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

10  
11 Carlos Jesus Colina-Meira

12 Petitioner,

13 v.

14 Todd Lyons, Acting Director, Immigration  
15 Customs and Enforcement; and  
16 Christopher Chestnut, Warden, California  
17 City Correctional Facility

18 Respondents.

Case No. 1:25-cv-01716-DC-CSK

**PETITIONER'S REPLY IN  
SUPPORT OF HIS HABEAS  
PETITION**

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Petitioner Carlos Jesus Colina-Meira (“Petitioner” or “Colina-Meira”) submits the following Reply in support of his Habeas Petition (“Reply”).

Respondents’ Opposition is largely non-responsive. It fails entirely to address the key arguments in Petitioner’s Habeas Petition. Respondents acknowledge that Petitioner arrived in the United States pursuant to a grant of parole. (Dkt. 12 at 2). But, Respondents fail to address Petitioner’s argument that he should be released because was previously released in 2022 and determined to not be a flight risk nor a danger. Respondents also fail to address Petitioner’s argument that he should have had a pre-deprivation hearing before being re-detained in 2025 and that he was not afforded one. Respondents also fail to address case law from this District that is directly on point and in which the Petitioner was ordered to be released in similar circumstances. Instead, Respondents’ Opposition focuses on arguing that Petitioner is properly classified under 8 U.S.C. §1225(a)(1) and not 8 U.S.C. 1226(a). (Dkt. 12 at 2).

In arguing that Petitioner is an applicant for admission, Respondents would have this Court believe that Petitioner was recently arrested at the border and thus has no right to due process. But, Petitioner was detained in 2022 and then released at that time. (Dkt. 12 at Ex. 2). He was already found not to be a danger nor a flight risk. It is now 2025. Petitioner absolutely has a Fifth Amendment right protecting him from his continued detention as discussed in Petitioner’s Habeas Petition and further below.

Petitioner respectfully requests that the Court grant his Habeas Petition ordering his release under the same conditions he was subject to immediately prior to his detention on October 7, 2025 and enjoining Respondents from re-detaining him unless he is provided with a pre-deprivation hearing before an immigration Judge.

1           **II. ARGUMENT**

2           **a. Petitioner Detention Without A Pre-Deprivation Hearing Violates**  
3           **the Due Process Clause of the Fifth Amendment**

4           On September 29 2022, Petitioner was apprehended near El Paso, TX and  
5 then released by U.S. Border Patrol on parole upon the determination that he posed  
6 neither a danger to the community or a flight risk. (Dkt. 12 at Ex. 2). Case law is  
7 clear that “[w]here the release decision was made by a DHS officer, not an  
8 immigration judge, the Government’s practice has been to require a showing of  
9 changed circumstances before re-arrest.” *Aceros v. Kaiser*, No. 25-cv-06924-  
10 EMC, 2025 U.S. Dist. LEXIS 179594 at \*1 (N.D. Cal. Sept. 12, 2025) (*citing*  
11 *Seravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017)).

12           The facts in *Aceros* are nearly identical to the facts in this case. In *Aceros*,  
13 the Petitioner was arrested at the border in 2024 and released on her own  
14 recognizance. *Id.* Petitioner was then arrested at the San Francisco Immigration  
15 Court when she appeared for a scheduled hearing. Like the present case, the  
16 Petitioner in *Aceros* was not afforded a pre-deprivation hearing. *Id.* at \*12. The  
17 Court in *Aceros* granted Petitioner’s motion for preliminary injunction and ordered  
18 that the government not re-detain Petitioner without a pre-deprivation hearing. *Id.*  
19 at \*39.

20           Further, Petitioner possesses a protected liberty interest under the Fifth  
21 Amendment. The due process clause of the Fifth Amendment applies to all  
22 “persons” within the United States, including aliens, whether their presence is  
23 lawful, unlawful, temporary, or permanent. *Zadvydas v. Davis*, 533 U.S. 678, 693  
24 (2001). *see also Perez-Mendez v. Lyons*, Case No. 2:25-cv-07727-VBF-RAO,  
25 2025 U.S. Dist. LEXIS 207266 (C.D. Cal. Sept. 11, 2025)(finding that “Petitioner  
26 is likely to prevail on his claims because he has shown that his freedom from re-  
27 detention is a protected liberty interest under the Due Process Clause of the Fifth  
28 Amendment.”) Thus, Petitioner’s continued detainment violates his due process

1 rights.

2 Petitioner also has not had a custody redetermination hearing. Title 8 U.S.C.  
3 § 1226(a) “sets out the ‘default rule’ for [detention of] noncitizens already present  
4 in the country.” *Lepe v. Andrews*, — F. Supp. 3d —, No. 1:25-cv-01163-KES-  
5 SKO (HC), 2025 WL 2716910, at \*3 (E.D. Cal. Sept. 23, 2025) (*quoting Jennings*  
6 *v. Rodriguez*, 583 U.S. 281, 289 (2018)). Section 1226(a) provides that “an alien  
7 may be arrested and detained pending a decision on whether the alien is to be  
8 removed from the United States. . . . [T]he Attorney General (1) may continue to  
9 detain the arrested alien; and (2) may release the alien on [bond or conditional  
10 parole].” 8 U.S.C. § 1226(a). The § 1226(a) framework is discretionary and  
11 requires that “[a]n immigration officer make[] the initial determination to either  
12 detain or release that 8 U.S.C. § 1226(a) governs his detention, not 8 U.S.C. §  
13 1225(b)(2) and that his ongoing detention by Respondents under 8 U.S.C. §  
14 1225(b)(2) and the denial of a bond hearing on the merits is unlawful. he  
15 noncitizen, but after that decision has been made, the noncitizen may request a  
16 bond hearing before an immigration judge.” *Lepe*, 2025 WL 2716910, at \*3.

17 The same issues presented in the present Habeas Petition have been  
18 addressed in Federal Courts in this district and across the nation. *See Josue I.C.V.*  
19 *v. Lyons et al.* 1:25-cv-01542-SKO (E.D. Cal Dec. 5, 2025) (granting habeas  
20 petition and ordering Petitioner’s release and finding that Petitioner’s re-detention  
21 without a pre-deprivation hearing was a violation of the Due Process Clause of the  
22 Fifth Amendment); *Perez v. Albarran*, No. 1:25-cv-01540-DAD-CSK (HC), 2025  
23 U.S. Dist. LEXIS 224966, at \*9 (E.D. Cal. Nov. 14, 2025) (granting Petitioner’s  
24 application for a preliminary injunction and concluding that Respondents are  
25 enjoined and restrained from re-detaining Petitioner for any purpose, absent  
26 exigent circumstances, without providing petitioner notice and a pre-detention  
27 hearing before an immigration judge where respondents will have the burden to  
28 demonstrate a change in circumstances by clear and convincing evidence.); *Polo v.*

1 *Chestnut*, No. 1:25-CV-01342 JLT HBK, 2025 WL 2959346, at \*39-40 (E.D. Cal.  
2 Oct. 17, 2025)(granting a preliminary injunction in favor of Petitioner and  
3 permanently enjoining Respondents from re-arresting Petitioner without  
4 constitutional protections, which “include at a minimum, predeprivation notice of  
5 at least seven days before a deprivation hearing at which the government will bear  
6 the burden of demonstrating by clear and convincing evidence that [Petitioner] is  
7 likely to flee or pose a danger to the community if not arrested and at which  
8 Petitioner may be represented by her counsel.” Respondents were also ordered to  
9 not impose further additional restrictions on Petitioner, like electronic monitoring,  
10 unless that is determined to be necessary at a later custody hearing.); *Perez-Mendez*  
11 *v. Lyons*, 2:25-cv-07727-VBF-RAO, 2025 U.S. Dist. LEXIS 207266, at \*2 (C.D.  
12 Cal. Oct 21, 2025). (granting Petitioner’s application for preliminary injunction  
13 and finding “Respondents may not re-detain Petitioner without a bond hearing on  
14 the merits where the government must prove by clear and convincing evidence that  
15 Petitioner is a danger to the community and a flight risk such that physical custody  
16 is required.”); *see also Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL  
17 1193850, at \*16 (W.D. Wash. Apr. 24, 2025)(granting Petitioner’s preliminary  
18 injunction, and finding that petitioner is likely to succeed on the merits, that his  
19 detention should be governed under Section 1226(a), ordering a bond hearing, and  
20 enjoining Respondents from denying bond on the basis that he is detained pursuant  
21 to 8 U.S.C. § 1225(b)(2)).; *See also Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-  
22 BFM, 2025 U.S. Dist. LEXIS 171364, \*24 (C.D. Ca. Jul. 28, 2025) (Ordering that  
23 “Respondents are enjoined from continuing to detain Petitioners unless they are  
24 provided an individualized bond hearing before an immigration judge pursuant to 8  
25 U.S.C. § 1226(a) within 7 days of the date of this Order”); *Bautista v. Santacruz*,  
26 *No. 5:25-cv-01873-SSS-BFM*, 2025 U.S. Dist. LEXIS 233085 (C.D. Cal.  
27 November 20, 2025)(granting partial summary judgment and finding that 8 U.S.C.  
28 §1226(a) applies to Petitioners).

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Respondents are silent on the ample case law contradicting their position.

**III. CONCLUSION**

For the foregoing reasons, Petitioner respectfully asks the Court to grant  
Petitioner's Habeas Petition and order Petitioner's release.

DATED: December 22, 2025

VENABLE LLP

By: /s/ Sarah S. Brooks

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