified on the basis of flight prevention.

57. Petitioner is no danger to society, as evidenced by the fact that he has had no contacts with law enforcement.

58. Mr. Moreno’s detention appears to be purely punitive as it bears no “reasonable relation” to any legitimate government purpose. See *Zadvydas*, 533 U.S. at 690. (finding immigration detention is civil and thus assumed to be “nonpunitive in purpose and effect”); see also *Padilla v. U.S. Immigr. & Customs Enft.*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023) (“The Supreme Court has consistently held that non-punitive detention violates the

Constitution unless it is strictly limited, and, typically, accompanied by a prompt individualized hearing before a neutral decisionmaker to ensure that the imprisonment serves the government's legitimate goals.”).

59. Thus, Petitioner’s detention violates substantive due process.

IX. PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243, directing Respondents to show cause why the petition for a writ of habeas corpus filed by Mr. Moreno pursuant to 28 U.S.C. § 2241 should not be granted within three days;
- (3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (4) In the alternative, grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody under reasonable conditions of supervision or provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- (5) Declare that Petitioner’s detention violates the APA;
- (6) Declare that Petitioner’s detention violates the Procedural Due Process Clause of the Fifth Amendment;
- (7) Declare that Petitioner’s detention violates the Substantial Due Process Clause of the Fifth Amendment;
- (8) Issue an Order prohibiting the Respondents from transferring Petitioner from the Southern District of Texas without the court’s approval; and
- (9) Grant any further relief this Court deems just and proper.

Respectfully submitted,

s/ Kenia Garcia

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