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9
10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

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Case No.: 26-cv-0219-BJC-SBC

Petitioner,

v.

CHRISTOPHER LAROSE, warden of
Otay Mesa Detention Center
DANIEL A. BRIGHTMAN, San Diego
Field Office Director, Immigration and
Customs Enforcement and Removal
Operations (“ICE/ERO”);
TODD LYONS, Acting Director of
Immigration Customs Enforcement
 (“ICE”);
KRISTI NOEM, Secretary of the
Department of Homeland Security
 (“DHS”);
PAMELA BONDI, Attorney General of
the United States,
U.S. DEPARTMENT OF HOMELAND
SECURITY;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;
Respondents.

PETITIONER’S TRAVERSE TO
PETITION

1 INTRODUCTION

2 The Petitioner, Susana Maning, is a trans woman that has been living
3 freely, released on her own recognizance, in the United States for nearly 20 years.
4 She was ordered removed in 2001 and then released on her own recognizance.
5 ECF 6 p 2. She was granted withholding of removal on December 3, 2021. *Id.*
6 On December 19, 2025, at a routine ICE check-in Ms. Maning was arrested and
7 put into detention at Otay Mesa Detention Center where she remains today. *Id.*

8 I. **The basis of Ms. Maning’s Petition is her unlawful arrest and**
9 **detention, not a prolonged detention.**

10 Respondents, in their return, assert that Ms. Maning is detained pursuant to
11 8 U.S.C. §1231(a)(2) and that her detention is mandatory for 90 days. ECF 6 p 2-
12 3. However, they simply gloss over how she got to be detained in the first place
13 and ask the court to consider her request premature because the 90 mandatory
14 detention period under §1231 has not expired. However, this argument fails on its
15 face.

16 The statute governing the 90-period reads as follows:

17 8 U.S.C. § 1231

18 **(a) Detention, release, and removal of aliens ordered removed**

19 **(1) Removal period**

20 **(A) In general**

21 *Except as otherwise provided in this section, when an alien is ordered removed, the*
22 *Attorney General shall remove the alien from the United States within a period of*
23 *90 days (in this section referred to as the “removal period”).*

24 **(B) Beginning of period**

25 *The removal period begins on the latest of the following:*

26 *(i) The date the order of removal becomes administratively*
27 *final.*

28 *(ii) If the removal order is judicially reviewed and if a court*
orders a stay of the removal of the alien, the date of the court's final
order.

(iii) If the alien is detained or confined (except under an
immigration process), the date the alien is released from detention or
confinement.

1 Based on the statute the 90-day mandatory detention period for the
2 Petitioner began either on August 8, 2001, when she was ordered removed, or
3 December 3, 2021, when she was granted withholding of removal. The 90-day
4 period has long since passed. The fact that she has once again been detained and
5 now, after 20 years, ICE somehow has hatched a new, inchoate plan to remove
6 her to a third country doesn't mean they get to start counting their 90 days over
7 again. Ms. Maning is not subject to mandatory detention.

8 Further, the contention that "ICE has worked as expeditiously as possible to
9 identify a third country to which Petitioner may be removed." ECF 6-1 paragraph
10 11, is ludicrous. ICE has had at least since December 2021 to locate a third
11 country to which Ms. Maning may be removed, if not 20 years since she was first
12 ordered removed. More than three years to find a third country is not
13 'expeditious'. These are manufactured arguments, developed after Ms. Maning's
14 detention, to distract this court and somehow justify her unlawful detention.

15 **II. This court has jurisdiction to decide this case**

16 In her habeas petition, Ms. Maning challenges the detention that violated
17 his right against unlawful seizure and that violated her release on recognizance, a
18 form of conditional parole. There are two pertinent legal questions in this
19 analysis: 1) whether the Court has jurisdiction to consider these claims; and 2)
20 whether these claims succeed on the merits. The answer to both is yes.

21 **This Court has jurisdiction to consider Ms. Maning's claims.**

22 In cases raising similar claims, the government has argued that this Court
23 lacks jurisdiction to consider or grant relief under 8 U.S.C. §§ 1252(g) and
24 1252(b)(9). This argument fails here for at least three independent reasons. First,
25 Ms. Maning's claims are inextricably intertwined with the government's authority
26 to detain him, which this Court has jurisdiction to consider. Second, this Court has
27 jurisdiction to review whether the agency has complied with due process and its
28

1 mandatory, nondiscretionary duties. Finally, even if Ms. Maning’s claims *were*
2 precluded by the statute, which they are not, this Court could review them under
3 the Suspension Clause.

4 **A. Ms. Maning’s claims challenge the government’s authority to**
5 **detain her.**

6 Courts have jurisdiction to “decide a purely legal question that does not
7 challenge the Attorney General’s discretionary authority.” *Ibarra-Perez v. United*
8 *States*, 154 F.4th 989, 996 (9th Cir. 2025) (quotations omitted). In *Ibarra-Perez*,
9 the Ninth Circuit squarely held that “§ 1252(g) does not prohibit challenges to
10 unlawful practices merely because they are in some fashion connected to removal
11 orders.” *Id.* at 997. Accordingly, the question is whether Ms. Maning’s claims
12 “challenge the Attorney General’s discretionary authority.” *Id.* at 996.

13 They do not. First, Ms. Maning’s claims relate to the government’s
14 authority to detain her, and courts have widely held that review of issues related to
15 detention is not barred by § 1252(g) or (b)(9). *See, e.g., Flores–Torres v.*
16 *Mukasey*, 548 F.3d 708, 711 (9th Cir. 2008) (holding that habeas jurisdiction
17 exists to review a challenge to immigration detention based on a citizenship
18 claim); *Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023) (holding that
19 “assertions of illegal detention [were] plainly collateral to ICE’s prosecutorial
20 decision to execute [a detainee’s removal]” and thus not subject to § 1252’s
21 jurisdictional bars); *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000)
22 (“[S]ection 1252(g) does not bar courts from reviewing an alien detention
23 order[.]”); *Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999) (§ 1252(g) did
24 not apply to a “claim concern[ing] detention”). To undersigned counsel’s
25 knowledge, every judge in this district has held that it has jurisdiction to consider
26 claims that an individual is unlawfully detained.

27 Importantly, all of the claims Ms. Maning asserts in her habeas petition
28 relate to the government’s authority to detain her. In her habeas, Ms. Maning’s

1 asks this Court to find that the denial of her liberty interest granted to her though
2 her release violated procedural due process and the Administrative Procedures
3 Act.

4 Ms. Manning was released on her own recognizance years ago. The
5 government never claimed before her detention that it revoked this parole. The
6 evidence that has been supplied in the Return was all manufactured after her
7 detention. She was there for a routine ICE check in. The revocation and interview
8 memo are both dated the same day as Ms. Maning's detention. They were created
9 to justify her detention after the fact.

10 Importantly, a person shall only be "returned to the custody from which he
11 was paroled" when "the purposes of such parole . . . have been served." 8 U.S.C.
12 § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e) (parole may only be terminated
13 "upon accomplishment of the purpose for which parole was authorized"); *Y-Z-L-*
14 *H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *12 (D. Or. July 9,
15 2025) (noncitizen should not be returned to custody unless the purposes of the
16 parole have been served). Additionally, conditional parole shall only be
17 "terminated upon written notice to the alien." 8 C.F.R. § 212.5(e)(2)(i). So under
18 the statute and the regulations, parole revocation (and thus the noncitizen's re-
19 detention) only occurs when the parole's purpose is served and the noncitizen
20 receives written notice of the revocation.

21 There is no indication that Ms. Maning's OREC had been revoked, nor did
22 she receive any written notification of a revocation, prior to her being placed in
23 handcuffs, as the regulations and the document itself require. So, by arresting and
24 placing Ms. Maning in detention, the government violated its own release order,
25 in violation of statutory and regulatory authority. By these actions, this Court has
26 jurisdiction to review the status of Ms. Maning's release and the government's
27 authority to detain her.

28

1 In sum, Ms. Maning’s unlawful arrest affected the government’s authority
2 to detain her by 1) effectively revoking her order of release, in violation of the
3 statute and regulations, and 2) attempting to subject her to mandatory detention.
4 The Supreme Court recently clarified that when petitioners’ claims for relief
5 “necessarily imply the invalidity of their confinement and removal,” such claims
6 “fall within the core of the writ of habeas corpus.” *Trump v. J. G. G.*, 672 (2025)
7 (quotations omitted). Because the government’s authority to detain Ms. Maning is
8 thus inextricably intertwined with the claims in his habeas petition, this Court has
9 jurisdiction to consider them.

10 **B. This Court has jurisdiction to consider claims alleging that the**
11 **government failed to comply with its mandatory duties and due**
12 **process.**

13 Even if Ms. Maning’s claims were *not* inextricably intertwined with the
14 government’s authority to detain him, they would still not be jurisdictionally
15 barred. That is because the jurisdictional bars of § 1252 do not bar review of
16 claims that ICE is “failing to carry out non-discretionary statutory duties and
17 provide due process.” *J.R. v. Bostock*, No. 2:25-CV-01161-JNW, 2025 WL
18 1810210, at *3 (W.D. Wash. June 30, 2025); *see also D.V.D. v. U.S. Dep’t of*
19 *Homeland Sec.*, 778 F. Supp. 3d 355, 377–78 (D. Mass. 2025) (§ 1252(g) did not
20 bar review of “the purely legal question of whether the Constitution and relevant
21 statutes require notice and an opportunity to be heard”).

22 That is precisely what Judge Curiel recently held in a similar case. In *Sayed*
23 *Nasser Soleimani v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at
24 *1 (S.D. Cal. Oct. 1, 2025) (no relation to the petitioner), the petitioner was (like
25 this Ms. Maning) an asylum seeker from Afghanistan who “presented himself at
26 the U.S. Port of Entry in San Ysidro, California and applied for admission with a
27 CBP One application.” Immigration officials “paroled him into the United States”
28 under a similar type of release as Ms. Maning. *Id.* But after the government
cancelled the petitioner’s removal proceedings and placed him in expedited

1 removal, he filed a habeas petition, and the government argued that §§ 1252(g)
2 and (b)(9) stripped the court of jurisdiction to hear his claims. *Id.* at *5.

3 Nevertheless, Judge Curiel found that he had jurisdiction to hear the claims,
4 noting that “Petitioner does not challenge the decision to commence proceedings.”
5 *Id.* at *6. Instead, “Petitioner challenges the legality of the revocation of
6 humanitarian parole in violation of the law and dismissal of ongoing removal
7 proceedings without due process.” *Id.* So even assuming the agency’s revocation
8 of parole “constitutes a decision or action to adjudicate cases,” that action is not
9 “in the discretion” of the agency under § 1252(g) where it was “not performed in
10 accordance with the mandatory procedures.” *Id.* (quoting *Sharkey v. Quarantillo*,
11 541 F.3d 75, 86 (2d Cir. 2008) (alterations omitted)).

12 Other courts have held the same. In *Dep’t of Homeland Sec. v. Regents of*
13 *the Univ. of California*, 140 S. Ct. 1891, 1907 (2020), the Supreme Court held
14 that § 1252(b)(9) “does not present a jurisdictional bar” where those bringing suit
15 “are not asking for review of an order of removal,” “the decision to seek
16 removal,” or “the process by which removability will be determined.” (quotations
17 and alterations omitted). And in *Vasquez Garcia v. Noem*, 25-cv-02180-DMS-
18 MMP, 2025 WL 2549431, Dkt. 7 at *8 (S.D. Cal. Sept. 3, 2025), Judge Sabraw
19 held that “§ 1252(g) does not limit the Court’s jurisdiction in the present case”
20 because the petitioners were “enforcing their constitutional rights to due process
21 in the context of the removal proceedings—not the legitimacy of the removal
22 proceedings or any removal order.”

23 Here, Ms. Maning similarly challenges the legality of the government’s
24 arbitrary decision to cancel her release and declare her subject to mandatory
25 detention. Because these actions were “not performed in accordance with the
26 mandatory procedures,” they were not undertaken “in the discretion” of the
27 agency. *Soleimani*, 2025 WL 2800149, at *6; *see also United States ex rel.*
28 *Accardi v. Shaughnessy*, 347 U.S. 260, 265–68 (1954) (holding that agencies must

1 adhere to their own binding regulations, both substantively and procedurally).
2 Accordingly, this Court is not jurisdictionally barred from reviewing them.

3 **C. Ms. Maning’s claims do not fall within the plain language of**
4 **§ 1252 and if they did, the statute would violate the Suspension**
5 **Clause and Due Process.**

6 Finally, Ms. Maning’s claims do not fall within the plain language of the
7 § 1252(g) and § 1252(b)(9) jurisdictional bars. And even if they did, this Court
8 could still review them under the Suspension Clause.

9 Section 1252(g) precludes judicial review of an agency decision to
10 “commence proceedings, adjudicate cases, or execute removal orders.” “The
11 Supreme Court has instructed that we should read § 1252(g) narrowly.” *Ibarra-*
12 *Perez v. United States*, 154 F.4th 989, 991 (9th Cir. 2025) (citing *Reno v. Am.-*
13 *Arab Anti-Discrimination Comm. (AADC)*, 525 U.S. 471, 487 (1999); *Dep’t of*
14 *Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020). That is
15 because, as a general matter, establishing unreviewability is a “heavy burden,”
16 and “where substantial doubt about the congressional intent exists, the general
17 presumption favoring judicial review of administrative action is controlling.”
18 *Block v. Cmty. Nutrition Inst.*, 467 U.S. 340, 351 (1984).

19 Here, Ms. Maning’s challenge does not fall within any of the three
20 categories of § 1252(g). She does not challenge the agency’s decision to
21 “commence proceedings” under § 1252(g) because her asylum proceedings had
22 already “concluded” years prior. Nor does she challenge the agency’s decision to
23 “adjudicate” her case—only the arbitrary decision to detain her. And Ms. Maning
24 does not challenge the agency’s ability to “execute [her] removal order”. When
25 she arrived for her check-in, she was not told that a third country had been
26 identified and she was being detained while the paperwork was being prepared.
27 She was detained first, and then the government decided to try finding a third
28 country. Reading § 1252(g) “narrowly,” *Ibarra-Perez*, 154 F.4th at 991, thus

1 shows that Ms. Maning’s claims do not fall within any of these three categories.

2 The same is true of § 1252(b)(9). This section bars “[j]udicial review of all
3 questions of law and fact, including interpretation and application of
4 constitutional and statutory provisions, arising from any action taken or
5 proceeding brought to remove an alien from the United States[.]” 8 U.S.C.
6 § 1252(b)(9). But the Ninth Circuit holds that this statute, by its plain language,
7 applies only to “judicial review of an order of removal” and does not eliminate the
8 ability of a court to review claims that are “independent of challenges to removal
9 orders.” *Singh v. Gonzales*, 499 F.3d 969, 978 (9th Cir. 2007) (quotations
10 omitted). Rather, § 1252(b)(9) was designed to limit noncitizens to “one bite of
11 the apple with regard to challenging an order of removal,” precluding, for
12 instance, claims that the BIA erred in finding an individual “ineligible for asylum,
13 withholding of removal, and relief under the [Convention Against Torture].”
14 *Martinez v. Napolitano*, 704 F.3d 620, 622–23 (9th Cir. 2012). Thus, determining
15 jurisdiction under § 1252 “requires a case-by-case inquiry turning on a practical
16 analysis” of the noncitizen’s circumstances. *Singh v. Holder*, 638 F.3d 1196, 1211
17 (9th Cir. 2011).

18 Here, Ms. Maning does not challenge any decision that the BIA or a circuit
19 court could review as part of a final order of removal. Rather, she seeks review of
20 the agency’s release revocation which does not relate to the substance of her
21 removal proceedings. Thus, neither provision in § 1252 strips this Court of
22 jurisdiction to hear his claims.

23 But even if the government’s expansive reading of § 1252 *were* correct, this
24 Court could still hear Ms. Maning’s claims under the Suspension Clause. Under
25 the Suspension Clause, “[t]he Privilege of the Writ of Habeas Corpus shall not be
26 suspended, unless when in Cases of Rebellion or Invasion the public Safety may
27 require it.” U.S. Const. Art. I ¶ 9, cl. 2. Courts have held that even when
28 “Congress intended to strip all courts of jurisdiction over [a petitioner’s] claim,

1 the Suspension Clause of the Constitution nonetheless requires that [he] may
2 bring his challenge through the writ of habeas corpus.” *Ragbir v. Homan*, 923
3 F.3d 53, 57–58 (2d Cir. 2019), *cert. granted, judgment vacated sub nom. Pham v.*
4 *Ragbir*, 141 S. Ct. 227 (2020). In determining the reach of the Suspension Clause,
5 courts are required to consider “(1) the citizenship and status of the detainee and
6 the adequacy of the process through which that status determination was made;
7 (2) the nature of the sites where apprehension and then detention took place; and
8 (3) the practical obstacles inherent in resolving the prisoner's entitlement to the
9 writ.” *Boumediene v. Bush*, 553 U.S. 723, 766 (2008).

10 In *Noori*, Judge Curiel applied these factors to hold that review was also
11 available under the Suspension Clause. *See* 2025 WL 2800149, at *9. Judge
12 Curiel explained that “although Petitioner is not a citizen, he was paroled into the
13 United States upon a finding that he was not a flight risk or a danger to the
14 community,” and has “remained here for more than a year,” “received a work
15 authorization,” and “developed ties to the community.” *Id.* Judge Curiel also
16 noted that the petitioner was “apprehended and detained within the United
17 States,” and there was “no evidence that Petitioner is a danger to the community
18 or a flight risk—in fact, Respondents decided to parole Petitioner when he arrived
19 without ties to the community after determining that he did not have any criminal
20 history and then approved a work authorization.” *Id.* Judge Curiel thus concluded
21 that “even if Section 1252 precluded the Court from reviewing Respondents'
22 decision to terminate Petitioner's parole and detain him, the Court would have
23 jurisdiction to review this decision under the Suspension Clause.” *Id.*

24 Here, the facts in Ms. Maning’s case are similar to those in *Noori*. Ms.
25 Maning was “released into the United States upon a finding that she was not a
26 flight risk or a danger to the community,” has remained here for years and years,
27 and “developed ties to the community.” *Id.* Thus, as in *Noori*, the *Boumediene*
28 factors weigh in her favor, and at a minimum, this Court has jurisdiction to review

1 her claims under the Suspension Clause.

2 **II. On the merits, the government’s actions violated the Administrative**
3 **Procedures Act and due process.**

4 Moving to the merits, Ms. Maning presents two claims. She argues that the
5 agency’s effective revocation of her release violated the Administrative
6 Procedures Act and procedural due process.

7 **A. Revoking Ms. Maning’s release and subjecting her to detention**
8 **violates the Administrative Procedures Act and Due Process.**

9 As recounted above, the government released Ms. Maning into the United
10 States the last time because she was granted withholding of removal. According
11 to Ms. Maning’s release document this did not expire. But when ICE detained Ms.
12 Maning on December 19, 2025, it did not say whether it was revoking her release
13 due to finding a third country of removal. The document provided by the
14 Respondents actually asserts that the ‘change in circumstances’ is they have
15 determined she is subject to an order of removal and can be expeditiously
16 removed. ECF 6-2 p 2. This is not a change in circumstances. Ms. Maning has
17 been subject to his since December of 2021. The only thing that has changed is
18 the government’s attitude toward immigrants. That is not an individualized
19 determination that Ms. Maning’s circumstances have changed. The government’s
20 actions violate the Administrative Procedures Act and Due Process.

21 **1. The government’s actions violated the Administrative**
22 **Procedures Act.**

23 Under the Administrative Procedures Act (APA), an agency action may be
24 held unlawful and set aside if it is “arbitrary, capricious, an abuse of discretion, or
25 otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). An action is an
26 abuse of discretion if the agency “entirely failed to consider an important aspect
27 of the problem, offered an explanation for its decision that runs counter to the
28 evidence before the agency, or is so implausible that it could not be ascribed to a
difference in view or the product of agency expertise.” *Nat’l Ass’n of Home*

1 *Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle*
2 *Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43
3 (1983)). For a challenged agency action to be upheld, the agency “must explain
4 the evidence which is available, and must offer a rational connection between the
5 facts found and the choice made.” *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983)
6 (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United*
7 *States*, 371 U.S. 156, 168 (1962)).

8 Here, regardless of whether the agency formally revoked Ms. Maning’s
9 release or not, it violated the APA. If the agency did *not* revoke her release prior
10 to her detention, then it inexplicably violated its own release decision by detaining
11 Ms. Maning in December 2025. Doing so violated the APA because the agency
12 did not provide notice in which it “offered a rational connection between the facts
13 found and the choice made”—i.e., the fact that Ms. Maning was still on release,
14 yet the agency decided to detain her. *Motor Vehicle Mfrs*, 463 U.S. at 52. And
15 nothing suggests that there *was* a “rational” reason for this choice, given that Ms.
16 Maning had been granted withholding of removal, complied with all the
17 conditions of her release, and no third country had suddenly been identified. This
18 was the epitome of an “arbitrary” and “capricious” act under the APA. 5 U.S.C. §
19 706(2)(A).

20 But assuming the agency *had* revoked her order of release, it also violated
21 the APA. As explained, a person shall only be returned to the custody from which
22 she was released” when “the purposes of such release . . . have been served. 8
23 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be
24 terminated “upon accomplishment of the purpose for which parole was
25 authorized”); *Y-Z-L-H*, 2025 WL 1898025, at *12 (same). Alternatively, the
26 regulations permit revocation of release when “neither humanitarian reasons nor
27 public benefit warrants the [noncitizen’s] continued presence.” 8 C.F.R.
28 § 212.5(e)(2)(i). But under either scenario, it shall only be terminated upon

1 written notice to the alien. 8 C.F.R. § 212.5(e)(2)(i). So, under the statute and the
2 regulations and pursuant to the release document given to Ms. Maning upon her
3 release, the agency may only revoke parole and re-detain a noncitizen when the
4 parole's purpose is served or no humanitarian reasons warrant it *and* the
5 noncitizen receives written notice.

6 The Respondents assert that Ms. Maning was given written notice of her
7 revocation of release and an opportunity to respond to the reasons. See ECF 6-2 p
8 2-4. These documents are highly suspect. Ms. Maning was handcuffed and
9 detained the moment she entered the interview room. These documents were
10 presented after she had already been detained. Further, the idea that she was
11 given any meaningful opportunity to respond to the reasons for this revocation is
12 not credible. ECF 6-2 p 4 purports to be a summary of her 'opportunity' to
13 respond. This would have been an interview with her hands cuffed behind her
14 back. This would have been an interview with no notice or opportunity to prepare.
15 It alleges that she did not provide any written statement or any written documents.
16 How she could have provided a written statement with her hands cuffed defies
17 logic. Finally, Ms. Maning's English is rudimentary. There is no indication that
18 any of this was translated into Spanish for her.

19 The "humanitarian reasons" for Ms. Maning's release have not changed. 8
20 C.F.R. § 212.5(e)(2)(i). What's more, Ms. Maning never received any written
21 notification of a revocation under 8 C.F.R. § 212.5(e) prior to her detention. So, if
22 the agency revoked her release, this decision violated both the statute and the
23 regulation and was "not in accordance with law" under the APA. 5 U.S.C. §
24 706(2)(A).

25 That is precisely what Judge Curiel concluded in *Noori*, 2025 WL 2800149,
26 at *13. Relying on the same authority cited above, *Noori* concluded that "to meet
27 statutory and regulatory requirements, revocation should only occur when (1) the
28 parole's purpose is served or (2) when humanitarian reasons and public benefit

1 are no longer warranted, and the noncitizen is provided written notice.” *Id.* The
2 first requirement was not met because the petitioner “applied for asylum and was
3 still in the middle of those proceedings when Respondents issued and executed
4 the revocation.” *Id.* And even though the petitioner was provided a “generic
5 notification” of his revocation, the second requirement was not met because
6 “humanitarian reasons still warrant the Petitioner’s presence in the country.” *Id.*
7 At a minimum, Judge Curiel held, parole revocation “requires an individualized
8 determination,” which the government had not provided because it failed to
9 explain “why the Petitioner would now be considered a flight risk or danger to the
10 community.” *Id.*

11 Here, as in *Noori*, the government failed to meet the statutory and
12 regulatory requirements for release revocation. Thus, the government here “has
13 acted arbitrarily and capriciously in violation of the APA.” *Id.*

14 **2. The government’s actions violated procedural due process.**

15 Not only did the government’s effective revocation of release violate the
16 APA, it also violated procedural due process. The Fifth Amendment guarantees
17 that “[n]o person shall be ... deprived of life, liberty, or property, without due
18 process of law.” U.S. Const. amend. V. To determine a violation of procedural
19 due process, courts weigh the traditional factors of (1) the private interest at issue,
20 (2) the risk of erroneous deprivation of that interest through the procedures used,
21 and (3) the government’s interest. *Mathews v. Eldridge*, 424 U.S. 319, 334–35
22 (1976). Here, these factors easily weigh in Ms. Maning’s favor.

23 First, the private interest at issue is Ms. Maning’s deprivation of liberty—
24 i.e., remaining on release, rather than being detained. *See Morrissey v. Brewer*,
25 408 U.S. 471, 482-483 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)
26 (“Freedom from imprisonment—from government custody, detention, or other
27 forms of physical restraint—lies at the heart of the liberty that [the Due Process]
28 Clause protects.”). What’s more, Ms. Maning’s work authorization is contingent

1 on his release status, and revocation of her release will directly impact her ability
2 to provide for herself. Thus, the first factor weighs heavily in Ms. Maning’s favor.

3 Second, the procedures the agency used to determine whether to revoke
4 Ms. Maning’s parole presented a high risk of erroneous deprivation of liberty. To
5 date, the agency’s actions surrounding Ms. Maning’s parole have completely
6 failed to comply with the statute, the regulations, and even the agency’s own
7 decision. After granting Ms. Maning release years ago, the agency inexplicably
8 revoked this parole. It did so even though Ms. Maning had attended all her check-
9 in appointments and had been granted withholding of removal. The agency did
10 not claim that “the purposes of such release . . . have been served,” 8 U.S.C. §
11 1182(d)(5)(A), nor that the “humanitarian reasons” for her parole no longer
12 existed, 8 C.F.R. § 212.5(e)(2)(i). Because consideration of any of these factors
13 should have led to a different result, the risk of erroneous deprivation of Ms.
14 Maning’s release without these procedures was high, and this factor weighs
15 heavily in his favor.

16 Finally, any government interest in revoking Ms. Maning’s parole is
17 minimal. Ms. Maning has complied with all her check-in requirements and does
18 not represent a danger or a flight risk. All the government need do is comply with
19 its *own decision* to grant Ms. Maning release. Thus, the *Mathews v. Eldrige*
20 factors weigh heavily in Ms. Maning’s favor, and his revocation of parole violates
21 procedural due process.

22
23 **Conclusion**

24 Because this Court has jurisdiction to consider Ms. Maning’s claims, and
25 because these claims succeed on the merits, this Court should GRANT the habeas
26 Petition and ORDER

- 27 1. Ms. Maning’s immediate release;
28 2. Prohibit her re-detention without further order of this court;

- 1 3. Prohibit her removal from this district;
- 2 4. Prohibit any form of Alternative to Detention including an ankle monitor,
- 3 home check in schedule or the continued confiscation of any documents or
- 4 property she had when detained;
- 5 5. And any other relief the court deems appropriate.

6
7 Respectfully submitted,

8 Dated: January 29, 2026

/s/Brian J. McGoldrick
9 Brian J. McGoldrick, Esq.
10 Counsel for Petitioner

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CERTIFICATE OF SERVICE

I, Brian J. McGoldrick, CERTIFY

I am over the age of 18 and not a party to this matter. My business address is 4916 Del Mar Avenue, San Diego, CA 92107. On January 29, 2026, I served a copy of this **Petitioner’s Traverse to Petition** by the method and to the parties listed below:

On January 29, 2026, I accessed the electronic mailing list for CM/ECF users in this case and representatives of all parties are CM/ECF users and are noticed as follows:

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