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

10 ALFONSO RANGEL VELAZQUEZ,

11 Petitioner,

12 v.

13 Christopher J. LAROSE, in his official  
14 capacity as Warden of Otay Mesa  
15 Detention Center; Daniel A.  
16 BRIGHTMAN, in his official capacity as  
17 San Diego Field Office Director, ICE  
18 Enforcement and Removal Operations;  
19 Todd LYONS, in his official capacity as  
20 Acting Director of ICE; Kristi NOEM, in  
21 her official capacity as Secretary of  
22 Homeland Security; Pamela BONDI, in  
23 her official capacity as U.S. Attorney  
24 General,

25 Respondents.

Case No.: 3:25-cv-03474-AGS-DEB

Agency File No.:



**PETITIONER'S TRAVERSE IN  
SUPPORT OF PETITION FOR  
WRIT OF HABEAS CORPUS**

## I. INTRODUCTION

1  
2 Petitioner Alfonso Rangel Velazquez submits this Traverse in response to  
3 Respondents' Return. Mr. Rangel Velazquez was paroled into the country on  
4 January 5, 2025, pursuant to an approved Form I-131, Application for Travel  
5 Document. His parole was later revoked, and he was taken into ICE custody, when  
6 he reported as instructed for an appointment at the ICE Enforcement and Removal  
7 Operations Office in San Diego, California, on October 15, 2025.  
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10 In their return, Respondents assert that this Court lacks jurisdiction to  
11 adjudicate Mr. Rangel Velazquez's claims; that he is lawfully detained as an  
12 applicant for admission; and that his parole was lawfully revoked. For reasons  
13 discussed below, this Court does have jurisdiction to adjudicate Mr. Rangel  
14 Velazquez's claims, which stem from the legality and constitutionality of the  
15 revocation of his parole and detention. Furthermore, Mr. Rangel Velazquez's  
16 detention and the revocation of his parole violated his rights under the Fifth  
17 Amendment's Due Process Clause.  
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## II. ARGUMENT

### 20 21 22 A. This Court Has Jurisdiction to Adjudicate Mr. Rangel Velazquez's 23 Claims.

24 Respondents first contend that this Court lacks jurisdiction to adjudicate Mr.  
25 Rangel Velazquez's claims pursuant to 8 U.S.C. § 1252(g), which strips  
26

1 jurisdiction over claims arising from three discrete executive actions: the decision  
2 to commence proceedings, adjudicate cases, and execute removal orders. Mr.  
3 Rangel Velazquez does not challenge any of those actions. Rather, he challenges  
4 the legality of his arrest, detention, and parole revocation—constitutional claims  
5 collateral to the removal process. District courts retain jurisdiction to review legal  
6 or constitutional questions underlying discretionary determinations, as Mr. Rangel  
7 Velazquez requests here. *See Gebhardt v. Nielsen*, 879 F.3d 980, 985 (9th Cir.  
8 2018); *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017).

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11 Respondents further contend that this Court lacks jurisdiction to adjudicate  
12 Mr. Rangel Velazquez’s claims pursuant to 8 U.S.C. § 1252(b)(9), which  
13 consolidates review of claims arising from removal proceedings into petitions for  
14 review of final orders. However, section 1252(b)(9) does not prohibit review of  
15 claims that “are independent of or collateral to the removal process,” including  
16 claims challenging the legality of detention that are independent of the removal  
17 process. *See Gonzalez v. ICE*, 975 F.3d 788, 810 (9th Cir. 2020).

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20 Mr. Rangel Velazquez is not challenging the DHS’s decision to commence  
21 proceedings or to adjudicate his removability. He is challenging his arrest and  
22 detention given his prior parole status and liberty interest in his rights as a parolee.  
23 Thus, 8 U.S.C. § 1252(b)(9) does not strip the Court of jurisdiction to adjudicate  
24 Mr. Rangel Velazquez’s claims.  
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1 Challenges to unlawful detention fall within the core of the writ of habeas  
2 corpus. *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *Boumediene v. Bush*, 553 U.S.  
3 723, 739 (2008). Habeas jurisdiction exists where, as here, the petitioner does not  
4 seek review of a final order of removal but challenges the legality of custody itself.  
5 *See Nadarajah v. Gonzales*, 443 F.3d 1069 (9th Cir. 2006). Accordingly, this Court  
6 has jurisdiction over Mr. Rangel Velazquez’s claims.<sup>1</sup>

8 B. Mr. Rangel Velazquez is not an applicant for admission or an arriving  
9 alien.

10 Respondents contend that Mr. Rangel Velazquez is an applicant for  
11 admission pursuant to 8 U.S.C. § 1225, and thus cannot establish entitlement to  
12 relief on his constitutional claims. Yet Mr. Rangel Velazquez has lived in the  
13 United States for over twenty-five years and last entered the country pursuant to a  
14 grant of parole based on a previously-approved travel document. He was not  
15 arrested at or near the border upon his arrival in the United States; he was arrested  
16 when he complied with instructions to report to an ICE field office for a check-in.  
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18 In *Torres v. Barr*, the Ninth Circuit held that “the phrase ‘at the time of  
19 application for admission’... refers to the particular point in time when a noncitizen  
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23 <sup>1</sup> Respondents note that on an alternative basis to finding a lack of jurisdiction, this  
24 Court should require Mr. Rangel Velazquez to exhaust administrative remedies.  
25 (ECF at 10, n.1.) As is discussed in the Petition, Mr. Rangel Velazquez should not  
26 be required to exhaust administrative remedies because doing so would be futile  
27 and because he is experiencing irreparable harm while detained. (ECF at 7, 8.)

1 submits an application to physically enter into the United States.” 976 F.3d 918,  
2 924 (9th Cir. 2020) (en banc). Under *Torres*, an individual only makes an  
3 application for admission when they seek permission to physically enter the  
4 country; they do not remain in a “perpetual state of applying for admission.” *Id.*;  
5  
6 see *United States v. Gambino-Ruiz*, 91 F.4th 981, 989-90 (9th Cir. 2024). While  
7 someone detained at or near the border shortly after crossing may meet the  
8 description of an applicant for admission, someone who, like Mr. Rangel  
9 Velazquez, was paroled into the United States subject to an individualized  
10 determination by an immigration officer and has been physically present ever  
11 since, is not an applicant for admission.  
12

13  
14 As an individual who was allowed to physically enter the country, Mr.  
15 Rangel Velazquez is entitled to constitutional protections. “Once an alien enters  
16 the country, the legal circumstance changes, for the Due Process Clause applies to  
17 all ‘persons’ within the United States, including aliens, whether their presence is  
18 lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693  
19 (2001); see also *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (recognizing that  
20 parole constitutes a protected liberty interest and that its revocation inflicts a  
21 “grievous loss” requiring due process). Because Mr. Rangel Velazquez was  
22 paroled into the country, he is entitled to constitutional protections.  
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1                   C. Mr. Rangel Velazquez’s Detention and Revocation of Parole Violated  
2                   His Rights Under the Due Process Clause.

3                   Mr. Rangel Velazquez was paroled into the United States on January 5,  
4 2025, pursuant to an individualized determination made by a DHS officer under  
5 INA § 212(d)(5). From the time of his parole until the date of his detention on  
6 October 15, 2025, Mr. Rangel Velazquez lived in the United States with his wife  
7 and daughter, as he had done during the twenty-five years before his parole, and  
8 pursued applications for immigration benefits in an effort to normalize his  
9 immigration status in the United States.  
10

11                   Mr. Rangel Velazquez has a constitutionally protected liberty interest in his  
12 parole and freedom from detention. “Freedom from imprisonment—from  
13 government custody, detention, or other forms of physical restraint—lies at the heart  
14 of the liberty that the [Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.  
15 Even an individual whose liberty is constrained or subject to government discretion  
16 retains a protected interest in their liberty. *See Morrissey*, 408 U.S. at 482–84.  
17

18                   The Due Process Clause requires procedural protections before an individual  
19 can be deprived of a protected liberty interest. *See Mathews v. Eldridge*, 424 U.S.  
20 319, 335 (1976). To determine which procedures are constitutionally sufficient,  
21 courts apply the *Mathews* factors, which require consideration of (1) the private  
22 interest affected; (2) the risk of erroneous deprivation of such an interest; and (3)  
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1 the government's interest in the function involved and the burdens that additional  
2 process would entail. *See id.*

3 All three *Mathews* factors favor Mr. Rangel Velazquez. First, Mr. Rangel  
4 Velazquez has a significant liberty interest in being free from custody pursuant to  
5 his parole. He has a paramount interest in remaining with his family, participating  
6 in his removal proceedings outside of custody, and pursuing his affirmative  
7 application for immigration benefits filed before his removal proceedings were  
8 initiated. *See Morrissey*, 408 U.S. at 482.  
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11 Second, the risk of erroneous deprivation was high because Respondents  
12 revoked Mr. Rangel Velazquez's parole and imposed detention without notice, an  
13 individualized assessment, or an opportunity to be heard. Such summary  
14 deprivation of his liberty interest presents an obvious and substantial risk of error.  
15  
16 *See Mathews*, 424 U.S. at 335.  
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18 With respect to the third *Mathews* factor, Respondents' interest in detaining  
19 Mr. Rangel Velazquez without notice or an opportunity to be heard is low. There is  
20 no evidence that Mr. Rangel Velazquez would have posed a danger to the  
21 community or a flight risk if the government had provided such an opportunity.  
22 Respondents' Return identifies none.  
23

24 While Respondents maintain authority to revoke parole and therefore detain  
25 individuals who were previously paroled, their discretion to do so is not unlimited.  
26

1 The Board of Immigration Appeals has held that the DHS may change conditions  
2 of parole only when there is a change in circumstances sufficient to do so. *See*  
3 *Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981); *see also Saravia v. Sessions*,  
4 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v.*  
5 *Sessions*, 905 F.3d 1137 (9th Cir. 2018) (noting that DHS has incorporated *Matter*  
6 *of Sugay* “into its practice, requiring a showing of changed circumstances . . .  
7 where the previous release decision was made by a DHS officer”). To satisfy due  
8 process, those changed circumstances must be supported by individualized legal  
9 justification. *See Morrissey*, 408 U.S. at 484.  
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12 No evidence of changed circumstances or legal justification for  
13 Respondents’ actions were provided here. Indeed there is no evidence that Mr.  
14 Rangel Velazquez’s circumstances have changed since DHS made an  
15 individualized determination that he should be paroled on January 5, 2025. He has  
16 no criminal record of arrest or conviction in the United States or any other country.  
17 He continues to pursue his application for immigration benefits and maintains  
18 strong family and community ties in this country.  
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22 Furthermore, Respondents’ detention of Mr. Rangel Velazquez and  
23 revocation of his parole, without any proffer of a rational or legitimate  
24 governmental purpose, is arbitrary and violates substantive due process. *County of*  
25 *Sacramento v. Lewis*, 523 U.S. 833, 845–46 (1998); *Nadarajah*, 443 F.3d at 1082.  
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27

**III. CONCLUSION**

1 Mr. Rangel Velazquez’s detention and revocation of his parole occurred in  
2 violation of the Due Process Clause and is unlawful. This Court should grant the  
3 Petition for Writ of Habeas Corpus, order Mr. Rangel Velazquez’s immediate  
4 release from custody, and grant such other and further relief as the Court deems  
5 just and proper.  
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8 I affirm, under penalty of perjury, that the foregoing is true and correct.  
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11 Dated: December 20, 2025

Signature: /s/ Robin M. Nagele  
By: Robin M. Nagele  
Attorney for Petitioner

**CERTIFICATE OF SERVICE**

1 I certify that the foregoing was filed on December 20, 2025, through the  
2 CM/ECF system and that it will be sent electronically to the registered participants  
3 as identified on the Notice of Electronic Filing.  
4

5 Executed on December 20, 2025, in Vista, California.  
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7  
8 Respectfully submitted,

9 /s/ Robin M. Nagele  
10 Robin M. Nagele  
11 *Attorney for Petitioner*  
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