

1 Kimberly S. Hutchison, SBN 288682
2 Liam S. Barrett, SBN 349652
3 SINGLETON SCHREIBER, LLP
4 591 Camino De La Reina, Ste 1025
5 San Diego, CA 92108
6 khutchison@singletonschreiber.com
7 lbarrett@singletonschreiber.com
8 Telephone: (619) 771-3473
9 Fax: (619) 255-1515

10 Attorneys for Petitioner

11
12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 R.M.,¹ *Detainee, Otay Mesa*
15 *Detention Facility,*

16 Petitioner,

17 v.

18 CHRISTOPHER J. LAROSE, *as*
19 *Senior Warden, Otay Mesa*
20 *Detention Center; U.S.*
21 *DEPARTMENT OF*
22 *HOMELAND SECURITY; U.S.*
23 *IMMIGRATION AND CUSTOMS*
24 *ENFORCEMENT; KRISTI NOEM,*
as Secretary of the United States
Department of Homeland Security;
TODD LYONS, as Acting Director
of U.S. Immigration and Customs
Enforcement; DOE 1, ICE
Enforcement and Removal Office
Field Operations Director for San
Diego; and DOES 2–10.

25 Respondents.

Case No: '25CV3186 W DEB

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

26 _____
27 ¹ Petitioner concurrently files a motion to proceed under pseudonym

1 **I. Introduction**

2 1. Petitioner R.M., currently detained at the Otay Mesa Detention Facility
3 in San Diego, California, files this Petition for writ of *habeas corpus* under 28 U.S.C.
4 § 2241, following his courthouse arrest by Respondent Immigration and Customs
5 Enforcement (“ICE”) in the Edward J. Schwartz Federal Building in San Diego,
6 California, after a mandatory asylum hearing.

7 2. Pursuant to 28 U.S.C § 2243, R.M. requests the Court: (a) issue the writ
8 of *habeas corpus*; or (b) order Respondents to show cause why the relief Petitioner
9 seeks should not be granted, within three days of filing this Petition. 28 U.S.C.
10 § 2243. Should the Court order the latter, Petitioner requests it: (c) set a hearing
11 within five days of Respondents’ return on the order to show cause without requiring
12 Petitioner to serve process, per traditional *habeas* practice. *Id*; see *Wright v. Dickson*,
13 336 F.2d 878, 881 (9th Cir. 1964) (“Unless a petition for habeas corpus reveals on
14 its face that as a matter of law the petitioner is not entitled to the writ, the writ or an
15 order to show cause must issue. The usual practice is for the petitioned court to issue
16 an order to show cause.”) (internal citation omitted); Fed. R. Civ. P. 81 (a)(4)
17 (“These rules apply to proceedings for *habeas corpus* . . . to the extent that the
18 practice in those proceedings: (A) is not specified in a federal statute, the Rules
19 Governing Section 2254 Cases, or the Rules Governing Section 2255 Cases; and
20 (B) has previously conformed to the practice in civil actions.”); see also *Ross v.*
21 *Williams*, 950 F.3d 1160 (9th Cir. 2020) (“[T]he Federal Rules of Civil Procedure
22 apply to habeas proceedings to the extent they are consistent with the *Habeas* Rules,
23 federal statutory provisions, and *habeas* practice.”).

24 3. R.M. is imprisoned by the federal government under color of the
25 immigration laws. His continued imprisonment is unlawful because: (1) R.M. was
26 detained in a manner arbitrary, capricious, without required process, and in excess
27

1 of statutory authority or limitations—thus violating the Administrative Procedure
2 Act (“APA”); and (2) his detention violates his rights under the Fifth Amendment to
3 the U.S. Constitution.

4 4. Under these circumstances, the Constitution requires R.M.’s immediate
5 release from further imprisonment.

6 **II. Jurisdiction and Venue**

7 5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241
8 (*habeas corpus*); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 1331 (federal
9 question jurisdiction); Article I, Section 9, Clause 2 of the U.S. Constitution (the
10 Suspension Clause); and Article III of the U.S. Constitution.

11 6. Venue is proper in the Southern District of California pursuant to
12 28 U.S.C. §§ 1391(b)(2) and (e)(1)(B) because a substantial part of the events or
13 omissions giving rise to this claim have transpired here, as R.M. is incarcerated here,
14 and because proper respondents reside in this judicial district. 28 U.S.C.
15 § 1391(b)(1), (e)(1)(A). Venue is also proper because Respondents are officers or
16 employees of the United States acting in their official capacities. Additionally, venue
17 is proper under the habeas statute because the federal Respondents with custody over
18 R.M. reside in this district. *See* 28 U.S.C. § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426,
19 451-52 (2004) (Kennedy, J., concurring).

20 7. 8 U.S.C. § 1252(b)(9) does not bar Peititioner’s claims for *habeas* relief, as
21 this *habeas* action is sufficiently collateral to the underlying removal procedures that
22 it does not fall within that section’s jurisdiction-stripping provisions. *See Garcia v.*
23 *Noem*, No. 25-CV-02180-DMS-MMP, 2025 WL 2549431 *3–4 (S.D. Cal. Sept. 3,
24 2025); *Noori v. Larose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149 *7 (S.D.
25 Cal. Oct. 1, 2025); *Gonzalez v. ICE*, 975 F.3d 788, 810–11 (9th Cir. 2020); *Nielsen*
26 *v. Preap*, 586 U.S. 392, 402 (2019) (Alito, J., plurality portion).

1 8. Likewise, 8 U.S.C. § 1252(g) does not bar Petitioner’s claims to *habeas*
2 relief because Petitioner does not challenge the Attorney General’s decision or
3 action by the Attorney General to commence proceedings, adjudicate cases, or
4 execute removal orders—the only types of discretionary action shielded by that
5 provision. *See Garcia*, 2025 WL 2549431 at *4; *Noori*, 2025 WL 2549431 at *6–7
6 (citing *Sharkey v. Quarantillo*, 541 F.3d 75, 86 (2d Cir. 2008)); *see also Nadarajah*
7 *v. Gonzales*, 443 F.3d 1069, 1081–82 (9th Cir. 2006).

8 **III. Parties**

9 9. Petitioner R.M. (“Petitioner” or “R.M.”), entered the United States on
10 or around March 6, 2024, without inspection but with no criminal history. ICE
11 arrested him on July 11, 2025, San Diego, California, and he has remained detained
12 at the Otay Mesa Detention Center, a detention facility for ICE detainees in San
13 Diego, California, ever since.

14 10. Respondent Department of Homeland Security (“DHS”) is a cabinet-
15 level agency of the federal government. DHS and its components, including ICE,
16 are the agencies principally charged with implementing and enforcing the
17 immigration laws and policies of the United States, including immigration detention
18 at Otay Mesa Detention Center.

19 11. Respondent ICE is the sub-agency within DHS responsible for carrying
20 out immigration enforcement and detention in the interior of the United States and for
21 representing DHS in proceedings before the immigration courts, including detention
22 at the Otay Mesa Detention Center.

23 12. Respondent Kristi Noem is the Secretary of the U.S. Department of
24 Homeland Security. As such, Secretary Noem has legal custody of R.M.

25 13. Respondent Todd Lyons is the Acting Director of ICE. In that capacity,
26 Defendant Lyons is responsible for the enforcement of the immigration laws in the
27

1 interior of the United States, the implementation of enforcement policies, and
2 oversight of the DHS lawyers who appear before the immigration courts.

3 14. Respondent Christopher J. LaRose is the Senior Warden of the Otay
4 Mesa Detention Center. In that capacity, he is the facility’s most senior leader and
5 supervisor, responsible for all employees therein and detention of all detainees
6 thereof, including R.M.

7 15. Respondent Doe 1 is the San Diego ICE Enforcement and Removal
8 Operations (“ERO”) Field Director, responsible for ICE enforcement and removal
9 operations throughout the San Diego region. Until October 24, 2025, this position
10 was held by Patrick Divver.

11 16. Respondents Does 2–10 are individuals whose names are yet unknown,
12 but who are ICE officials within the San Diego ICE Field Office, located at 880
13 Front St., Suite 2242, San Diego, CA 92101. These individuals are responsible for
14 overseeing and directing immigration enforcement and detention activities within
15 San Diego County.

16 **IV. Facts**

17 17. R.M., an Azerbaijani man who fears persecution in that country due to
18 his political beliefs, entered the United States on or about March 6, 2024, without
19 inspection but with no criminal history.

20 18. Shortly after his initial interaction with immigration officials, R.M. was
21 issued a Notice to Appear and placed in standard removal proceedings pursuant to
22 8 U.S.C. § 1229a, INA § 240 (“Section 240 proceedings”). He was released without
23 detention, however, pending resolution of those proceedings.

24 19. Within one year of entering the United States, R.M. applied for asylum.

25 20. R.M. remained free from detention until July 11, 2025, when he
26 attended a scheduled, mandatory hearing in his immigration case in the San Diego
27

1 Immigration Court in the Edward J. Schwartz Federal Building (“Schwartz Federal
2 Building”) in San Diego, California.

3 21. The Schwartz Federal Building is a part of the John Rhoades Federal
4 Judicial Center in San Diego, California, which includes federal property located at
5 221 West Broadway, 333 West Broadway, 880 Front Street, 325 West F Street, 808
6 Union Street, and the adjoining plaza. *See* Designation – John Rhoades Federal
7 Judicial Center, Public Law 113-241, 128 Stat. 2858 (2014), available at
8 <https://www.congress.gov/113/statute/STATUTE-128/STATUTE-128-Pg2858.pdf>
9 (last accessed October 14, 2025). These also include the Edward J. Schwartz Federal
10 Courthouse and the James M. Carter and Judith N. Keep Federal Courthouse.

11 22. At R.M.’s asylum hearing on July 11, 2025, DHS orally moved to
12 dismiss R.M.’s immigration case. The Immigration Judge granted this motion over
13 R.M.’s objection.

14 23. Upon opening the courtroom door to exit the hearing, ICE immediately
15 arrested R.M. in the building, specifically in the hallway of the immigration court.

16 24. ICE later transported R.M. to the Otay Mesa Detention Center, where
17 he remains.

18 25. Respondents additionally placed R.M. in “expedited removal”
19 proceedings under INA § 235 (8 U.S.C. § 1225(b)) (“Section 235 proceedings”).²

20 26. Under the guise of expedited removal, R.M. has been held in detention
21 and denied any hearing in which an immigration judge examines individualized
22 reasons supporting his detention.

23 **DHS employees are ordered to seek, and Executive Office of Immigration**
24 **Review employees ordered to grant, dismissal of removal proceedings before**

25 _____
26 ² Petitioner asserts that placing him in expedited proceedings was unlawful and thus
27 invalid, but that issue is not raised in this petition.

1 particular case.” Immigration Court Practice Manual at 3, Statement Signed by
2 Chief Immigration Judge Tracy Short (Nov. 13, 2020) *available at*
3 <https://www.justice.gov/eoir/foialibrary/icpm01122021/dl>; *see also Cui v.*
4 *Garland*, 13 F.4th 991, 998 (9th Cir. 2021) (noting Practice Manual is authorized
5 under 8 C.F.R. §§ 1003.0(b)(1)(i), 1003.9(b)(1)); 8 C.F.R. § 1003.0(b)(1)(i)
6 (granting EOIR Director authority to “issue operational instructions and
7 policy...”); 8 C.F.R. § 1003.9(b)(1) (granting Chief Immigration Judge the same
8 authority).

9 30. The EOIR Case Adjudication Guidance violates the rules in the
10 Practice Manual. Specifically, the Practice Manual mandates that “filings must be
11 submitted at least fifteen (15) days in advance of the master calendar hearing if
12 requesting a ruling at or prior to the hearing” for “master calendar hearings
13 involving unrepresented non-detained aliens. *See* Practice Manual §3.1(b)(1)(A)
14 (allowing filings to “be made either in advance of the hearing or in open court
15 during the hearing” if the party is not requesting a ruling at or prior to the hearing),
16 *available at* <https://www.justice.gov/eoir/reference-materials/ic>. The Practice
17 Manual then requires any response to be filed within ten days of the filing of the
18 motion. *Id.* For unrepresented non-detained individuals who have an individual
19 calendar hearing, “filings must be submitted at least thirty (30) days in advance of
20 the hearing” and responses “must be filed within ten (10) days after the original
21 filing with the immigration court.” *Id.* at § 3.1(b)(2)(A). Represented non-detained
22 individuals must also file documents thirty days in advance of an individual
23 calendar hearing, and responses due within ten days of the original filing. *Id.* at
24 § 3.1(b)(2)(B).

25 31. The EOIR Case Adjudication Guidance also violates EOIR
26 regulations found in the Code of Federal Regulations. Those regulations address
27
28

1 pre-decision motions, requiring that “motions submitted prior to the final order of
2 an immigration judge shall be in writing and shall state, with particularity the
3 grounds therefor, the relief sought, and the jurisdiction” unless otherwise permitted
4 by the immigration judge in the case.” 8 C.F.R. § 1003.23(a).

5 32. When proceedings under INA § 240 are initiated by DHS filing a
6 Notice to Appear with an immigration court, jurisdiction vests with that court. DHS
7 may not unilaterally cancel the proceedings; it must instead seek dismissal from
8 the immigration judge. 8 C.F.R. §§ 239.2(c), 1239.2(c). DHS may only move for
9 dismissal “on the grounds set out under 8 CFR § 239.2(a).” *Id.* Immigration judges
10 must consider arguments made in opposition to dismissal before deciding the
11 motion. *Cf. id.* § 1003.23(a). Likewise, immigration judges must exercise
12 independent judgment in removal proceedings and cannot allow either party to
13 unilaterally control proceedings before them. *See Gonzalez-Caraveo v. Sessions*,
14 882 F.3d 885 (9th Cir. 2018) (“Allowing the Department or a petitioner to have
15 absolute veto power over administrative closure is an impermissible violation of
16 the IJ and BIA’s delegated authority and responsibility to adjudicate cases.”)
17 (discussing administrative closures).

18 33. Relevant to Petitioner, “[f]ailure to appear for a scheduled
19 immigration hearing without prior authorization may result in dismissal of the
20 [asylum] application and the entry of an order of deportation or removal in
21 absentia.” 8 C.F.R. § 1208.10.

22 **DHS implements a policy of placing those whose Section 240 proceedings are**
23 **terminated into expedited removal proceedings**

24 34. In addition to a policy of dismissing Section 240 proceedings as
25 discussed above, on information and belief, DHS has instituted a policy whereby it
26 immediately places those individuals whose Section 240 proceedings are dismissed
27

1 as discussed above into “expedited removal” proceedings under INA § 235
2 (8 U.S.C. § 1225(b)), which requires mandatory immigration detention. *See, e.g.,*
3 *Designating Aliens for Expedited Removal*, 90 Fed. Reg. 8139–40 (Jan. 24, 2025)
4 (initiating and implementing, in part, this policy). On information and belief, this
5 includes Petitioner.

6 35. Upon information and belief, ICE and immigration judges have taken
7 the general position that they lack jurisdiction to hear or issue bond for individuals
8 in expedited removal, including R.M., regardless of past parole, release, or
9 participation or classification in Section 240 Proceedings.

10 **ICE officers arrive in the San Diego Immigration Court each day with a list**
11 **of individuals whom they intend to arrest and, often, civil immigration**
12 **warrants obtained for those individuals before their cases were dismissed.**

13 36. In the San Diego Immigration Court, DHS attorneys began making
14 oral motions to dismiss Section 240 proceedings in May 2025, and the individuals
15 in whose cases those motions were made were promptly detained by DHS officers.
16 Most often, those arrests happened in the hallway directly outside the San Diego
17 Immigration Court on the 4th floor of 880 Front Street, which is part of the Federal
18 Judicial Complex. Those DHS officers had a list of individuals whom they intended
19 to arrest each day. For some of the individuals on the lists, the DHS officers
20 produced a “Warrant for Arrest of Alien,” Form I-200.³

21 **FIRST GROUND FOR *HABEAS* RELIEF:**
22 **PETITIONER’S DETENTION VIOLATES THE ADMINISTRATIVE**
23 **PROCEDURE ACT (“APA”) (5 U.S.C. § 706(2)(A), (C), (D))**

24 37. Petitioner incorporates the foregoing allegations as if fully set forth
25 herein.

26 ³ *See, e.g. Warrant for Arrest of Alien*, Form I-200, U.S. Dep’t of Homeland Sec.,
27 [https://www.ice.gov/sites/default/files/documents/Document/2017/I-](https://www.ice.gov/sites/default/files/documents/Document/2017/I-200_SAMPLE.PDF)
28 [200_SAMPLE.PDF](https://www.ice.gov/sites/default/files/documents/Document/2017/I-200_SAMPLE.PDF) (last accessed Oct. 15, 2025).

1 38. “Under the APA, a court must ‘hold unlawful and set aside agency
2 action . . . found to be—arbitrary, capricious, an abuse of discretion, or otherwise
3 not in accordance with law,’ or ‘without observance of procedure required by law.’”
4 *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1143–44 (D. Or. 2025) (quoting 5 U.S.C.
5 § 706(2)).

6 39. Upon initial interaction with immigration officials, Petitioner was
7 placed into Section 240 Proceedings and released on his own recognizance.

8 40. Petitioner remained free from detention until July 11, 2025, when he
9 attended a scheduled, mandatory hearing in his immigration case at the San Diego
10 Immigration Court in the Schwartz Federal Building in San Diego, California.

11 41. Having previously encountered Petitioner and released him in the
12 country while awaiting Section 240 procedures, Respondents may not detain him
13 without a hearing as to the individualized circumstances warranting his detention.
14 *See Noori*, 2025 WL 2800149 at *12–13; *Salcedo Aceros v. Kaiser*, No. 25-cv-
15 06924-EMC (EMC), 2025 WL 2637503 *8–12 (N.D. Cal. Sept. 12, 2025); *Aviles-*
16 *Mena v. Kaiser*, No. 25-cv-06783-RFL, 2025 WL 2578215 *3–5 (N.D. Cal. Sept. 5,
17 2025) (“[W]hen ICE affirmatively chooses to release an individual on parole, it has
18 made the determination that it no longer intends to fast-track their removal and that
19 it will proceed with the standard removal process under 8 U.S.C. § 1229a.”); *Garcia*
20 *v. Andrews*, No. 1:25-cv-01006 JLT SAB, 2025 WL 2420068 *3–7, 9 (E.D. Cal.
21 Aug. 21, 2025); *see also See Lopez Benitez v. Francis*, --- F. Supp. 3d ----, No. 25
22 CIV. 5937 (DEH), 2025 WL 2371588 *4–7, 9 (S.D.N.Y. Aug. 13, 2025) (“DHS has
23 consistently treated [Petitioner] as subject to detention on a discretionary basis under
24 § 1226(a), which is fatal to Respondents’ claim that he is subject to mandatory
25 detention under § 1225(b)”); *Lazaro Maldonado Bautista et al. v. Ernesto*

1 *Santacruz Jr. et al.*, 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025) Dkt. No. 14
2 at 7–8 (In Chambers Order).

3 42. Instead, Petitioner may be arrested and detained pending removal
4 proceedings only pursuant to INA § 236 (8 U.S.C. § 1226), under which detention
5 is discretionary, not mandatory. *See Garcia v. Andrews*, 2025 WL 2420068 at *3–7,
6 9; *Salcedo Aceros*, 2025 WL 2637503 at *8–12; *Lopez Benitez*, --- F. Supp. 3d ----,
7 2025 WL 2371588 at *4–5, 8–9.

8 43. As such, the relevant statutes and regulations require prior notice of the
9 specific reasons why the government chooses to retain him and “an individualized
10 determination” as to Petitioner’s current flight risk or danger to the community. *See*
11 *Noori*, 2025 WL 2800149 at *13. “Respondents [thus] must provide at minimum
12 some reasoning explaining why the Petitioner would now be considered a flight risk
13 or danger to the community” and run afoul of the APA by failing to. *Id.*

14 44. Because Respondents provided no individualized rationale for revoking
15 R.M.’s previous release, nor any prior notice with a statement of reasons for doing
16 so, they acted arbitrarily and capriciously, violating the APA. *See, e.g. id.*; *Y-Z-L-H*,
17 792 F. Supp. 3d at 1144–47; *Garcia v. Andrews*, 2025 WL 2420068 at *6 (providing
18 a survey of recent case law).

19 **SECOND GROUND FOR HABEAS RELIEF:**
20 **PETITIONER’S DETENTION VIOLATES HIS FIFTH AMENDMENT**
21 **RIGHT TO DUE PROCESS (U.S. Const. Amend. 5)**

22 45. Petitioner incorporates the foregoing allegations as if fully set forth
23 herein.

24 46. Upon initial interaction with immigration officials, Petitioner was
25 placed into Section 240 Proceedings and released pending those proceedings’
26 resolution.
27

1 47. Petitioner remained free from detention until July 11, 2025, when he
2 attended a scheduled, mandatory hearing in his immigration case at the Schwartz
3 Federal Building in San Diego, California.

4 48. As discussed, having previously encountered Petitioner and released
5 him in the country based while awaiting Section 240 procedures, Respondents may
6 not detain him without a hearing as to the individualized circumstances warranting
7 his detention. *See Noori*, 2025 WL 2800149 at *11; *Salcedo Aceros*, 2025 WL
8 2637503 at *8–12; *Aviles-Mena*, 2025 WL 2578215 at *3–5; *Garcia v. Andrews*,
9 2025 WL 2420068 at *3–7, 9; *see also Lopez Benitez*, --- F. Supp. 3d ----, 2025 WL
10 2371588 at *4–5, 8–9.

11 49. Thus, Petitioner is entitled to certain procedural safeguards before
12 revocation of parole, as “[e]ven when the government has discretion to detain an
13 individual, its subsequent decision to release [them] creates ‘an implicit promise’
14 that [they] will be re-detained only if [they] violate[] the conditions of [their]
15 release.” *Pablo Sequen v. Kaiser*, --- F. Supp. 3d ---- No. 25-cv-06487-PCP, 2025
16 WL 2650637 *5 (N.D. Cal. Sept. 16, 2025) (citing *Morrissey v. Brewer*, 408 U.S.
17 471, 482, (1972)); *accord Garcia v. Andrews*, 2025 WL 2420068 at *7.

18 50. Additionally, as he has “passed through our gates” and lived in the
19 United States for a substantial period, he “may be expelled” or re-detained “only
20 after proceedings conforming to traditional standards of fairness encompassed in due
21 process of law.” *Noori*, 2025 WL 2800149 at *9 (quoting *Shaughnessy v. United*
22 *States ex rel. Mezei*, 345 U.S. 206, 212 (1953)); *see Pablo Sequen*, --- F. Supp. 3d -
23 ---, 2025 WL 2650637 at *5.

24 51. As such, decisions to re-detain R.M. are subject to the Fifth
25 Amendment’s Due Process requirements. *Noori*, 2025 WL 2800149 at *9–11; *Pablo*
26 *Sequen*, --- F. Supp. 3d ----, 2025 WL 2650637 at *5; *Rojas v. Albarran*, No. 25-

1 CV-08172-PCP, 2025 WL 2772695 *2 (N.D. Cal. Sept. 25, 2025); *see also Pinchi*
2 *v. Noem*, No. 25-CV-05632-RMI (RFL), 2025 WL 1853763 *2 (N.D. Cal. July 4,
3 2025) (collecting cases). “[I]f DHS has exercised its discretion to release a
4 noncitizen pending civil removal proceedings, the noncitizen has a protected liberty
5 interest in remaining out of immigration custody.” *Pablo Sequen*, --- F. Supp. 3d ---
6 -, 2025 WL 2650637 at *5.

7 52. Weighing Petitioner’s private liberty interests, the risk of erroneous
8 deprivation in the procedures used, and the value of other safeguards, individuals in
9 R.M.’s position are constitutionally entitled to, at minimum: (1) a pre-detention
10 hearing on bond at which the immigration judge assesses their individualized risk of
11 flight or danger to the community; and (2) notice and reason for his detention and
12 for terminating his Section 240 Proceedings prior to arresting him, as various district
13 courts have held. *See, e.g. id.* at *5, 8–9; *Noori*, No., 2025 WL 2800149 at *11
14 (“Denying Petitioner notice and reasoning on the termination of his 240 removal
15 proceedings, his placement into expedited removal proceedings, and revocation of
16 his parole . . . violated due process.”); *Aviles-Mena*, 2025 WL 2578215 at *7
17 (enjoining respondents “from re-detaining [the petitioner] in any form . . . without
18 notice and a pre-deprivation hearing before a neutral decisionmaker”); *Pinchi*, 2025
19 WL 1853763 at *3; *Rojas*, 2025 WL 2772695 at *2; *see, e.g., C.L.V. v. LaRose, et*
20 *al.*, 25-cv-02795-JO-AHG, Dkt. No. 19 (S.D. Cal. Oct. 30, 2025).

21 53. Likewise, Respondents denied Petitioner a pre-deprivation hearing at
22 which individualized and particularized reasons for his detention are assessed.
23 Instead, Respondents are asserting, at best, a categorical lack of jurisdiction based
24 on his “expedited” status. In doing so, Respondents violated R.M.’s right to due
25 process.

26 54. Thus, the law requires his release.

1 § 1225(b)(2). The reported July 8, 2025 policy states that
2 any “applicant for admission” is “subject to detention
3 under [§ 1225(b)] and may not be released from ICE
4 custody These aliens are also ineligible for a custody
5 redetermination hearing (‘bond hearing’) before an
6 immigration judge and may not be released for the
7 duration of their removal proceedings absent a parole by
8 DHS.”

9 2025 WL 2549431 at *5 (internal record citations omitted). This policy, the court
10 found, rendered further administrative proceedings futile as the petitioners would
11 face mandatory detention by policy even after the highest level of administrative
12 appeal. *Id.* Here, the same issue presents itself: as a matter of policy and legal
13 interpretation, DHS considers R.M.’s detention mandatory. Thus, further
14 proceedings will result only in the same result.

15 59. Second, R.M. will suffer irreparable harm because he will be detained
16 in violation of statute and the Constitution for at minimum the duration of his
17 administrative procedures if required to exhaust remaining administrative remedies.
18 “It is well established that the deprivation of constitutional rights ‘unquestionably
19 constitutes irreparable injury.’” *Hernandez*, 872 F. 3d. at 994–95 (quoting *Melendres*
20 *v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)). R.M. has pleaded unconstitutional
21 detention. Every day spent in unlawful detention is one that should have been spent
22 free that he can never recover. Requiring further exhaustion achieves only more time
23 spent in detention for an administrative result that is, as discussed, foregone based
24 upon DHS’s unlawful mandatory detention policies.

25 60. Therefore, R.M. meets two recognized exceptions to exhaustion
26 requirements and should not be made to seek further administrative remedies before
27 filing here.

VI. Prayer for Relief

61. For the reasons set forth, Petitioner respectfully requests that this Court:
- a. **ASSUME** jurisdiction over this matter;
 - b. **ISSUE** a writ of *habeas corpus*, within three days of filing this Petition, ordering R.M.’s immediate release; and
 - c. **ORDER** pursuant to the All Writs Act, 28 U.S.C. § 1651, that Respondents not cause Petitioner’s re-detention during pendency of his Section 240 proceedings without the Court’s prior leave. *See, e.g., Noori*, 2025 WL 2800149 at *14; *Y-Z-L-H*, 792 F. Supp. 3d at 1147.
 - d. In the alternative, **ORDER** Respondents to show cause, within three days of filing this Petition, why the relief Petitioner seeks should not be granted; and **SET** a hearing on this matter within five days of Respondents’ return on the order to show cause, pursuant to 28 U.S.C. § 2243.
 - e. **GRANT** Petitioner attorneys’ fees.

Verification: Pursuant to 28 U.S.C. § 2242, I, the undersigned acting on Petitioner’s behalf, verify under penalty of perjury that all facts stated herein are true and correct to the best of my knowledge and belief.

DATED: November 17, 2025

Respectfully submitted,
SINGLETON SCHREIBER, LLP

/s/ Liam S. Barrett
Kimberly S. Hutchison
Liam S. Barrett
Attorneys for Petitioner