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

9 ZOLFIA HEKMAT,  
10 ROYA MOHAMMADI,  
11  
12 Petitioners,

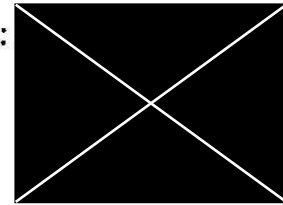
13 vs.

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

Respondents.

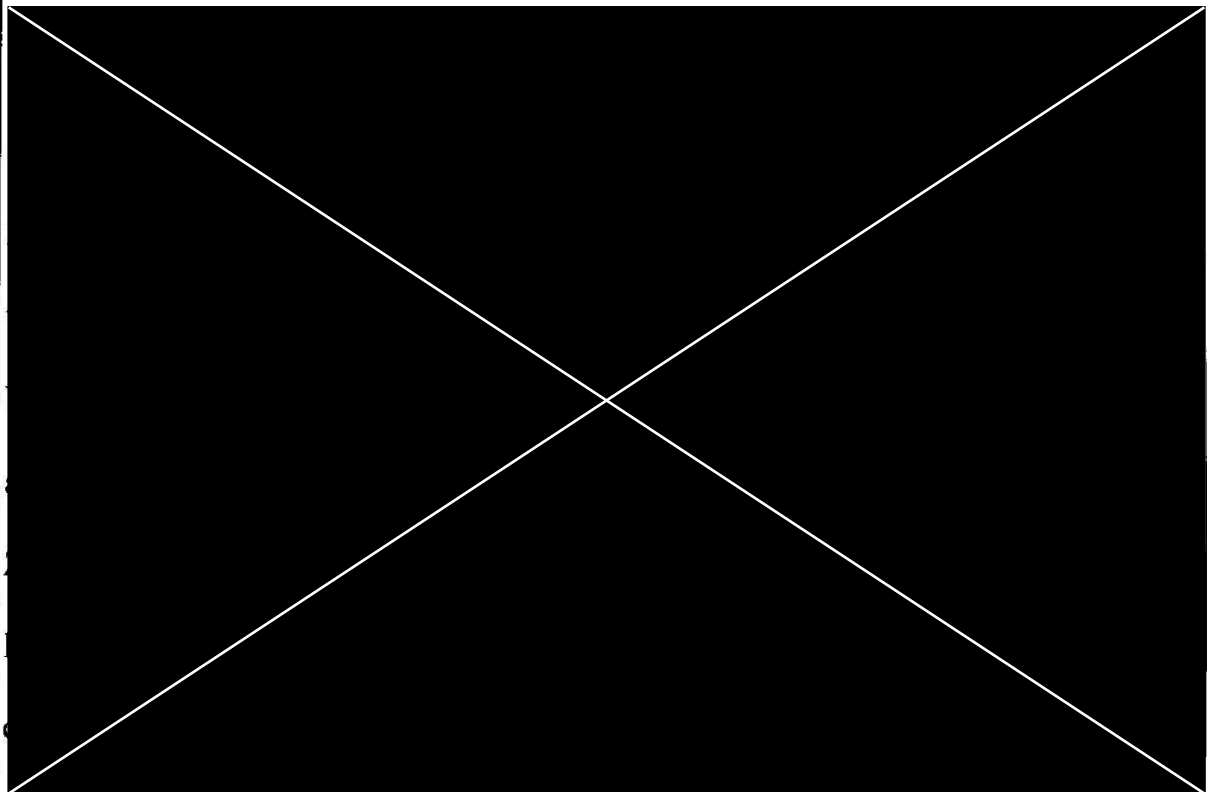
Case No.:

Agency Number:



PETITION FOR WRIT OF HABEUS  
CORPUS

**INTRODUCTION**



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the family realized they needed to flee and they came to the United States to seek asylum.

2. The family, father Nasir, mother Zolfia, daughter Roya and son Mohammad, were invited to seek entry into the United States via the CBP One Application. They came to their appointment on May 26, 2024. After their inspection it was determined they were not a flight risk nor a risk to society and were all granted Humanitarian Parole and welcomed into the United States by Respondents pursuant to 8 U.S.C. § 1226(a) *See Exhibit A.* Respondents commenced removal proceedings against them in immigration court, entitling them to present their asylum claims with the attendant due process rights under 8 U.S.C. § 1229a. They applied for asylum before the U.S. Immigration authorities on

1 November 26, 2024. Yet, in a deceptive sleight of hand Respondents have detained  
2 them.

3  
4 3. On October 07, 2025, the Petitioners attended their individual  
5 asylum hearing. They should have been able to present their case and had a final  
6 determination on their asylum application. Unfortunately, there was no interpreter  
7 so the hearing could not go forward. Their case was continued and a new hearing  
8 scheduled. The petitioners called ICE when they got home to ask if they needed to  
9 come to a check-in. They were told, yes, Zolfia and Roya needed to come to a  
10 check in but the father and son did not need to come. After they checked in at the  
11 front desk they were each taken, one at time, to another room where their monitors  
12 were removed, they were handcuffed and taken into custody. Respondents did not  
13 conduct a pre-detention hearing. Respondents did not make an individualized  
14 determination that the petitioners were a flight risk or a danger to the community.  
15 Respondents continue to detain them based not on their personal circumstances or  
16 individualized facts, but because of Respondents' interpretation of President  
17 Trump's whim and categorical determination that, the Fifth Amendment  
18 notwithstanding, noncitizens are not entitled to due process.  
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25 4. But Respondents cannot evade the law so easily. The law which  
26 they purport to detain the petitioners does not authorize their actions and the U.S.  
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1 Constitution requires the Respondents provide at least the rights available to them  
2 when they filed their applications for asylum<sup>1</sup>.

3  
4 5. Accordingly, to vindicate Petitioner's rights, this Court should grant  
5 the instant petition for a writ of habeas corpus. The petitioners ask this Court to  
6 find that Respondents' attempts to detain them are arbitrary and capricious and in  
7 violation of the law, and to immediately issue an order preventing their transfer out  
8 of this district.  
9

### 10 JURISDICTION

11  
12 6. This action arises under the Constitution of the United States and  
13 the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.  
14

15 7. This court has subject matter jurisdiction under 28 U.S.C. § 2241  
16 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the  
17 United States Constitution (Suspension Clause).  
18

19 8. This Court may grant relief under the habeas corpus statutes, 28  
20 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq.,  
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26 <sup>1</sup> See, e.g., NBC News, Meet the Press interview of President Donald Trump (May 4, 2025),  
27 <https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-interviewed-meet-press-mod-rcna203514> (in response to a question whether noncitizens  
28 deserve due process under the Fifth Amendment, President Trump replied "I don't know. It seems—it might say that, but if you're talking about that, then we'd have to have a million or 2 million or 2 million trials.").

1 the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8  
2 U.S.C. § 1252(e)(2).  
3

#### 4 **VENUE**

5 9. Venue is proper because Petitioners are in Respondents' custody in  
6 Kern County, California. Venue is further proper because a substantial part of the  
7 events or omissions giving rise to Petitioner's claims occurred in this District,  
8 where Petitioners are now in Respondent's custody. 28 U.S.C. § 1391(e).  
9  
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#### 11 **REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

12 10. The Court must grant the petition for writ of habeas corpus or  
13 issue an order to show cause (OSC) to the Respondents "forthwith," unless the  
14 petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court  
15 must require Respondents to file a return "within three days unless for good cause  
16 additional time, not exceeding twenty days, is allowed." *Id.*  
17  
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19 11. Courts have long recognized the significance of the habeas statute  
20 in protecting individuals from unlawful detention. The Great Writ has been  
21 referred to as "perhaps the most important writ known to the constitutional law of  
22 England, affording as it does a swift and imperative remedy in all cases of illegal  
23 restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).  
24  
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26 12. Petitioners are "in custody" for the purpose of § 2241 because  
27 they are arrested and detained by Respondents.  
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**PARTIES**

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3 13. Zolfia Hekmat (“Petitioner 01”) is a 36-year-old citizen of  
4 Afghanistan. She is a resident of Mojave, California, currently detained at  
5 California City Detention Center and is present within the state of California as of  
6  
7 the time of the filing of this petition.

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9 14. Roya Mohammadi (“Petitioner 02”) is a 22-year-old citizen of  
10 Afghanistan. She is a resident of Mojave, California, currently detained at the  
11 California City Detention Center and is present within the state of California as of  
12  
13 the time of the filing of this petition.

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15 15. Respondent Christopher Chestnut is the warden of the California  
16 City Detention Center and is the legal custodian of Petitioner 02.

17  
18 16. Respondent, Sergio Albarran, is the San Francisco Field Office  
19 Director, Immigration and Customs Enforcement and Removal Operations. The  
20 San Francisco Field Office is responsible for local custody decisions relating to  
21 non-citizens charged with being removable from the United States, including the  
22 arrest, detention, and custody status of non- citizens. The San Francisco Field  
23 Office area of responsibility includes Kern County California and both the  
24 California City Detention Center and the Mesa Verde Detention Center.  
25 Respondent Sergio Albarran is a legal custodian of Petitioners.  
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1           17. Respondent Todd Lyons is the acting director of U.S. Immigration  
2 and Customs Enforcement, and he has authority over the actions of respondent  
3 Sergio Albarran and ICE in general. Respondent Lyons is a legal custodian of  
4 Petitioner.  
5

6           18. Respondent Kristi Noem is the Secretary of the Department of  
7 Homeland Security (DHS) and has authority over the actions of all other DHS  
8 Respondents in this case, as well as all operations of DHS. Respondent Noem is a  
9 legal custodian of Petitioner and is charged with faithfully administering the  
10 immigration laws of the United States.  
11

12           19. Respondent Pamela Bondi is the Attorney General of the United  
13 States, and as such has authority over the Department of Justice and is charged  
14 with faithfully administering the immigration laws of the United States.  
15

16           20. Respondent U.S. Immigration Customs Enforcement is the federal  
17 agency responsible for custody decisions relating to non-citizens charged with  
18 being removable from the United States, including the arrest, detention, and  
19 custody status of non-citizens.  
20

21           21. Respondent U.S. Department of Homeland Security is the federal  
22 agency that has authority over the actions of ICE and all other DHS Respondents.  
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24           22. This action is commenced against all Respondents in their official  
25 capacities.  
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3 **LEGAL FRAMEWORK**

4 23. The INA prescribes three basic forms of detention for the vast  
5 majority of noncitizens in removal proceedings conducted pursuant to 8 U.S.C. §  
6 1229a or they can be released on Parole.  
7

8 24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in §  
9 1229a removal proceedings before an IJ. Individuals covered by § 1226(a)  
10 detention are generally entitled to a bond hearing at the outset of their detention,  
11 see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while certain noncitizens who have been  
12 arrested, charged with, or convicted of certain crimes are subject to mandatory  
13 detention. See 8 USC§ 1226(a).  
14  
15

16 25. Second, the INA provides for mandatory detention of noncitizens  
17 subject to an Expedited Removal order imposed pursuant to 8 U.S.C. § 1225(b)(1)  
18 and for other noncitizen applicants for admission to the U.S. who are deemed not  
19 clearly entitled to be admitted. See 8 U.S.C. § 1225(b)(2).  
20  
21

22 26. Last, the INA provides for detention of noncitizens who have been  
23 ordered removed, including individuals in withholding-only proceedings. See 8  
24 USC § 1231. (a)— (b).  
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1 27. Alternatively, noncitizens can be granted parole rather than be  
2 detained. 8 U.S.C. § 1226(a)(2)(B). The regulations for granting parole and  
3 revocation of parole are found at 8 CFR § 212.5,  
4

5 28. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a)  
6 and 1225(b)(2) and the revocation of parole.  
7

8 29. The detention provisions at § 1226(a) and § 1225(b)(2) were  
9 enacted as part of the Illegal Immigration Reform and Immigrant Responsibility  
10 Act (IIRIRA) of 1996, Pub. L. No. 104—208, Div. C, §§ 302—03, 110 Stat,  
11 3009- 546, 3009-582 to 3009-583, 3009-585. Section 1226(a) was most recently  
12 amended in early 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3  
13 (2025).  
14  
15

16 30. Following the enactment of the IIRIRA, EOIR drafted new  
17 regulations applicable to proceedings before immigration judges explaining that, in  
18 general people who entered the country without inspection — also referred to as  
19 being “present without admission” - were not considered detained under § 1225  
20 and that they were instead detained under § 1226(a). *See* Inspection and Expedited  
21 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal  
22 Proceedings; Asylum Procedures, 62 Fed. Reg, 10312, 10323 (Mar\_6, 1997).  
23  
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25 31. Thus, in the decades that followed, most people who entered  
26 without inspection and were placed in standard § 1229a removal proceedings  
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1 received bond hearings before IJs, unless their criminal history rendered them  
2 ineligible. That practice was consistent with many more decades of prior practice,  
3 in which noncitizens who were not deemed “arriving” were entitled to a custody  
4 hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see  
5 also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply  
6 “restates” the detention authority previously found at § 1252(a)).  
7  
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9  
10 32. This practice both pre- and post-enactment of IIRIRA is consistent  
11 with the fact that noncitizens present within the United States — as opposed to  
12 noncitizens present at a border and seeking admission - have constitutional rights.  
13 “[T]he Due Process Clause applies to all ‘persons’ within the United States,  
14 including aliens, whether their presence here is lawful, unlawful, temporary, or  
15 permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).  
16  
17

18 33. On July 8, 2025, ICE, “in coordination with” the Department of  
19 Justice, announced a new policy that rejected the well-established understanding of  
20 the statutory framework and reversed decades of practice.  
21

22 34. The new policy, entitled “Interim Guidance Regarding Detention  
23 Authority for Applicants for Admission, claims that all noncitizens present within  
24 the United States who entered without inspection shall now be deemed “applicants  
25 for admission” under 8 U.S.C. § 1225, and therefore are subject to mandatory  
26 detention under § 1225(b)(2)(A). The policy applies regardless of when a person is  
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28

1 apprehended, and affects those who have resided in the United States for months,  
2 years, and even decades.

3  
4 35. In a May 22, 2025 unpublished decision by the Board of  
5 Immigration Appeals (BIA), EOIR adopted this same position. That decision holds  
6 that all noncitizens who entered the United States without admission or parole and  
7 who are present within the United States are considered applicants for admission  
8 and ineligible for IJ bond hearings. That was further affirmed by the BIA in *Yajure*  
9 *Hurtado*, 29 I&N Dec. 216 (BIA 2025). There the BIA held that Immigration  
10 Judges do not have jurisdiction in these cases. This makes it impossible for  
11 noncitizens who have entered at a port of entry or entered without inspection to  
12 apply for a bond and are all subject to mandatory detention.  
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16 36. ICE and EOIR have adopted this position even though federal  
17 courts have rejected this exact conclusion. For example, after IJ in the Tacoma,  
18 Washington immigration court stopped providing bond hearings for persons who  
19 entered the United States without inspection and who have since resided here, the  
20 U.S. District Court for the Western District of Washington found that such a  
21 reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to  
22 noncitizens who are not apprehended upon arrival to the United States. *Rodriguez*  
23 *Vazquez v. Bostock*, --- F. Supp. 3d ---, 2025 WL\_1193850 (W.D. Wash. Apr\_24,  
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1 2025); see also *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 1208256 9WL 299, at  
2 \*8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion).

3  
4 Courts in the Central District have reached the same conclusion. See *Maldonado*  
5 *Bautista et al. v. Santacruz, et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July  
6 28, 2025), Order Granting Temporary Restraining Order, Dkt. 14 at 9 (TRO issued  
7 after DHS adopted “Interim Guidance Regarding Detention Authority for  
8 Applicants for Admission.”); *Ceja Gonzalez, et al. v. Noem, et al.*, No. 5:25-cv-  
9 02054-ODW-BFM (C.D. Cal. August 13, 2025), Order Granting Ex Parte  
10 Application for TRO and OSC, Dkt,1 2 (Same).

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14 37. DHS’s and EOIR’s interpretation defy the INA. As the *Rodriguez*  
15 *Vazquez* court explained, the plain text of the statutory provisions demonstrates  
16 that § 1226(a), not § 1225(b), applies to people like Petitioners. Section 1226(a)  
17 applies by default to all persons “pending a decision on whether the [noncitizen] is  
18 to be removed from the United States.” *Rodriguez Vazquez*, 2025 WL.1193850 at  
19 \*12. See also *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM (C.D. Calif July  
20 28, 2025) Order Granting Temporary Restraining Order, Dkt14 .at 9 (“[T]he Court  
21 finds that the potential for Petitioners’ continued detention without an initial bond  
22 hearing would cause immediate and irreparable injury, as this violates statutory  
23 rights afforded under § 1226(a).”); *Ceja Gonzalez*, No. 5:25-cv-02054-ODW-BFM  
24 (C.D. Cal. August 13, 2025), Order Granting Ex Parte Application for TRO and

1 OSC, Dkt. 12 at 7 (§ 1226 applies to aliens present in the United States.)

2  
3 38. Other portions of the text of § 1226 also explicitly apply to people  
4 charged as being inadmissible, including those who entered without inspection.  
5 See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to inadmissible  
6 individuals makes clear that, by default, inadmissible individuals not subject to  
7 subparagraph (E)(11) are afforded a bond hearing under subsection (a). As the  
8 Rodriguez Vazquez court explained, “[w]hen Congress creates “specific  
9 exceptions” to a statute’s applicability, it “proves” that absent those exceptions, the  
10 statute generally applies. *Rodriguez Vazquez*, W20L25 1193850, at \*12 (citing  
11 *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400  
12 (2010)).  
13  
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16  
17 39. Section 1226 therefore leaves no doubt that it applies to  
18 noncitizens who are present without admission and who face charges in removal  
19 proceedings of being inadmissible to the United States.  
20

21 40. By contrast, § 1225(b) applies to people arriving at U.S. ports of  
22 entry or who recently entered the United States and are encountered at or near the  
23 border. The statute’s entire framework is premised on inspections at the border of  
24 people who are “seeking admission” to the United States. 8 U.S.C. §  
25 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory  
26 detention scheme applies ““at the Nation’s borders and ports of entry, where the  
27  
28

1 Government must determine whether a[] [noncitizen] seeking to enter the country  
2 is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).  
3

4 41. Accordingly, the mandatory detention provision of § 1225(b)(2)  
5 does not apply to people like Petitioners who have already entered and were  
6 residing in the United States at the time they were apprehended.  
7

8 42. Immigration detention should not be used as a punishment and  
9 should only be used when, under an individualized determination, a noncitizen is a  
10 flight risk because they are unlikely to appear for immigration court or a danger to  
11 the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).  
12

13 43. Once a determination has been made that a noncitizen should not  
14 be detained, they may be released on conditional parole or, as in this case,  
15 humanitarian parole. The regulations for revocation of that parole are set out in 8  
16 CFR § 212.5(e). Specifically, this revocation must be  
17

18 *On notice.* In cases not covered by paragraph (e)(1) of this section,  
19 upon accomplishment of the purpose for which parole was authorized or when in  
20 the opinion of one of the officials listed in paragraph (a) of this section, neither  
21 humanitarian reasons nor public benefit warrants the continued presence of the  
22 alien in the United States, parole shall be terminated upon written notice to the  
23 alien and he or she shall be restored to the status that he or she had at the time of  
24 parole. 8 CFR § 212.5(e)(2)(i)

## 25 FACTUAL BACKGROUND

26 44. Petitioners are citizens of Afghanistan. 

1 [REDACTED] the family knew they needed  
2 to escape Afghanistan. They fled to Iran and from there they sought a way to come  
3 to the United States to request asylum. They made their way to Mexico where they  
4 applied for an appointment through the CBP One App.  
5

6  
7 45. On or about May 26, 2024, Petitioners came to the port of entry  
8 San Ysidro, California to seek asylum. On May 26, 2024, Respondents granted  
9 them both humanitarian parole and welcomed them into the United States, based  
10 on the individualized facts in each case, under 8 U.S.C. § 1182(d)(5) and released  
11 them from custody pursuant to the same statute.  
12

13  
14 46. On or about May 26, 2024, Respondents commenced removal  
15 proceedings against Petitioners under 8 U.S.C. § 1229a.  
16

17 47. On information and belief, Petitioner regularly complied with and  
18 appeared for ICE check-ins whether in person or electronic check-in.  
19

20 48. Petitioners applied for asylum before the Concord Immigration  
21 Court on November 26, 2024.

22 49. Respondents issued work authorization to Petitioners pursuant to 8  
23 C.F.R. § 274a.12(c)(8).  
24

25 50. Petitioners attended their scheduled Individual immigration  
26 hearing on October 7, 2025. This should have been the opportunity for them to  
27 present evidence and testimony in support of their case. Unfortunately, the  
28

1 interpreter scheduled by the court did not appear. After the hearing the petitioners  
2 contacted ICE to ask if they were required to check in with them again, which is  
3 standard after a hearing. ICE told them to come in the next day. When they arrived,  
4 they were each taken separately into a room where their ankle monitors were  
5 removed and they were handcuffed and taken into custody.  
6  
7

8           51. They were not presented with a judicial warrant when they were  
9 detained. They were not trying to flee or to cause harm when they were detained.  
10 They were not charged with any crime that might lead the officers to have probable  
11 cause to detain them. They were not given notice that their parole was being  
12 revoked. They were not given a pre-detention hearing to determine if the facts of  
13 their release had changed such that they were now a flight risk or that they were a  
14 danger to the community. They were deprived of their liberty for no other reason  
15 than that the President of the United States had decided that they and millions of  
16 others like them should no longer be free.  
17  
18  
19  
20

21           52. On January 20, 2025, President Donald Trump issued several  
22 executive actions relating to immigration, including “Protecting the American  
23 People Against Invasion,” an executive order (EO) setting out a series of interior  
24 immigration enforcement actions. The Trump administration, through this and  
25 other actions, has outlined sweeping, executive branch-led changes to immigration  
26 enforcement policy, establishing a formal framework for mass deportation. The  
27  
28

1 “Protecting the American People Against Invasion” EO instructs the DHS  
2 Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to  
3 prioritize civil immigration enforcement procedures including through the use of  
4 mass detention.  
5

6  
7 53. The January 2025 Designation does not state that it applies to  
8 noncitizens who were in the United States before its effective date.

9  
10 54. On information and belief, Respondents are using the immigration  
11 detention system, including extra-territorial transfer and detention, as a means to  
12 punish individuals for asserting rights under the Refugee Act.

13  
14 55. On information and belief, Petitioners have no criminal history.

15 **CLAIMS FOR RELIEF**

16 **COUNT ONE**

17  
18 **Violation of Fifth Amendment Right to Due Process**

19 **Procedural Due Process**

20  
21 56. Petitioners restate and reallege all paragraphs as if fully set forth  
22 here.

23  
24 57. The government’s effective revocation of parole violated  
25 procedural due process. The Fifth Amendment guarantees that “[n]o person shall  
26 be ... deprived of life, liberty, or property, without due process of law.” U.S. Const.  
27 Amend. V. To determine a violation of procedural due process, courts weigh the  
28

1 traditional factors of (1) the private interest at issue, (2) the risk of erroneous  
2 deprivation of that interest through the procedures used, and (3) the government's  
3 interest. *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976). Here, these factors  
4 easily weigh in Mr. Soleimani's favor.  
5

6  
7 58. First, the private interest at issue is the Petitioners' deprivation of  
8 liberty—i.e., remaining on parole, rather than being detained. *See Morrissey v.*  
9 *Brewer*, 408 U.S. 471, 482-483 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690  
10 (2001) (“Freedom from imprisonment—from government custody, detention, or  
11 other forms of physical restraint—lies at the heart of the liberty that [the Due  
12 Process] Clause protects.”). Not only is Petitioners' general liberty interest  
13 substantial, they have an added interest in remaining out of custody so they can  
14 work with their attorney to prepare their asylum cases. What's more, Petitioners'  
15 work authorizations are contingent on their parole status, and revocation of parole  
16 will directly impact the ability to provide for themselves and their families. Thus,  
17 the first factor weighs heavily in Petitioners' favor.  
18

19 59. Second, the procedures the agency used to determine whether to  
20 revoke Petitioners' parole presented a high risk of erroneous deprivation of liberty.  
21 To date, the agency's actions surrounding Petitioners' parole have completely  
22 failed to comply with the statute, the regulations, and even the agency's own  
23 decision. After granting Petitioners parole in May 2024, the agency inexplicably  
24 revoked this parole seven months before it expired. It did so even though  
25 Petitioners had attended all their check-in appointments, had no criminal history,  
26 and had timely filed asylum applications. The agency did not claim that “the  
27 purposes of such parole . . . have been served,” 8 U.S.C. § 1182(d)(5)(A), nor that  
28 the “humanitarian reasons” for their parole no longer existed, 8 C.F.R. §

1 212.5(e)(2)(i). Because consideration of any of these factors should have led to a  
2 different result, the risk of erroneous deprivation of Petitioners' parole without  
3 these procedures was high, and this factor weighs heavily in his favor.  
4

5 60. Finally, any government interest in revoking Petitioners' parole is  
6 minimal. The Petitioners have complied with all their check-in requirements, have  
7 no criminal history, have timely applied for asylum, and do not represent a danger  
8 or a flight risk. All the government need do is comply with its *own decision* to  
9 grant them parole until at least May 25, 2026. Thus, the *Mathews v. Eldrige* factors  
10 weigh heavily in Petitioners favor, and this revocation of parole violates procedural  
11 due process.  
12

## 13 COUNT TWO

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

#### 15 Not in Accordance with Law and in Excess of Statutory Authority

#### 16 Unlawful Detention

17  
18 61. Petitioners restate and reallege all paragraphs as if fully set forth  
19 here.  
20

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

24 63. An action is an abuse of discretion if the agency “entirely failed to  
25 consider an important aspect of the problem, offered an explanation for its decision  
26 that runs counter to the evidence before the agency, or is so implausible that it  
27  
28

1 could not be ascribed to a difference in view or the product of agency expertise.”

2 *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551U.S. 644, 658 (2007)

3  
4 (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*,  
5 463 U.S. 29, 43 (1983)).

6  
7 64. To survive an APA challenge, the agency must articulate “a  
8 satisfactory explanation” for its action, “including a rational connection between  
9 the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551,  
10 2569 (2019) (citation omitted).

11  
12 65. By categorically revoking Petitioners’ parole and transferring  
13 them to a Detention Center without consideration of their individualized facts and  
14 circumstances, Respondents have violated the APA.

15  
16 66. Respondents have made no finding that Petitioners are a danger to  
17 the community.

18  
19 67. Respondents have made no finding that Petitioners are a flight risk  
20 because, in fact, they were arrested while appearing at an ICE office.

21  
22 68. By detaining the Petitioners categorically, Respondents have  
23 further abused their discretion because there have been no changes to their facts or  
24 circumstances since the agency made its initial determination to parole them into  
25 the United States that support detention.  
26  
27  
28



1 cause determination. *Id.* Arrest and detention of a person, including of a  
2 noncitizen, absent a neutral judicial determination of probable cause violates the  
3 Fourth Amendment of the Constitution. *Id.* See also *Cnty. Of Riverside v*  
4 *McLaughlan*, 500 U.S. 44, 57 (1991). This determination must occur within 48  
5 hours of detention, which includes weekends, unless there is a bona fide  
6 emergency or other extraordinary circumstances. *Id.*

7  
8  
9  
10 73. Congress enacted a strong preference that immigration arrests be  
11 based on warrants. See *Arizona v. United States*, 567 U.S. 387, 407-08 (2012). The  
12 Immigration and Nationality Act thus provides immigration officers with only  
13 limited authority to conduct warrantless arrests. See 8 C.F.R § 287.8(c)(2)(ii).

14  
15 74. Both Zolfia Hekmat and Roya Mohammadi, at the moment of the  
16 arrest by Respondents, were lawfully present based on the Respondents' prior  
17 grant of release and parole. They did not receive any judicial determination of  
18 probable case for their arrest or continued detention by Respondents.

19  
20  
21 75. The Government cannot salvage this seizure by invoking  
22 generalized immigration enforcement interests. The Fourth Amendment's  
23 reasonableness inquiry is fact-specific and demands individualized justification for  
24 both the arrest and the extended detention. See *United States v Brignoni-Ponce*,  
25 422 U.S. 873, 882-84 (1975). *Gerstein*, 420 U.S. at 114. Petitioners were granted  
26  
27  
28

1 release from DHS custody in 2024 and did not pose any danger to any person in  
2 the community at large.

3  
4 76. Respondents' warrantless arrest of Petitioners constitutes an  
5 unreasonable and unlawful seizure in violation of the Fourth Amendment.  
6

7  
8 **PRAYER FOR RELIEF**

9  
10 WHEREFORE, Petitioners respectfully requests this Court to grant  
11 the following:

12 (1) Assume jurisdiction over this matter;

13  
14 (2) Issue an Order to Show Cause ordering Respondents to show  
15 cause why this Petition should not be granted within three days;

16  
17 (3) Declare that Petitioners' re-detention without an individualized  
18 determination violates the Due Process Clause of the Fifth Amendment and the  
19 Administrative Procedures Act;

20  
21 (4) Declare that Petitioners' arrest and detention was unlawful as a  
22 violation of their rights against unreasonable search and seizure as guaranteed in  
23 the Fourt Amendment;

24  
25 (5) Issue a Writ of Habeas Corpus ordering Respondents to release  
26 Petitioner from custody;  
27

1 (6) Issue an Order prohibiting the Respondents from transferring  
2 Petitioner from the district without the court's approval;  
3

4 (7) Order that the Petitioners may not be re-detained without further  
5 order of this court;  
6

7 (8) Award Petitioner attorney's fees and costs under the Equal Access  
8 to Justice Act, and on any other basis justified under law; and  
9

10 (8) Grant any further relief this Court deems just and proper.  
11

12 Dated: November 26, 2025.

*/s/ Brian J. McGoldrick*  
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