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6 *Attorney for Petitioner*  
Claudio Zamora Zamora

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9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE DISTRICT OF ARIZONA**

11 Claudio Zamora Zamora,  
12  
13 **Petitioner,**  
  
14 **v.**


Case No. TBD

**PETITION FOR WRIT OF  
HABEAS CORPUS**

15 John Cantu, Field Office Director of  
Enforcement and Removal Operations, Phoenix  
16 Field Office, Immigration and Customs  
Enforcement; Kristi Noem, Secretary, U.S.  
Department of Homeland Security; Pamela  
17 Bondi, U.S. Attorney General; Christopher  
Howard, Warden of Eloy Detention Center;  
18 Todd Lyons, Acting Director, Immigration and  
Customs Enforcement and Removal Operations.  
19 **Respondents.**

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**INTRODUCTION**

1  
2 1. Petitioner, Claudio Zamora Zamora (Mr. Zamora), is an Ecuadoran national who  
3 seeks protection in the United States because he was persecuted in Ecuador along with his wife  
4 and stepson, who are Venezuelan nationals. Exhibit A (Notice to Appear), Exhibit B (Form I-589  
5 and Receipt Notices for Filing and Annual Fee). Mr. Zamora and his family fled from Ecuador to  
6 Venezuela in July 2022, and Mr. Zamora and his wife were married in Venezuela that same month.  
7 Exhibit C (Marriage Certificate). Mr. Zamora and his family were persecuted in Venezuela due to  
8  and they again fled, this time to the United States. Exhibit D  
9 (Declaration of Mr. Zamora).

10 2. On October 11, 2022, Mr. Zamora entered the United States and turned himself into  
11 immigration authorities in El Paso, Texas. Exhibit D. He then received a grant of parole from the  
12 Department of Homeland Security (DHS) and was released into the United States. Exhibit E (Form  
13 I-94), Exhibit F (Alternatives to Detention Sheet). He filed an Application for Asylum,  
14 Withholding of Removal, and Protection under the Convention Against Torture with United States  
15 Citizenship and Immigration Services (USCIS) on October 9, 2023. Exhibit B.

16 3. Despite his pending asylum application, in October 2025, Mr. Zamora was  
17 apprehended by the DHS and detained in immigration custody at Eloy Detention Center in Eloy,  
18 Arizona. On October 24, 2025, the DHS served Petitioner with a Notice to Appear (NTA) charging  
19 that he was removable from the United States under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an  
20 immigrant who, at the time of application for admission, was not in possession of a valid,  
21 unexpired visa, reentry permit, border crossing card or other valid entry document required by the  
22 Immigration and Nationality Act (INA). Exhibit A.



1           8.       This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment  
2 Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

3           9.       The “zipper clause” at 8 U.S.C. § 1252(b)(9), which channels “[j]udicial review of  
4 all questions of law . . . including interpretation and application of constitutional and statutory  
5 provisions, arising from any action taken . . . to remove an alien from the United States” to the  
6 appropriate federal court of appeals, does not apply because that section applies only to review of  
7 removal orders, and Petitioner does not seek review of an order of removal but of custody.  
8 *Maldonado Bautista et al. v. Santacruz, et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28,  
9 2025), Order Granting Temporary Restraining Order, Dkt. 14 at 4-5.

10          10.       The bar to review at 8 U.S.C. § 1252(g) strips all courts of jurisdiction to hear “any  
11 cause or claim by or on behalf of any alien arising from the decision or action by the Attorney  
12 General to commence proceedings, adjudicate cases, or execute removal orders against any alien  
13 under this chapter.” The Supreme Court previously characterized § 1252(g) as a narrow provision,  
14 applying “only to three discrete actions that the Attorney General may take: her ‘decision or action’  
15 to ‘commence proceedings, *adjudicate* cases, or *execute* removal orders.” *Reno v. Am.-Arab Anti-*  
16 *Discrimination Comm.*, 525 U.S. 471, 482 (1999) (emphasis in original). In doing so, the Supreme  
17 Court found it “implausible that the mention of *three discrete events* along the road to deportation  
18 was a shorthand way to referring to *all claims arising from* deportation proceedings.” *Id.* (emphasis  
19 added). Petitioner’s challenge to his detention does not fall within these discrete actions.  
20 *Maldonado Bautista et al. v. Santacruz, et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28,  
21 2025), Order Granting Temporary Restraining Order, Dkt. 14 at 5; *see also Ibarra-Perez v. United*  
22 *States*, 154 F.4th 989, 991 (9th Cir. 2025) (re-affirming narrow reading of section 1252(g)).



1 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and  
2 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208  
3 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

#### 4 EXHAUSTION AND FUTILITY

5 16. Exhaustion of administrative remedies is required “[w]here Congress specifically  
6 mandates.” *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). But where, as here “Congress has  
7 not clearly required exhaustion, sound judicial discretion governs.” *Id.* (citations omitted). Under  
8 these principles, prudential exhaustion is not required where a request for relief before the agency  
9 would be futile because the agency has “predetermined the issue before it.” *Id.* at 148. Furthermore,  
10 “a court may waive the prudential exhaustion requirement if ‘administrative remedies are  
11 inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture,  
12 irreparable injury will result, or the administrative proceedings would be void.’” *Hernandez v.*  
13 *Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th  
14 Cir. 2004)).

15 17. No statutory exhaustion requirements apply to Mr. Zamora’s claim of unlawful  
16 custody in violation of his due process rights, and there are no administrative remedies that he  
17 needs to exhaust. *See Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir.  
18 1995) (finding exhaustion to be a “futile exercise because the agency does not have jurisdiction to  
19 review” constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal.  
20 2000) (same).

21 18. Mr. Zamora further asserts that exhaustion should be waived because  
22 administrative remedies are (1) futile and (2) his continued detention results in irreparable harm.  
23 “[C]onsidering [petitioner’s] due process challenge to [his] detention without the opportunity for  
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1 release on bond, this matter falls into the futility exception to the exhaustion requirement ‘carved  
2 for constitutional challenges to ... [DHS] procedures.’” *Ramirez v. Noem*, No. 25-2136, 2025 WL  
3 3270137, \*15 (D. Nev. Nov. 24, 2025) (quoting *Iraheta-Martinez v. Garland*, 12 F.4th 942, 949  
4 (9th Cir. 2021)). Additionally, “a post-deprivation hearing cannot serve as an adequate procedural  
5 safeguard because it is after the fact and cannot prevent an erroneous deprivation of liberty,” and  
6 therefore waiver of exhaustion is necessary to redress irreparable harm. *E.A. T.-B. v. Wamsley*,  
7 795 F. Supp. 3d 1316, (W.D. WA 2025).

### 8 PARTIES

9 19. Petitioner Claudio Zamora Zamora is a native and citizen of Ecuador who entered  
10 the United States on October 11, 2022, and was released from immigration custody shortly  
11 thereafter pursuant to a grant of parole. *See* Exhibits A, E, F. Petitioner is 35 years old, and he lives  
12 in Arizona with his wife and stepson, who are also seeking asylum. *See* Exhibits A-D. In October  
13 2025, ICE re-detained Petitioner with no opportunity for a hearing, and with no showing that  
14 circumstances had changed in his case. *See* Exhibit A. Despite his pending asylum application,  
15 ICE charged Petitioner with removability under 8 U.S.C. § 1182(a)(7)(A)(i)(I) as an immigrant  
16 who did not have the proper entry documents upon arrival in the United States. *See id.* ICE then  
17 moved to pretermite his application for asylum before the Immigration Court. Exhibit G. Mr.  
18 Zamora is presently detained at the Eloy Detention Center in Eloy, Arizona.

19 20. Respondent, John Cantu, is the Director of the Phoenix Field Office of ICE’s  
20 Enforcement and Removal Operations division, which oversees operations at the Eloy Detention  
21 Center. As such, John Cantu is Petitioner’s immediate custodian and is responsible for Petitioner’s  
22 detention and removal. He is named in his official capacity.

1 21. Respondent Kristi NOEM is the Secretary of the Department of Homeland Security.  
2 She is responsible for the implementation and enforcement of the INA, and oversees ICE, which  
3 is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner  
4 and is sued in her official capacity.

5 22. Respondent Pamela BONDI is the United States Attorney General. She is  
6 responsible for the Executive Office for Immigration Review (EOIR), which is the component of  
7 the U.S. Department of Justice that is responsible for implementing and enforcing the INA in  
8 removal proceedings, including for custody redetermination in bond hearings.

9 23. Respondent Christopher Howard is employed as the Warden of the Eloy Detention  
10 Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued  
11 in his official capacity.

12 24. Respondent Todd LYONS is the Acting Director of ICE and is named in his  
13 official capacity. Among other things, ICE is responsible for the administration and enforcement  
14 of the immigration laws, including the removal of noncitizens. In his official capacity as head of  
15 ICE, he is the legal custodian of Petitioner.

16 **STATEMENT OF FACTS**

17 25. Petitioner, Claudio Zamora Zamora (Mr. Zamora), is an Ecuadoran national who  
18 seeks protection in the United States because he and his wife were persecuted in that country.  
19 Exhibits A, B, C, D. Mr. Zamora and his family fled to Venezuela in July 2022, and Mr. Zamora  
20 and his wife were married that same month. Exhibits C, D. In Venezuela, Mr. Zamora's wife

21 [REDACTED] Exhibit D. Shortly thereafter, Mr.

22 Zamora and his family fled from Venezuela as well. *Id.* [REDACTED]

23 [REDACTED] *Id.*

1           26.     On October 11, 2022, Mr. Zamora entered the United States, where he turned  
2 himself into immigration authorities in El Paso, Texas. Exhibit D. His wife and stepson were  
3 returned to Mexico but ultimately entered the United States in December 2022. *Id.*

4           27.     Shortly after arriving in El Paso, Mr. Zamora received a grant of parole from the  
5 Department of Homeland Security (DHS) and was released into the United States. Exhibits E, F.  
6 He filed an Application for Asylum, Withholding of Removal, and Protection under the  
7 Convention Against Torture with United States Citizenship and Immigration Services (USCIS) on  
8 October 9, 2023. Exhibit B. Mr. Zamora diligently continued to pursue his asylum application,  
9 paying the \$100.00 annual filing fee as required on October 31, 2025. *Id.* He was issued a work  
10 permit on May 9, 2024, and to wit, began working at Sollid Cabinetry manufacturing furniture  
11 from January to October 2025, prior to his detention. Exhibit G.

12           28.     Despite his pending asylum application, in October 2025, Mr. Zamora was  
13 apprehended by the DHS and detained in immigration custody at Eloy Detention Center in Eloy,  
14 Arizona. *See* Exhibit A. On October 24, 2025, the DHS served Petitioner with a Notice to  
15 Appear (NTA) charging that he was removable from the United States under 8 U.S.C. §  
16 1182(a)(7)(A)(i)(I), as an immigrant who, at the time of application for admission, was not in  
17 possession of a valid, unexpired visa, reentry permit, border crossing card or other valid entry  
18 document required by the Immigration and Nationality Act (INA). Exhibit A.

19           29.     On December 18, 2025, the DHS filed a motion to pretermite Mr. Zamora's asylum  
20 application in Immigration Court, alleging that he is barred from relief and protection in the United  
21 States subject to Asylum Cooperative Agreements between the United States and the countries of  
22 Honduras and Uganda. Exhibit H. Mr. Zamora's individual hearing before the Eloy Immigration  
23 Court is scheduled for January 7, 2026. *See id.*

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2 **LEGAL FRAMEWORK**

3 **Right to a Hearing Prior to Re-Incarceration Following Release on Parole**

4 30. In Mr. Zamora’s particular circumstances, the Due Process Clause of the  
5 Constitution makes it unlawful for Respondents to re-arrest him without first providing a pre-  
6 deprivation hearing before a neutral decision maker to determine whether circumstances have  
7 materially changed since his release on parole in October 2022, such that detention would now be  
8 warranted on the basis that he is a danger or a flight risk by clear and convincing evidence.

9 31. Federal district courts within the jurisdiction of the Ninth Circuit Court of Appeals  
10 have repeatedly recognized that “even when ICE has the initial discretion to detain or release a  
11 noncitizen pending removal proceedings, after that individual is released from custody” on parole,  
12 he “has a protected liberty interest in remaining out of custody.” *Pinchi v. Noem*, 792 F. Supp. 3d  
13 1025, 1032 (N. D. Cal. 2025); *see also Alberto R.C. v. Murray*, No. 25-1618, 2025 U.S. Dist.  
14 LEXIS 260211, \*13 (E.D. Cal. Dec. 16, 2025); *Chacon v. Hermosillo*, No. 25-2299, 2025 U.S.  
15 Dist. LEXIS 257776 (W.D. WA Dec. 12, 2025); *Ruhai Shen v. Larose*, No. 25-3235, 2025 U.S.  
16 Dist. LEXIS 256924 (S.D. Cal. Dec. 11, 2025); *N-E-M-B- v. Wamsley*, No. 25-989, 2025 WL  
17 3527111 (D. Or. Dec. 9, 2025); *Gomez v. Doe*, No. 25-3255, 2025 WL 3269886 (D. Ariz. Oct. 31,  
18 2025). “In fact, the government’s initial release of an individual from custody ‘creates an “implicit  
19 promise” that the individual’s liberty will be revoked only if they fail to abide by the conditions of  
20 their release.’” *Ruhai Shen*, 2025 U.S. Dist. LEXIS 256924 at \*11 (quoting *Calderon v. Kaiser*,  
21 No. 25-6695, 2025 WL 2430609, \*2 (N.D. Cal. Aug. 22, 2025)). “An initial release from ICE  
22 custody further reflects ‘a determination by the government that [an individual is] neither a flight  
23 risk nor a danger to the community.’” *Ruhai Shen*, 2025 U.S. Dist. LEXIS 256924 at \*11 (quoting  
24 *Pinchi*, 792 F. Supp. 3d at 1034. “Thus, DHS may generally not re-arrest a previously released

1 noncitizen ‘absent a change in circumstances.’” *Id.* (quoting *Saucedo Aceros v. Kaiser*, No. 25-  
2 6924, 2025 WL 2637503, \*7 (N.D. Cal. Sept. 12, 2025)).

3 32. Where ICE revokes a noncitizen’s parole and detains the individual “without any  
4 rational individualized fact-finding or consideration of the effects of altering their prior decisions,”  
5 ICE “act[s] arbitrarily and capriciously in violation of the [Administrative Procedures Act, 5 U.S.C.  
6 § 706.]” *Sanchez v. Larose*, No. 25-2396, 2025 WL 2770629 (S.D. Cal. Sep. 26, 2025); *see also*  
7 *N-E-M-B-*, 2025 WL 3527111, \*19-\*20 (same).

8 33. The demands of due process and the limitations on DHS’s authority to revoke a  
9 noncitizen’s parole both require a pre-deprivation hearing for a noncitizen on parole, like Mr.  
10 Zamora, *before* ICE re-detains him. *See, e.g., Ruhai Shan*, 2025 U.S. Dist. LEXIS 256924 at \*11  
11 (ordering immediate release followed by a hearing at which the government will bear the burden  
12 of demonstrating by clear and convincing evidence that Petitioner is a flight risk or danger to the  
13 community); *N-E-M-B-*, 2025 WL 3527111 (same); *Alberto R.C.*, 2025 U.S. Dist. LEXIS 260211,  
14 \*16-\*17 (same). The courts have reached this conclusion by applying the test set forth in *Mathews*  
15 *v. Eldridge*, 424 U.S. 319, 334-35 (1976). *See id.* Under that test, courts consider: (1) “the private  
16 interest” at stake, (2) “the risk of an erroneous deprivation” without additional procedures and “the  
17 probable value . . . of additional or substitute procedural safeguards,” and (3) the “Government’s  
18 interest, including the function involved and the fiscal and administrative burdens imposed by the  
19 additional procedures.” *Id.* 424 F.3d at 335.

20 **Mr. Zamora’s Protected Liberty Interest in His Conditional Release**

21 34. Mr. Zamora’s liberty from immigration custody is protected by the Due Process  
22 Clause: “Freedom from imprisonment—from government custody, detention, or other forms of  
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1 physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*  
2 *v. Davis*, 533 U.S. 678, 690 (2001).

3 35. Since October 2022, Mr. Zamora exercised that freedom under DHS’s grant of  
4 parole. Exhibits E, F, G. Although he was released under the Alternatives to Detention program,  
5 Exhibit F, he retains a weighty liberty interest under the Due Process Clause of the Fifth  
6 Amendment in avoiding re-incarceration. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997);  
7 *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-483  
8 (1972).

9 36. In *Morrissey*, the Supreme Court examined the “nature of the interest” that a  
10 parolee has in “his continued liberty.” 408 U.S. at 481-82. The Court noted that, “subject to the  
11 conditions of his parole, [a parolee] can be gainfully employed and is free to be with family and  
12 friends and to form the other enduring attachments of normal life.” *Id.* at 482. The Court further  
13 noted that “the parolee has relied on at least an implicit promise that parole will be revoked only  
14 if he fails to live up to the parole conditions.” *Id.* The Court explained that “the liberty of a parolee,  
15 although indeterminate, includes many of the core values of unqualified liberty and its termination  
16 inflicts a grievous loss on the parolee and often others.” *Id.* In turn, “[b]y whatever name, the  
17 liberty is valuable and must be seen within the protection of the [Fifth] Amendment.” *Morrissey*,  
18 408 U.S. at 482.

19 37. This basic principle—that individuals have a liberty interest in their conditional  
20 release—has been reinforced by both the Supreme Court and the circuit courts on numerous  
21 occasions. *See, e.g., Young v. Harper*, 520 U.S. at 152 (holding that individuals placed in a pre-  
22 parole program created to reduce prison overcrowding have a protected liberty interest requiring  
23 pre-deprivation process); *Gagnon v. Scarpelli*, 411 U.S. at 781-82 (holding that individuals  
24

1 released on felony probation have a protected liberty interest requiring pre-deprivation process).  
2 As the First Circuit has explained, when analyzing the issue of whether a specific conditional  
3 release rises to the level of a protected liberty interest, “[c]ourts have resolved the issue by  
4 comparing the specific conditional release in the case before them with the liberty interest in parole  
5 as characterized by *Morrissey*.” *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010)  
6 (internal quotation marks and citation omitted); *see also, e.g., Hurd v. District of Columbia*, 864  
7 F.3d 671, 683 (D.C. Cir. 2017) (“a person who is in fact free of physical confinement—even if  
8 that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due  
9 process before he is re-incarcerated”) (citing *Young*, 520 U.S. at 152, *Gagnon*, 411 U.S. at 782,  
10 and *Morrissey*, 408 U.S. at 482).

11 38. Here, when this Court ““compar[es] the specific conditional release in [Mr.  
12 Zamora’s case], with the liberty interest in parole as characterized by *Morrissey*,”” it is clear that  
13 they are strikingly similar. *See Gonzalez-Fuentes*, 607 F.3d at 887. Just as in *Morrissey*, Mr.  
14 Zamora’s release “enables him to do a wide range of things open to persons”” who have never  
15 been in custody or convicted of any crime, including to live at home, work, care for his wife and  
16 stepson, and “be with family and friends and to form the other enduring attachments of normal  
17 life.” *Morrissey*, 408 U.S. at 482. Mr. Zamora timely filed and diligently pursued an application  
18 for asylum before USCIS, and he continues to pursue that application before the Immigration Court.  
19 He obtained work authorization, and worked in the furniture manufacturing industry nearly a year  
20 to support his family. Exhibit G. This application for relief is meritorious, with an upcoming  
21 hearing, and his liberty interest is, therefore, strong.

22 **Mr. Zamora’s Liberty Interest Mandates His Immediate Release, Followed by Notice and a**  
23 **Hearing Before any Re-Arrest.**

1           39. Mr. Zamora asserts that, here, (1) where his detention is civil, (2) where he has been  
2 at liberty for more than three years, (3) where he has a substantial application for asylum pending  
3 before the Immigration Court, with an upcoming hearing, and (4) where no change in  
4 circumstances exist that would justify his detention, due process mandates that he be immediately  
5 released and that he receive notice and a hearing before a neutral adjudicator *prior* to any re-arrest  
6 or revocation of parole.

7           40. “Adequate, or due, process depends upon the nature of the interest affected. The  
8 more important the interest and the greater the effect of its impairment, the greater the procedural  
9 safeguards the [government] must provide to satisfy due process.” *Haygood v. Younger*, 769 F.2d  
10 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court must  
11 “balance [Mr. Zamora’s] liberty interest against the [government’s] interest in the efficient  
12 administration of” its immigration laws in order to determine what process he is owed to ensure  
13 that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357. Under the test set forth  
14 in *Mathews v. Eldridge*, this Court must consider three factors in conducting its balancing test:  
15 “first, the private interest that will be affected by the official action; second, the risk of an erroneous  
16 deprivation of such interest through the procedures used, and the probative value, if any, of  
17 additional or substitute procedural safeguards; and finally the government’s interest, including the  
18 function involved and the fiscal and administrative burdens that the additional or substitute  
19 procedural requirements would entail.” *Haygood*, 769 F.2d at 1357 (citing *Mathews v. Eldridge*,  
20 424 U.S. 319, 335 (1976)).

21           41. The Supreme Court “usually has held that the Constitution requires some kind of a  
22 hearing *before* the State deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S.  
23 113, 127 (1990) (emphasis in original). Only in a “special case” where post-deprivation remedies  
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1 are “the only remedies the State could be expected to provide” can a post-deprivation hearing  
2 satisfy the requirements of due process. *Zinerman*, 494 U.S. at 985.

3 **Mr. Zamora’s Private Interest in His Liberty is Profound**

4 42. Under *Morrissey* and its progeny, individuals conditionally released from serving  
5 a criminal sentence have a liberty interest that is “valuable.” *Morrissey*, 408 U.S. at 482. In addition,  
6 the principles espoused in *Hurd* and *Johnson*—that a person who is in fact free of physical  
7 confinement, even if that freedom is lawfully revocable, has a liberty interest that entitles him to  
8 constitutional due process before he is re-incarcerated—apply with even greater force to  
9 individuals like Mr. Zamora, who were released pending civil removal proceedings, rather than  
10 parolees or probationers who are subject to incarceration as part of a sentence for a criminal  
11 conviction. Parolees and probationers have a diminished liberty interest given their underlying  
12 convictions. *See, e.g., U.S. v. Knights*, 534 U.S. 112, 119 (2001); *Griffin v. Wisconsin*, 483 U.S.  
13 868, 874 (1987). Nonetheless, even in the criminal parolee context, the courts have held that the  
14 parolee cannot be re-arrested without a due process hearing in which they can raise any claims  
15 they may have regarding why their re-incarceration would be unlawful. *See Gonzalez-Fuentes*,  
16 607 F.3d at 891-92; *Hurd*, 864 F.3d at 683. Thus, Mr. Zamora retains a truly weighty liberty  
17 interest even though he was under conditional release.

18 43. What is at stake in this case for Mr. Zamora is one of the most profound individual  
19 interests recognized by our legal system: whether ICE may unilaterally nullify a prior parole  
20 decision and take away his physical freedom, i.e., his “constitutionally protected interest in  
21 avoiding physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (internal  
22 quotation omitted). “Freedom from bodily restraint has always been at the core of the liberty  
23 protected by the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). *See also*

1 *Zadvydas*, 533 U.S. at 690 (“Freedom from imprisonment—from government custody, detention,  
2 or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause  
3 protects.”).

4 44. Courts considering petitions like that of Mr. Zamora, filed by individuals who were  
5 re-detained following release on parole, have concluded that the petitioners’ liberty interests were  
6 “significant,” *Alberto R.C.*, 2025 U.S. Dist. LEXIS 260211 at \*14, as well as “sacred and profound.”  
7 *Rosado v. Figueroa*, No. 25-2157, 2025 WL 2337099, \*37 (D. Ariz. Aug. 11, 2025).

8 45. Thus, it is clear that there is a profound private interest at stake in this case, which  
9 must be weighed heavily when determining what process Mr. Zamora is owed under the  
10 Constitution. *See Mathews*, 424 U.S. at 334-35.

11 **The Government’s Interest in Continuing to Detain Mr. Zamora Without a Due Process  
12 Hearing is Low, and the Risk of Erroneous Deprivation Is High Absent Immediate Release.**

13 46. The government’s interest in continuing to detain Mr. Zamora without a due  
14 process hearing is low, and when weighed against Mr. Zamora’s significant private interest in his  
15 liberty, the scale tips sharply in favor of requiring Respondents to release Mr. Zamora immediately  
16 and provide him with a pre-deprivation hearing at which the government will bear the burden of  
17 demonstrating by clear and convincing evidence that Petitioner is a flight risk or danger to the  
18 community.

19 47. As immigration detention is civil, it can have no punitive purpose. The  
20 government’s only interests in holding an individual in immigration detention can be to prevent  
21 danger to the community or to ensure a noncitizen’s appearance at immigration proceedings. *See*  
22 *Zadvydas*, 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any basis  
23 for detaining Mr. Zamora in October 2025 when he has lived at liberty since October 2022 while  
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1 diligently pursuing asylum before USCIS, and ICE did not show changed circumstances. *See*  
2 Exhibits B, D.

3 48. ICE implicitly determined that Mr. Zamora was not a danger to the community or  
4 a flight risk in October 2022, when it granted him parole and released him, and he has done nothing  
5 to undermine that determination. *See Pinchi*, 792 F. Supp. 3d at 1034 (reasoning that a grant of  
6 release represents “a determination by the government that [an individual is] neither a flight risk  
7 nor a danger to the community”); *see also Morrissey*, 408 U.S. at 482 (“It is not sophistic to attach  
8 greater importance to a person’s justifiable reliance in maintaining his conditional freedom so long  
9 as he abides by the conditions on his release, than to his mere anticipation or hope of freedom”)  
10 (quoting *United States ex rel. Bey v. Connecticut Board of Parole*, 443 F.3d 1079, 1086 (2d Cir.  
11 1971)). “Where, as here, DHS determines that a petitioner is neither a flight risk nor a danger to  
12 the community, that determination strongly reduces any valid interest the Government has in the  
13 petitioner’s continued detention.” *Khorsheed v. Larose*, No. 25-3346, 2025 U.S. Dist. LEXIS  
14 260080, \*4 (S.D. Cal. Dec. 15, 2025).

15 49. Furthermore, Mr. Zamora has a meritorious application for relief from removal and  
16 eagerly awaits the opportunity to present his case before the Immigration Court. *See* Exhibit B. It  
17 is difficult to see how the government’s interest in ensuring his presence at the moment of removal  
18 has materially changed since he was released in October 2022, when it has not alleged violation  
19 of any conditions of release, and he has provided for his family and sought asylum before USCIS  
20 within one year of his arrival. The government’s interest in detaining Mr. Zamora at this time is  
21 therefore low.

22 50. Additionally, “the administrative and financial burdens associated with detaining  
23 [a petitioner] for the remainder of his removal proceedings far surpasses the cost of providing him  
24

1 a hearing to decide if that detention is justified.” *Chacon*, 2025 U.S. Dist. LEXIS 257776, \*11.  
2 Accordingly, “the government’s interest in detaining [Mr. Zamora] without a pre-deprivation  
3 hearing is minimal.” *Id.*

4 51. Furthermore, enjoining Mr. Zamora’s re-arrest until ICE (1) moves for a bond re-  
5 determination before an IJ and (2) demonstrates by clear and convincing evidence that Mr. Zamora  
6 is a flight risk or danger to the community is far *less* costly and burdensome for the government  
7 than keeping him detained. As the Ninth Circuit noted in 2017, which remains true today, “[t]he  
8 costs to the public of immigration detention are ‘staggering’: \$158 each day per detainee,  
9 amounting to a total daily cost of \$6.5 million.” *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th  
10 Cir. 2017).

11 52. “[D]ue process requires Petitioner to be released from custody and receive a bond  
12 hearing before an immigration judge before he can be re-detained” because “‘if Petitioner is  
13 detained, he will already have suffered the injury he is now seeking to avoid.’” *Faizyan v. Casey*,  
14 No. 25-2884, 2025 WL 3208844 (S.D. Cal. Nov. 17, 2025) (quoting *Jorge M.F. v. Jennings*, 534  
15 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021)). Where, as here, a petitioner has not violated any  
16 conditions of release, “a post-deprivation hearing cannot serve as an adequate procedural safeguard  
17 because it is after the fact and cannot prevent an erroneous deprivation of liberty.” *E.A. T.-B. v.*  
18 *Wamsley*, 795 F. Supp. 3d 1316 (W.D. WA 2025).

19 53. Thus, ordering Mr. Zamora’s release and providing him with a pre-deprivation  
20 hearing would decrease the risk of him being erroneously deprived of his liberty. Before Mr.  
21 Zamora can be lawfully detained, he must receive a hearing before a neutral adjudicator at which  
22 the government is held to show by clear and convincing evidence that circumstances have changed  
23 such that Mr. Zamora is now a danger to the community or a flight risk.

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3 **CLAIMS FOR RELIEF**

4 **COUNT I**

5 **Violation of the Fifth Amendment Right to Due Process**  
6 **Procedural Due Process**

7 54. Petitioner incorporates by reference the allegations of fact set forth in the preceding  
8 paragraphs.

9 55. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits  
10 the federal government from depriving any person of “life, liberty, or property, without due process  
11 of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States,  
12 including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.”  
13 *Zadvydas*, 533 U.S. at 693.

14 56. Due process requires that government action be rational and non-arbitrary. *See U.S.*  
15 *v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

16 57. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a)  
17 and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and  
18 must comport with constitutional due process. *See Zadvydas*, 533 U.S. at 698; *Hernandez*, 872  
19 F.3d 976, 981 (9th Cir. 2017) (“[T]he government’s discretion to incarcerate non-citizens is always  
20 constrained by the requirements of due process.”); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)  
21 (holding that due process applies to revocation of parole).

22 58. Here, after initially releasing Petitioner upon a grant of parole and allowed him to  
23 remain at liberty for over three years, Respondents have chosen to re-detain Petitioner in an  
24 arbitrary manner and not based on a rational and individualized determination of whether he is a  
safety or flight risk, in violation of due process. Had Respondents conducted such an assessment,

1 they would have concluded that no facts or circumstances had changed to justify a revocation of  
2 Petitioner's release.

3 59. On information and belief, because no individualized custody revocation or re-  
4 detention decision has been made and no circumstances have changed to make Petitioner a flight  
5 risk or a danger to the community, Respondents have violated Petitioner's right to procedural due  
6 process.

7 **COUNT II**

8 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), the Immigration and**  
9 **Nationality Act – 8 U.S.C. § 1226, and Federal Regulations Not in Accordance with Law**  
**and in Excess of Statutory Authority Unlawful Detention**

10 60. Petitioner repeats, re-alleges, and incorporates by reference each allegation in the  
11 preceding paragraphs as if fully set forth herein.

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

14 62. An action is an abuse of discretion if the agency “entirely failed to consider an  
15 important aspect of the problem, offered an explanation for its decision that runs counter to the  
16 evidence before the agency, or is so implausible that it could not be ascribed to a difference in  
17 view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551  
18 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto.*  
19 *Ins. Co.*, 463 U.S. 29, 43 (1983)).

20 63. The INA provides that Respondents may, as they did years ago in Petitioner's case,  
21 release an individual from custody based on an individualized determination of their danger and  
22 flight risk. See 8 U.S.C. § 1226(a); *Zadvydas*, 533 U.S. at 690; see *Pinchi*, 792 F. Supp. 3d at 1034  
23 (reasoning that a grant of release on parole represents “a determination by the government that [an

1 individual is] neither a flight risk nor a danger to the community”). After such a release decision  
2 is made, a revocation of the custody determination may be made only when warranted by a change  
3 in an individual’s specific facts and circumstances. *Ruhai Shen*, 2025 U.S. Dist. LEXIS 256924 at  
4 \*11 (quoting *Saucedo Aceros*, No. 25-6924, 2025 WL 2637503, \*7).

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

8 65. By categorically revoking Petitioner’s release without consideration of Petitioner’s  
9 individualized facts and circumstances, Respondents have violated the INA, implementing  
10 regulations, and the APA. *See Sanchez v. Larose*, No. 25-2396, 2025 WL 2770629 (S.D. Cal. Sep.  
11 26, 2025) (concluding that where ICE revokes a noncitizen’s parole and detains the individual  
12 “without any rational individualized fact-finding or consideration of the effects of altering their  
13 prior decisions,” ICE “act[s] arbitrarily and capriciously in violation of the APA”); *see also N-E-*  
14 *M-B-*, 2025 WL 3527111, \*19-\*20 (same).

15 66. On information and belief, Respondents have made no finding that Petitioner is a  
16 danger to the community.

17 67. On information and belief, Respondents have made no finding that Petitioner is a  
18 flight risk because Petitioner has diligently pursued meritorious application for relief from removal  
19 since his arrival.

20 68. On information and belief, by detaining Petitioner categorically, Respondents have  
21 further abused their discretion because, since the agency made its initial custody determination, on  
22 information and belief, there have been no changes to Petitioner’s facts or circumstances that  
23 support the revocation of Petitioner’s release from custody.  
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1 DATED this 23rd day of December, 2025.

*/s/ Gregory P. Fay*

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*Attorney for Petitioner*

**VERIFICATION PURSUANT TO 28 U.S.C. 2242**

10 I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's  
11 attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those  
12 discussions, I hereby verify that the factual statements made in the attached Petition for Writ of  
13 Habeas Corpus are true and correct to the best of my knowledge.

15 Executed on this 23rd day of December, 2025 in Tempe, Arizona.

*/s/ Gregory Fay*

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Gregory P. Fay  
Attorney for Petitioner