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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ALEXI AYALA PEREZ

Petitioner

v.

Kristi NOEM, Secretary, U.S. Department of Homeland Security;

Todd LYONS, Acting Director, U.S. Immigration and Customs Enforcement;

Patrick DIVVER, Field Office Director, San Diego Field Office, U.S. Immigration and Customs Enforcement.

Christopher LAROSE, Senior Warden, Otay Mesa Detention Center;

Pamela BONDI, Attorney General, U.S. Department of Justice.

Respondents

Case No.: '25CV3777 CAB JLB

Agency File No: [redacted]

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Petitioner, Alexi Ayala Perez, petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy Respondents' unlawful detention of him, and states as follows:

INTRODUCTION

2. Petitioner, Alexi Ayala Perez, is a Cuban national currently detained at the Otay Mesa ICE Detention Center in San Diego, California.

3. He files this petition under 28 U.S.C. § 2241 seeking judicial review of Respondents' decision to detain him under 8 U.S.C. § 1225(b)(2) (INA § 235(b)(2)), without constitutionally adequate process and without lawful termination of parole. Petitioner's parole was never lawfully terminated in accordance with the Immigration and Nationality Act, its implementing regulations, or the requirements of Due Process. Because DHS failed to follow the procedures required to revoke parole, Petitioner's grant of parole remains valid, and his current detention is unlawful.

4. Because DHS never terminated Petitioner's parole in accordance with 8 C.F.R. § 212.5(e), Petitioner remains a parolee as a matter of law. DHS therefore lacks statutory authority to detain him under 8 U.S.C. § 1225(b)(2), and his confinement is unlawful.

5. Petitioner seeks declaratory and injunctive relief compelling his immediate release from immigration custody, where DHS has held him since May 23, 2025, without first providing a constitutionally adequate hearing to determine whether his incarceration is justified.

6. Absent intervention by this Court, Petitioner will remain detained without any neutral judicial review of the constitutionality of his custody. Without habeas relief, Respondents will continue to detain him without affording the process required by the Constitution. Petitioner therefore respectfully requests that this Court examine the lawfulness of his detention, declare that Respondents lack authority to hold him under 8 U.S.C. § 1225(b)(2) absent lawful termination of parole and adequate process, and order his immediate release.

7. Courts in this District have recently granted habeas relief to similarly situated parolees whose humanitarian parole was purportedly terminated without compliance with 8 C.F.R. § 212.5(e). For example, in *Rodriguez-Fernandez v. Noem*, No. 25-cv-03399-DMS-KSC (S.D.

Cal. Dec. 22, 2025), and *Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP (S.D. Cal. Nov. 25, 2025), the courts held that DHS may not terminate parole through mass or form notices, may not revoke parole without an individualized determination and reasoned explanation, and may not detain a parolee under § 1225(b) unless parole has been lawfully terminated. Like Petitioner here, the petitioner in *Rodriguez-Fernandez* entered the United States through a CBP One appointment, was inspected and paroled, and was detained on May 23, 2025, without any individualized determination or pre-deprivation hearing. Here, as in those cases, Respondents never lawfully terminated Petitioner's parole, provided no individualized justification, and nevertheless detained him under a statute that does not apply to parolees. This Petition does not challenge the Immigration Judge's denial of relief or the pending appeal before the Board of Immigration Appeals; it challenges only the constitutionality of Petitioner's re-detention following parole without due process.

CUSTODY

8. Petitioner is currently in Respondents' legal and physical custody. He is detained at the Otay Mesa ICE Detention Center in San Diego, California, where he remains under Respondents' and their agents' direct control.

JURISDICTION AND VENUE

9. This action arises under the United States Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., INA § 101 et seq., to challenge Petitioner's detention under the INA and any inherent or plenary powers the government may claim to continue holding him.

10. This Court has jurisdiction under 28 U.S.C. § 2241 and Article I, § 9, cl. 2 of the United States Constitution, as Petitioner is presently in Respondents' custody under color of federal authority, and such custody violates the Constitution, laws, or treaties of the United States. This Court's jurisdiction is not limited by a petitioner's nationality, immigration status, or manner of entry. See *Boumediene v. Bush*, 553 U.S. 723, 747 (2008). This Court may grant relief pursuant to the Suspension Clause and the Due Process Clause of the Fifth Amendment.

11. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Petitioner's detention. Federal district courts possess broad authority to issue writs of habeas corpus when a person is held "in custody in violation of the Constitution or laws or treaties of the United States" (28 U.S.C. § 2241(c)(3)), and this authority extends to immigration detention challenges that survived the REAL ID Act's jurisdictional restrictions.

12. Because Petitioner seeks the traditional habeas remedy of release from allegedly unlawful detention rather than judicial or administrative review of his underlying removal proceedings, this Petition presents precisely the type of threshold legality-of-detention question that § 2241 was designed to address. See I*NS v. St. Cyr*, 533 U.S. 289, 301 (2001); see also *Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh v. Holder*, 638 F.3d 1196, 1211–12 (9th Cir. 2011)). Petitioner is not subject to a final order of removal, and no court has ruled on the legality of his detention.

13. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because a substantial part of the events or omissions giving rise to this claim have occurred here, Petitioner is detained here, and his custodian resides here. Venue is also proper under 28 U.S.C. § 2243 because Petitioner's immediate custodian resides in this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 451–52 (2004) (Kennedy, J., concurring).

14. Federal courts, including multiple courts within the Southern District of California, have repeatedly held that 8 U.S.C. §§ 1252(b)(9) and 1252(g) do not bar habeas review where, as here, a petitioner challenges the legality of immigration detention rather than the validity of removal proceedings. See, e.g., *Rodriguez-Fernandez v. Noem*, No. 25-cv-03399-DMS-KSC (S.D. Cal. Dec. 22, 2025); *Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP (S.D. Cal. Nov. 25, 2025); *Fanfan v. Noem*, No. 25-cv-03291 (S.D. Cal. Dec. 12, 2025); *Medina-Ortiz v. Noem*, No. 25-cv-02819 (S.D. Cal. Oct. 30, 2025); *Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025). Because Petitioner challenges only the statutory and constitutional authority for his continued detention following parole, this case falls squarely within this Court's habeas jurisdiction.

PARTIES

15. Petitioner, Alexi Ayala Perez, is a Cuban national detained at the Otay Mesa Detention Center, in San Diego, California.

16. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS).

17. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE).

18. Respondent Patrick Divver is the Director of the San Diego Field Office of U.S. Immigration and Customs Enforcement.

19. Respondent Christopher LaRose is the Senior Warden of the Otay Mesa Detention Center.

20. Respondent Pamela Bondi is the Attorney General of the United States and the head of the U.S. Department of Justice (DOJ).

21. All Respondents are named in their official capacities.

STATEMENT OF FACTS

22. Petitioner is a Cuban national currently detained at the Otay Mesa ICE Detention Center in San Diego, California.

23. Petitioner fled Cuba after he and his family were targeted by [redacted] due to their political opinions, opposition to the government, and refusal to cooperate with regime-aligned organizations. Like many dissidents, Petitioner faced escalating threats and feared imprisonment or severe retaliation if he remained in Cuba.

24. Petitioner arrived in the United States on June 3, 2024, through the San Ysidro Port of Entry after securing an inspection appointment using the CBP One mobile application. He arrived together with his brother-in-law, *Darien Rodriguez Fernandez*, and other family members pursuant to coordinated CBP One appointments. Upon inspection, Petitioner was paroled into the United States under INA § 212(d)(5)(A) and issued a Form I-94 valid for two years, through June 2, 2026. (*Exh.* 1).

25. On September 6, 2024, DHS issued Petitioner an Employment Authorization Document ("EAD") under category C11 (*Exh.* 2)—reserved exclusively for individuals granted parole under 8 U.S.C. § 1182(d)(5)(A). The EAD is valid through June 3, 2026. The issuance of a C11 EAD months after Petitioner's arrival confirms that DHS continued to recognize his lawful parole status and never terminated that status pursuant to 8 C.F.R. § 212.5(e).

26. On or around April 2025, DHS sent a mass email to thousands of CBP One parolees purporting to terminate their parole within seven days and instructing them to depart the United States "immediately." The message provided no individualized reason, evidence, or notice required by statute or regulation. Although Petitioner did not personally receive this email, DHS has since relied on this mass-termination directive as the purported basis for treating all CBP One parolees—including Petitioner—as if their parole had been lawfully terminated. No such lawful termination ever occurred in Petitioner's case.

27. On May 23, 2025, Petitioner appeared for a Master Calendar Hearing before Immigration Judge Scott Simpson in the San Diego Immigration Court. (*Exh.* 3). Petitioner attended all prior hearings and remained in full compliance with all conditions of his release.

28. Immediately upon the conclusion of the hearing, as Petitioner exited the courtroom, ICE agents detained him—without prior notice and without any opportunity to be heard. This occurred despite Petitioner possessing a valid, unrevoked Form I-94 granting parole through June 2, 2026, and without DHS ever issuing the written notice or individualized determination required to terminate parole under 8 C.F.R. § 212.5(e).

29. On June 30, 2025, Petitioner filed an application for adjustment of status under the Cuban Adjustment Act ("CAA"), and USCIS issued Receipt Number MSC2590583397. (*Exh* 4).

30. As reflected on the Notice to Appear ("NTA") (*Exh* 5), Petitioner is classified as an "Arriving Alien" who applied for admission on June 3, 2024. His adjustment application is therefore governed by the jurisdictional framework set forth in 8 C.F.R. §§ 245.2(a)(1) and 1245.2(a)(1)(ii).

31. Under this regulatory scheme, USCIS retains exclusive jurisdiction to adjudicate the adjustment applications of arriving aliens, and Immigration Judges lack jurisdiction to adjudicate such applications as a matter of law. Accordingly, only USCIS—not EOIR—has authority to adjudicate Petitioner's pending CAA-based adjustment application.

32. On December 17, 2025, an Immigration Judge denied Petitioner's applications for relief from removal. Petitioner timely filed, or is within the statutory period to timely file, an appeal of that decision to the Board of Immigration Appeals. Accordingly, no final order of removal exists.

33. A search of the USCIS Case Status Online system completed on December 25, 2025, confirms that Petitioner's Form I-485 remains pending. The system states: "As of September 25, 2025, fingerprints relating to your Form I-485, Application to Register Permanent Residence or Adjust Status, Receipt Number [redacted], have been applied to your case." (*Exh* 6).

34. Petitioner remains detained today. His parole has never been lawfully terminated under the statutory or regulatory procedures required by 8 C.F.R. § 212.5(e), including written notice, an individualized determination, or an opportunity to respond. As a result, his parole remains in effect, and his detention is unlawful.

35. Petitioner has no criminal history and was detained while attending a scheduled court hearing. He poses no danger to the community and no flight risk, given his valid parole, stable residence, family ties, and pending adjustment application before USCIS.

36. Recent litigation in this District confirms that DHS has engaged in a pattern of attempting to terminate humanitarian parole through mass form notices without conducting individualized assessments. In *Rodriguez-Fernandez v. Noem*, No. 25-cv-03399-DMS-KSC (S.D. Cal. Dec. 22, 2025), the court granted habeas relief to a CBP One parolee who entered the United States through the San Ysidro Port of Entry, was inspected and paroled under INA § 212(d)(5)(A), was issued a Form I-94 and a C11 employment authorization document, and was detained on May 23, 2025 without any individualized determination or pre-deprivation hearing.

The petitioner in that case is Petitioner's brother-in-law, and both individuals arrived through CBP One and were detained by DHS on the same date as part of the same re-detention action. The court held that DHS may not revoke parole through mass notices, may not detain a parolee under 8 U.S.C. § 1225(b) absent lawful termination of parole, and violated due process by re-detaining the petitioner without constitutionally adequate procedures. Courts in this District have reached the same conclusion in other cases. See, e.g., *Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP (S.D. Cal. Nov. 25, 2025). Petitioner's detention reflects this same unlawful pattern: DHS never provided individualized notice, never made an individualized determination, and never lawfully terminated his parole before re-detaining him.

REQUIREMENTS OF 28 U.S.C. § 2243

37. Under 28 U.S.C. § 2243, the Court "must" grant the petition for a writ of habeas corpus or issue an order to show cause ("OSC") "forthwith," unless the petitioner is not entitled to relief. If an OSC is issued, the statute requires that Respondents file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

38. Federal courts have long emphasized the importance of habeas corpus as a protection against unlawful restraint. The Supreme Court has described the writ as "affording a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

39. Congress and the courts have repeatedly reaffirmed that habeas corpus must remain a prompt and expeditious remedy. As the Ninth Circuit has explained, "The statute itself directs courts to give petitions for habeas corpus 'special, preferential consideration to insure expeditious hearing and determination.'" *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

40. In habeas corpus proceedings, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive prudential exhaustion where "administrative remedies are inadequate or not efficacious, pursuit

of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). Here, exhaustion should be excused because administrative remedies are (1) futile and (2) Petitioner's continued detention results in irreparable harm.

41. Exhaustion would be futile because Respondents classify Petitioner as an "Arriving Alien," as reflected on the face of the Notice to Appear. Under 8 C.F.R. § 1003.19(h)(2)(i)(B), Immigration Judges lack jurisdiction to conduct custody redetermination hearings for individuals DHS designates as arriving aliens. In this District, when DHS asserts that detention is governed by INA § 235(b) or relies on an arriving alien designation, Immigration Judges routinely state on the record that they lack authority to review custody. As a result, no administrative mechanism exists by which Petitioner can obtain custody review under DHS's asserted classification, rendering any attempt to exhaust administrative remedies futile.

42. Moreover, no statutory exhaustion requirement applies to Petitioner's claim that his detention violates the Constitution and the INA. Constitutional claims and pure questions of law —such as whether Petitioner's parole was lawfully terminated and whether DHS has statutory authority to detain him—fall outside the agency's adjudicatory competence. See *Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) (exhaustion excused where the agency "does not have jurisdiction to review" constitutional claims); In re Indefinite Detention Cases, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same). There is no administrative forum that can decide whether DHS lawfully terminated Petitioner's parole or whether DHS may invoke § 1225(b)(2) to detain him.

43. Requiring exhaustion would also be futile because no administrative mechanism exists to review Petitioner's detention under DHS's asserted classification. Courts have repeatedly excused exhaustion in materially identical circumstances where parolees were re-detained under INA § 235(b) without lawful termination of parole and without access to custody review. See *Fanfan v. Noem*, No. 25-cv-3291-DMS (BJW), 2025 WL 3563739, at n.2 (S.D. Cal.

Dec. 12, 2025); *Esquivel-Ipina v. LaRose*, No. 25-CV-2672-JLS (BLM), 2025 WL 2998361, at 3–4 (S.D. Cal. Oct. 24, 2025). Exhaustion is therefore excused.

LEGAL FRAMEWORK

44. When a noncitizen arrives at a port of entry and seeks admission, the Department of Homeland Security has discretion under the Immigration and Nationality Act to determine whether the individual will be detained or released into the United States while immigration proceedings are pending.

45. The Immigration and Nationality Act provides that DHS "may … in [the Secretary's] discretion parole" an arriving noncitizen into the United States "on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A).

46. Once DHS grants parole under § 1182(d)(5)(A), that parole may be terminated before its expiration only when "the purposes of such parole shall … have been served," or when "neither humanitarian reasons nor public benefit warrants the continued presence of the alien." 8 C.F.R. § 212.5(e)(2)(i). The regulation requires an individualized determination; DHS must identify the purpose of parole and determine that it has been satisfied or that the justification for parole no longer exists.

47. Release on parole is an express statutory exception to detention. *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018). Congress required that parole decisions—including termination—be made "only on a case-by-case basis" and tied to the individual circumstances of the parolee. 8 U.S.C. § 1182(d)(5)(A). Parole therefore may not be granted or revoked through blanket or categorical actions.

48. Courts in this District have confirmed that parole may be terminated only in strict compliance with the grounds and procedures set forth in 8 C.F.R. § 212.5(e). In *Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP (S.D. Cal. Nov. 25, 2025), the court held that DHS acted unlawfully when it attempted to terminate humanitarian parole through a mass form email, provided no individualized explanation, and failed to establish that the purpose of parole had been served or that humanitarian reasons no longer justified parole. The court emphasized that

categorical or boilerplate notices do not satisfy § 212.5(e)'s requirement of an individualized determination. Here, as in Arias, DHS never issued an individualized determination or complied with the regulatory procedures required to terminate Petitioner's parole before re-detaining him.

49. Immigration detention is civil, not punitive, and is constitutionally permissible only when justified by legitimate governmental interests, such as ensuring appearance at proceedings or protecting the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detention must always comport with the requirements of Due Process.

50. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas*, 533 U.S. at 690. These protections extend to all persons within the United States, regardless of immigration status. *Id.* at 693.

51. Individuals released on parole possess a substantial liberty interest. As the Supreme Court has explained, a parolee—though subject to conditions—may live and work in the community and form the enduring attachments of normal life. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Termination of that liberty interest inflicts a "grievous loss" and therefore requires due process. *Id.*

52. The Supreme Court has further recognized that individuals granted parole rely on the government's implicit assurance that parole will not be revoked arbitrarily or without cause. Revocation therefore requires procedural safeguards proportionate to the importance of the liberty interest at stake. *Id.* at 483–84.

53. "Adequate, or due, process depends upon the nature of the interest affected." *Haygood v. Younger*, 769 F.2d 1350, 1355–56 (9th Cir. 1985) (en banc). Where, as here, the liberty interest in remaining free from detention is substantial, the government must provide meaningful procedural protections before revoking parole.

54. The Constitution requires immigration agencies to "turn square corners" when acting in ways that affect individuals' rights and lawful presence. *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 24 (2020). When the government confers parole, it must comply

with both statutory and constitutional Due Process requirements before withdrawing that status and re-imposing detention.

CLAIM FOR RELIEF

COUNT 1

Violation of Due Process U.S. Constitution Amendment V

55. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, all preceding paragraphs.

56. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. CONST. amend. V. This protection applies to all persons within the United States, including noncitizens, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

57. Neither Petitioner nor his immigration-court counsel received any notice that DHS intended to terminate his parole, re-detain him, or assert that he was subject to detention under 8 U.S.C. § 1225(b)(2). Instead, Petitioner was seized by ICE agents in the hallway immediately after his immigration court hearing—without prior notice and without any opportunity to be heard—despite possessing valid, unrevoked parole and having appeared as required for his scheduled proceeding. DHS provided no pre-deprivation process of any kind before depriving Petitioner of his liberty.

58. Because Petitioner was previously released on parole, he possessed a protected liberty interest in remaining free from detention that could not be revoked absent constitutionally adequate process. His sudden re-detention without notice, an individualized determination, or an opportunity to be heard violates the Due Process Clause. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a protected liberty interest); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (recognizing that revocation of parole inflicts a "grievous loss" and requires minimum due process protections).

COUNT 2

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in Accordance with Law and in Excess of Statutory Authority Unlawful Detention

59. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, all preceding paragraphs.

60. The Administrative Procedure Act ("APA") requires courts to "hold unlawful and set aside agency action" that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A).

61. Agency action is arbitrary and capricious where the agency entirely fails to consider an important aspect of the problem, offers an explanation that runs counter to the evidence before it, or fails to articulate a rational connection between the facts found and the decision made. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983); *Dep't of Com. v. New York, 139 S. Ct.* 2551, 2569 (2019).

62. Under governing law and regulation, DHS may terminate humanitarian parole only through an individualized determination that the purposes of parole have been served or that neither humanitarian reasons nor public benefit warrants continued parole. 8 C.F.R. § 212.5(e). Termination of parole therefore requires reasoned, case-specific decision-making and may not be accomplished through blanket or categorical action.

63. Courts in this District have held that DHS acts arbitrarily and capriciously when it attempts to revoke humanitarian parole without an individualized determination or compliance with 8 C.F.R. § 212.5(e). In *Rodriguez Fernandez v. Noem*, No. 25-cv-03399-DMS-KSC (S.D. Cal. Dec. 22, 2025), the court granted habeas relief to a CBP One parolee detained on the same date and as part of the same DHS re-detention action as Petitioner, holding that DHS acted unlawfully by revoking parole and re-detaining the petitioner without individualized findings or lawful termination of parole. See also *Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP (S.D. Cal. Nov. 25, 2025).

64. As in *Rodriguez Fernandez* and *Arias*, DHS revoked Petitioner's parole and detained him without issuing any individualized determination, explanation, or findings demonstrating that the purposes of parole had been served or that humanitarian reasons or public benefit no longer justified his continued parole.

65. Respondents further acted arbitrarily and capriciously by detaining Petitioner without identifying any lawful or reasoned basis for reversing their prior determination that he could safely be released into the community on parole.

66. By detaining Petitioner without any individualized assessment, Respondents abused their discretion because there have been no changes to Petitioner's facts or circumstances since the agency made its initial, case-specific determination to parole him into the United States.

67. DHS's own conduct demonstrates that it previously determined Petitioner could be released into the community without presenting a danger or a risk of flight. After inspecting Petitioner at the port of entry, DHS exercised its discretionary parole authority under 8 U.S.C. § 1182(d)(5)(A) on a case-by-case basis—an action the statute permits only when the individual's specific facts and circumstances justify release. DHS later reaffirmed that assessment by issuing Petitioner an Employment Authorization Document under category C11, which is available exclusively to parolees, and by permitting him to live and work in the United States for nearly a year without incident. Throughout this period, DHS raised no concerns regarding public safety or flight risk, issued no notice questioning Petitioner's compliance, and took no action to terminate his parole as required under 8 C.F.R. § 212.5(e). There have been no materially changed circumstances since DHS made those determinations, and nothing in the record now justifies revoking Petitioner's parole or detaining him as a danger to the community or a flight risk.

68. Because Respondents revoked Petitioner's parole and re-detained him without reasoned explanation, individualized assessment, or compliance with governing regulations, their actions were arbitrary, capricious, and not in accordance with law, in violation of the Administrative Procedure Act.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A). Assume jurisdiction over this matter pursuant to 28 U.S.C. § 2241;

B). Issue a writ of habeas corpus or, in the alternative, an order to show cause directing Respondents to show cause, within three days of the filing of this Petition, why the relief requested should not be granted, and set a hearing within five days of Respondents' return, consistent with 28 U.S.C. § 2243;

C). Declare that Petitioner's re-detention without notice, an individualized determination, or an opportunity to be heard violates the Due Process Clause of the Fifth Amendment;

D). Declare that Petitioner's parole was never lawfully terminated, remains in effect, and that Respondents therefore lack statutory authority to detain Petitioner under 8 U.S.C. § 1225(b)(2);

E). Declare that Respondents' actions treating Petitioner's parole as terminated and detaining him without compliance with 8 C.F.R. § 212.5(e) were arbitrary, capricious, an abuse of discretion, and not in accordance with law, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A);

F). Set aside Respondents' unlawful agency action pursuant to 5 U.S.C. § 706(2)(A);

G). Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from immigration custody;

H). In the alternative, order a constitutionally adequate custody hearing at which the government bears the burden of justifying Petitioner's continued detention by clear and convincing evidence, before a neutral decisionmaker, with consideration of alternatives to detention and Petitioner's ability to pay any bond imposed;

I). In the alternative, if no administrative adjudicator lawfully possesses jurisdiction to provide such a hearing, conduct that hearing before this Court under the same constitutional standards;

J). Enjoin Respondents from transferring Petitioner outside this District without prior approval of this Court;

K). Award Petitioner reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and

L). Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

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