THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

YAINIER ARANDA GARCIA, Petitioner vs. PAMELA BONDI, in her official capacity as Attorney General of the United States, KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security, TODD LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement; JUAN BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility, Respondents.	Case No.: Agency File: 220-230-360

PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR ORDER TO SHOW CAUSE

Yainier Aranda Garcia, hereinafter "Mr. Aranda" or "Petitioner," by and through undersigned counsel, files this Petition for Writ of Habeas Corpus, and in support thereof, alleges as follows:

INTRODUCTION

1. Petitioner Yainier Aranda Garcia brings this petition for a writ of habeas corpus to (1) seek release based on an unlawful revocation of parole, and alternatively (2) seek enforcement of his rights as a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). Petitioner is in the physical custody of Respondents at the Denver Contract Detention Facility. He faces unlawful detention because the Department of Homeland Security (DHS) unlawfully revoked his

parole, and both DHS and the Executive Office for Immigration Review (EOIR) have refused to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

2. Petitioner entered the United States on July 27, 2021, as an applicant for admission. He was subsequently issued a Notice to Appear and released from detention by ICE through an Order of Release on Recognizance. Although DHS did not issue documentation expressly labeling this release as "parole," Respondents now take the position that applicants for admission subject to § 1225(b)(2)(A) are mandatorily detained, ineligible for bond, and may only be released pursuant to the parole authority in 8 U.S.C. § 1182(d)(5)(A). Under Respondents' own interpretation of the statute, Petitioner's post-entry release from custody could only have occurred through the exercise of parole authority under 8 U.S.C. § 1182(d)(5)(A), even if DHS failed to label the release as parole or specify an expiration date.
3. Respondents cannot simultaneously (a) insist Petitioner is subject to mandatory § 1225 detention and bond-ineligible, while (b) disclaiming that the only statutory mechanism for his prior release from custody was parole under § 1182(d)(5)(A).
4. Petitioner was placed in INA § 240, 8 U.S.C. §1229a removal proceedings, charged as having entered the United States without admission or parole. *See* 8 U.S.C. § 1182(a)(6)(A)(i).
5. Petitioner applied for asylum, withholding of removal, and CAT protections in removal proceedings.

6. On November 13, 2025, Petitioner was unexpectedly detained, despite consistent compliance with court appearances and absence of new immigration or criminal violations.
7. The record does not reflect that he was issued written notice of revocation of parole.
8. On November 18, 2025, Petitioner filed a writ of habeas corpus in the U.S. District Court for the Middle District of Florida, arguing that the mandatory detention provision of § 1225(b)(2)(A) does not apply to him.
9. On December 10, 2025, the Honorable Judge Dudek denied the habeas petition, finding that Petitioner's case fits squarely within § 1225 because he was apprehended at the border, and reasoning that once the purpose of parole has been served, the noncitizen may be returned to the custody from which he was paroled. The court did not address whether DHS had lawfully revoked parole, whether the purpose of any parole had in fact been served, or whether DHS complied with the procedural requirements governing parole termination, nor were those issues raised in the prior habeas petition. Importantly, it was only through this ruling that Respondents' detention theory—and its necessary reliance on parole as the exclusive mechanism for Petitioner's prior release—became clear, giving rise to the distinct claims raised here.
10. This petition does not seek reconsideration of the Middle District of Florida's judgment. Rather, it challenges a distinct and newly crystallized legal injury arising from Respondents' post-decision interpretation of the detention statutes—namely, that Petitioner's prior release must be understood as parole and that DHS thereafter re-detained Petitioner without complying with the requirements governing parole termination. Because this legal predicate was neither apparent nor available at the time of the prior habeas

petition, principles of finality and claim preclusion do not apply. For purposes of Counts One through Three, Petitioner assumes Respondents' detention theory *arguendo*: that his custody is governed by § 1225(b)(2)(A) and that his prior release could only have occurred through parole under 8 U.S.C. § 1182(d)(5)(A). Even under that framework, DHS's re-detention of Petitioner is unlawful because it failed to comply with the statutory and regulatory procedures required to terminate parole.

11. To remedy this unlawful detention, Petitioner asks this Court to, under 28 U.S.C. § 2241, issue a writ of habeas corpus directing Respondents to release him because his continued confinement violates the Administrative Procedure Act ("APA"), procedural due process, and substantive due process.

12. Alternatively, Petitioner asks this Court to issue a writ of habeas corpus directing Respondents to release Petitioner unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days as he is a member of the class certified in *Maldonado Bautista*.

13. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners'

proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

14. The declaratory judgment held that the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

15. Nonetheless, the Executive Office for Immigration Review and its subagency the Immigration Court and DHS have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

16. Petitioner is a member of the Bond Eligible Class, as he:

    a. does not have lawful status in the United States and is currently detained at the Denver Contract Detention Facility. He was apprehended by immigration authorities on November 13, 2025;

    b. entered the United States without inspection over 4 years ago and his most recent apprehension on November 13, 2025 was not upon arrival, *cf. id.*; and

    c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

17. DHS has charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

18. On January 9, 2026, Petitioner had a bond hearing before an immigration judge in the Denver Immigration Court. The Judge denied bond for lack of jurisdiction under *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and alternatively found that Petitioner does not appear to be a *Bautista* class member because he was apprehended upon arrival to the United States.

19. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to

flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite his entitlement to consideration for release on bond as a Bond Eligible Class member.

20. Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

21. Petitioner requests this Court to order Respondents to show cause demonstrating why he should not be released within three days given his unlawful detention. 28 U.S.C. § 2243.

JURISDICTION

22. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Denver Contract Detention Facility.

23. Jurisdiction of the Court is predicated upon 28 U.S.C. §§ 1331 in that the matter in controversy arises under the Constitution and laws of the United States.

24. This Court also has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

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

26. Federal courts also have federal question jurisdiction, through the APA, 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). APA claims are cognizable

on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus"). The APA affords a right of review to a person who is "adversely affected or aggrieved by agency action." 5 U.S.C. § 702. Respondents' continued detention of Petitioner has adversely and severely affected Petitioner's liberty and freedom.

VENUE

27. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the District of Colorado, the judicial district in which Petitioner currently is detained.

28. Venue is proper in this District under 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Colorado.

REQUIREMENTS OF 28 U.S.C. § 2243

29. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

30. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and

imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

PARTIES

31. Petitioner, Mr. Yainier Aranda Garcia, is a 30-year-old native and citizen of Cuba, with no criminal record. On Thursday, November 13, 2025, Mr. Aranda was detained by ICE while working in the Florida Keys solely because of his immigration status.

32. Respondent, Ms. Pamela Bondi, is the United States Attorney General. She oversees the immigration court system, which is housed within the Executive Office for Immigration Review ("EOIR") and includes all Immigration Judges and the Board of Immigration Appeals ("BIA"). She is sued in her official capacity.

33. Respondent, Ms. Kristi Noem, is the United States Secretary of Homeland Security. DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Noem is the ultimate legal custodian of Petitioner. She is sued in her official capacity.

34. Respondent, Mr. Todd Lyons, is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States and is legally responsible for pursuing any effort to remove Petitioner and confine him pending removal. As such, he is a custodian of Petitioner. He is sued in his official capacity.

35. Respondent, Juan Baltazar, is the Warden of the Denver Contract Detention Facility. He is responsible for the immediate execution of detention over Petitioner. As such, he is a custodian of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

36. The INA "establishes the framework governing noncitizens' entry into and removal from the United States, with regulations promulgated by the enforcing agencies providing further governance." *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1132 (D. Or. 2025). Noncitizens who arrive at a port of entry without a visa or other entry document, or who are present in the United States without admission, like Petitioner, are deemed 'inadmissible' under 8 U.S.C. § 1182(a)(7) or 1182(a)(6), respectively. 8 U.S.C. § 1182(a)(7); 8 U.S.C. § 1182(a)(6).

37. If a noncitizen is deemed to be inadmissible under § 1182(a)(7), "the immigration officer must order the noncitizen's removal unless the noncitizen indicates an intention to apply for asylum or fear of prosecution." *Y-Z-L-H.*, 792 F. Supp. at 1132 (citing 8 U.S.C. § 1225(b)(1)(A)(i)). If the noncitizen claims fear of return, the government may either place the noncitizen into expedited removal proceedings, *see* 8 U.S.C. § 1225(b)(1), or into regular removal proceedings under 8 U.S.C. § 1229(a). *See Y-Z-L-H*, 792 F. Supp. 3d at 1132–33 (citing 8 U.S.C. § 1225(b)(2)).

38. Section 1225(b)(2)(A) provides that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A).

39. "Applicants for admission may be temporarily released on parole for urgent humanitarian reasons or significant public benefit." *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)).

40. The decision to grant parole pursuant to 8 U.S.C. § 1182(d)(5)(A) is determined "on a case-by-case basis." 8 U.S.C. § 1182(d)(5)(A).

41. "To terminate a previously granted parole, the agency must comply with the applicable regulatory and statutory requirements." *Infante v. Raycraft*, No. 1:25-cv-01560-RJJ-MV, (W.D. Mich. Dec. 18, 2025).

42. 8 C.F.R. § 212.5(e) governs the termination of parole. The regulation provides that DHS may terminate a noncitizen's parole either "automatically" or "[o]n notice." 8 C.F.R. § 212.5(e)(1), (e)(2). A grant of parole terminates automatically either (a) when the noncitizen departs the United States, or (b) "if not departed, at the expiration of the time for which parole was authorized." *Id.* § 212.5(e)(1). In cases not covered by paragraph (e)(1), parole "shall be terminated upon written notice to the alien." *Id.* § 212.5(e)(2). That is, only when "the purpose for which parole was authorized" is accomplished "or when in the opinion of" the DHS Secretary or their delegee "neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States." *Id*; *see also Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025) (citing 8 C.F.R. § 212.5(e)).

43. Several district courts who have addressed the termination of parole issue "have found that just as a grant of parole requires an individualized review, revocation of parole requires a case-by-case assessment to comply with the statute." *Infante*, No. 1:25-cv-01560-RJJ-MV

at *9 (quoting *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 146 (W.D.N.Y. 2025) (citations omitted) (addressing this issue, and granting the petitioner's motion for preliminary injunction and ordering that the petitioner be released); *see, e.g., Y-Z-L-H*, 792 F. Supp. 3d at 1137–47 (addressing this issue, and granting the petitioner's habeas petition and ordering that the petitioner be released from custody); *Loaiza Arias*, 2025 WL 3295385, at *2–4 (same); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149, at *10–13 (S.D. Cal. Oct. 1, 2025) (same); *Munoz Materano v. Arteta*, No. 25 CIV. 6137 (ER), --- F. Supp. 3d ----, 2025 WL 2630826, at *14–17 (S.D.N.Y. Sept. 12, 2025) (same); *Gabriel B.M. v. Bondi*, No. 25-cv-4298 (KMM/EMB), 2025 WL 3443584, at *6–7 (D. Minn. Dec. 1, 2025) (addressing this issue, and granting the petitioner's request for a preliminary injunction and ordering the petitioner's release from custody); *Orellana v. Francis*, No. 25-cv-04212 (OEM), 2025 WL 2822640, at *2–3 (E.D.N.Y. Oct. 3, 2025) (addressing the issue in the context of a motion for reconsideration filed by the respondents, and affirming the court's grant of habeas relief to the petitioner and the court's order to release the petitioner). *But see Doe v. Noem*, 152 F.4th 272, 278–79, 285 (1st Cir. 2025) (reversing district court's grant of preliminary relief and vacating district court's stay of the termination notice for previously granted parole because "Plaintiffs ha[d] not demonstrated a strong likelihood of success in showing that under the statute, the Secretary must terminate these grants of parole under the [parole] program[s] on an individual basis").

44. Here, based on Respondents' detention theory, Petitioner's release from custody must be treated as parole authorized under 8 U.S.C. § 1182(d)(5)(A). That parole could not have terminated automatically because Petitioner has not departed the United States and DHS did

not provide any expiration date. *See* 8 C.F.R. § 212.5(e)(1). Nor did DHS terminate parole "on notice," because the record contains no written notice of termination and no individualized determination that the parole purpose had been served or that continued parole was unwarranted. *See* 8 C.F.R. § 212.5(e)(2).

45. Based on the information currently on the record, there is no indication that Respondents followed the applicable statutory and regulatory requirements to revoke or terminate Petitioners' parole.

46. "If Respondents did not follow those requirements, then they did not have the authority to arrest and detain Petitioner, 'unless there [wa]s some other valid reason to arrest [him].'" *Infante*, No. 1:25-cv-01560-RJJ-MV at *11 (quoting *Mata Velasquez, 794 F. Supp. 3d at 145, and citing Norfolk S. Ry. Co. v. U.S. Dep't of Lab.*, No. 21-3369, 2022 WL 17369438, at *6 (6th Cir. Dec. 2, 2022) (discussing that "an agency's action that fails to observe the procedures required by its own regulations should be set aside" (citation omitted)); *Wilson v. Comm'r of Soc. Sec.*, 378 F.3d 541, 545 (6th Cir. 2004) ("It is an elemental principle of administrative law that agencies are bound to follow their own regulations[,] . . . [and] '[a]n agency's failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual's constitutional right to due process.'" (additional internal quotation marks omitted) (quoting *Sameena, Inc. v. U.S. Air Force,* 147 F.3d 1148, 1153 (9th Cir. 1998))).

47. Respondents had no reason to arrest Petitioner other than his status as a noncitizen. Therefore, Respondents failed to follow the applicable statutory and regulatory requirements to terminate Petitioner's parole.

48. Furthermore, on July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," [1] This policy claims that all persons who entered the United States without admission shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

49. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

50. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same interpretation of the statute as ICE.

51. This Court has rejected Respondents' new interpretation and conditionally certified the following class:

> All people who are arrested or detained by Respondents in Colorado pending a decision on whether they are to be removed from the United States based on alleged violations of the Immigration and Nationality Act, or who are otherwise subject to the jurisdiction of an Immigration Court located in Colorado, where:
>
> (a) For the person's most recent entry into the United States, the government has not alleged that the person was admitted into the United States;
>
> (b) For the person's most recent entry into the United States, the person was not paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A) at the time of entry;

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[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

(c) The person is not a person whose most recent arrest occurred at the border while they were arriving in the United States; and,

(d) The person is being detained based on Respondents' assertion that they are subject to 8 U.S.C. § 1225(b)(2)(A).

Mendoza Gutierrez v. Baltasar, No. 25-CV-2720-RMR, at *3-4 (D. Colo. Nov. 21, 2025).

52. The U.S. District Court for the Central District of California has likewise rejected Respondents' interpretation and certified a nationwide class, extending declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

53. Petitioner is a member of the Bond Eligible Class, as he:

    a. does not have lawful status in the United States and is currently detained at the Denver Contract Detention Facility. He was apprehended by immigration authorities on November 13, 2025;

    b. entered the United States without inspection over 4 years ago and his most recent apprehension on November 13, 2025 was not upon arrival, *cf. id.*; and

    c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

54. Because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista,* the Court should accordingly order Respondent DHS to release Petitioner.

55. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

UNDERLYING FACTS AND PROCEDURAL HISTORY OF THE CASE

56. Petitioner entered the United States on July 27, 2021.

57. On August 2, 2021, Petitioner was issued a Warrant for Arrest of Alien.

58. On August 2, 2021, Petitioner was also issued a Notice to Appear ("NTA"), charging him as an alien present in the United States who has not been admitted or paroled. The NTA was filed with the immigration court on September 7, 2021, thereby commencing removal proceedings.

59. On August 3, 2021, Petitioner was released from ICE custody and issued an Order of Release on Recognizance. Petitioner was placed on the alternatives to detention Intensive Supervision Appearance Program (ISAP), with which he complied.

60. As relief from removal, he applied for asylum, withholding of removal, and CAT protections, as well as Adjustment of Status under the Cuban Adjustment Act. Those applications remain pending before the immigration court.

61. Despite Petitioner's consistent compliance, absence of any violations, and demonstrated stability, on November 13, 2025, he was unexpectedly detained. While working in the Florida Keys, Petitioner was stopped by local law enforcement for no apparent reason other than his immigration status. Law enforcement then contacted ICE, and Petitioner was subsequently taken into custody.

62. From the time of his initial release on recognizance in 2021 to his re-detention in 2025, Petitioner committed no criminal offenses, incurred no new immigration violations, and remained in compliance with all court hearings.

63. Petitioner has significant ties to the United States, including his United States citizen father, three-year-old daughter, and brother. He possesses valid employment authorization and has maintained stable, lawful employment. He also holds a valid driver's license and has never been arrested or convicted of any crime. His only contacts with law enforcement have been for speeding violations. Furthermore, he has a pending asylum application because he fears returning to his native country. Petitioner's record and history demonstrate that he is neither a flight risk nor a danger to the community.

64. Petitioner is currently detained at the Denver Contract Detention Facility. Without intervention from this Court, he faces the prospect of prolonged detention lasting months or even years, separated from his family and community, despite his full compliance with prior release conditions and absence of any new basis for custody.

CAUSES OF ACTION

COUNT ONE
Violation of Fifth Amendment Right to Procedural Due Process – Unlawful Revocation of Parole

65. The allegations in the above paragraphs are realleged and incorporated herein.

66. It has long been established that aliens, even if in the United States unlawfully, are entitled to due process of law under the Fifth Amendment. *See Mathews v. Diaz*, 426 U.S. 67, 77 (1976) ("Even one whose presence in this country is unlawful, involuntary, or transitory is entitled to th[e] constitutional protection [of the Due Process Clause]"); *see also Zadvydas*

v. Davis, 533 U.S. 678, 693 (2001) ("It is well established that certain constitutional protections available to persons inside the United States are unavailable to aliens outside of our geographic borders. But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent").

67. The Due Process Clause of the Fifth Amendment prohibits the government from depriving individuals of liberty without notice and a meaningful opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

68. When the Government interferes with a liberty interest, it must provide constitutionally sufficient procedures. *Ky. Dep't of Corr. v. Thompson*, 490 U.S. 454, 460 (1989). The adequacy of these procedures is determined by weighing three factors: (1) the private interest that will be affected by the official action, (2) the risk of erroneous deprivation of that interest through the available procedures, and (3) the Government's interest, including the fiscal and administrative burdens that the additional or substantive procedures would entail. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

69. Applying these factors here demonstrates that the procedures attendant upon Petitioner's detention are constitutionally insufficient.

70. First, Petitioner has a significant interest at stake. Being free from physical detention by one's own government "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner is being held at the Denver Contract Detention Facility and is far from his family and community.

71. Second, the risk of erroneous deprivation is extraordinarily high. Petitioner has already been found not to be a danger to the community or a flight risk upon his initial entry, when ICE reviewed his custody and released him from custody under conditions of supervision, a release that, under Respondents' current detention theory, must be treated as parole under 8 U.S.C. § 1182(d)(5)(A). Nevertheless, despite not incurring any new criminal or immigration violations, he was summarily re-detained without written notice or an individualized determination regarding the revocation of the very parole that Respondents' own detention theory necessarily presumes (a "constructive parole" effectuated through his 2021 release on an I-220A).

72. Third, the government's interest in detaining Petitioner without a hearing is minimal, if it exists at all. The government has already determined that Petitioner does not pose a risk to the community or a risk of flight. Providing an individualized determination as to whether parole should be terminated or revoked before re-arrest would impose little to no fiscal or administrative burden, while simultaneously protecting core constitutional rights. Respondents' decision to re-detain Petitioner in this matter contravenes federal law and violates his procedural due process rights.

73. This arbitrary deprivation of liberty without written notice violates the constitutional requirement that detention be accompanied by due process safeguards. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (holding that immigration detention is subject to constitutional limits); *Demore v. Kim*, 538 U.S. 510, 532 (2003) (emphasizing limited scope and justification for immigration detention).

74. By taking Petitioner back into custody and terminating his parole without written notice, new facts, or opportunity to be heard, Respondents deprived him of liberty in a manner inconsistent with due process and the fundamental fairness required by the Fifth Amendment.

COUNT TWO
Violation of Fifth Amendment Right to Substantive Due Process

75. The allegations in the above paragraphs are realleged and incorporated herein.

76. The Fifth Amendment's Due Process Clause not only guarantees procedural safeguards, but also protects individuals against governmental conduct that "shocks the conscience" or interferes with rights implicit in the concept of ordered liberty. *County of Sacramento v. Lewis*, 523 U.S. 833, 846–47 (1998).

77. Here, Petitioner had been affirmatively determined not to be a danger to the community or a flight risk upon his initial entry, when ICE conducted a custody review and released him from custody in circumstances that Respondents now contend can occur only through parole authority.

78. Despite these findings, Petitioner was re-detained and his parole revoked without cause. This re-detention occurred without written notice, any new facts or changed circumstances that could justify depriving him of liberty.

79. The government's conduct is arbitrary and capricious, amounting to punishment rather than regulation. It transforms ICE's discretionary authority into an unchecked power to re-incarcerate noncitizens at will, untethered to legitimate governmental objectives.

80. By subjecting Petitioner to renewed detention and revocation of parole without notice or justification, Respondents violated Petitioner's substantive due process rights under the

Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (immigration detention is constitutionally limited and must bear a reasonable relation to its purposes); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (continued confinement is impermissible absent a legitimate basis such as dangerousness or flight risk).

81. Respondents' actions shock the conscience because they reflect arbitrary government conduct that disregards both prior determinations and Petitioner's fundamental right to be free from unjustified physical confinement.

COUNT THREE
Violation of the Administrative Procedure Act ("APA")

82. The allegations in the above paragraphs are realleged and incorporated herein.

83. The Administrative Procedure Act ("APA") provides the framework for judicial review of agency action. While § 701(a)(2) precludes review where "agency action is committed to agency discretion by law," this limitation is narrowly construed considering the language of § 702. *Norton v. Southern Utah Wilderness Alliance*, 542 U.S. 55, 64–65 (2004); 5 U.S.C. § 551(13). Namely, § 702 expressly authorizes review by any person "suffering legal wrong because of agency action" or "adversely affected or aggrieved by agency action within the meaning of a relevant statute." 5 U.S.C. § 702; 5 U.S.C. § 551(13).

84. Moreover, in *Southern Utah Wilderness Alliance*, the Supreme Court clarified that "agency action" encompasses discrete action, or failure to act when mandated by statute, rather than broad challenges to an agency's overall program management. *Southern Utah Wilderness Alliance*, 542 U.S. at 64–65; 5 U.S.C. § 551(13) (agency action includes the whole or part of an agency's order, relief, or denial of relief).

85. When reviewing the erroneous agency action, section 706 directs courts to resolve all relevant questions of law, interpret statutory provisions, and "compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1)–(2). Courts must also "hold unlawful and set aside" agency actions that are arbitrary, capricious, contrary to law, in excess of statutory authority, procedurally defective, unsupported by substantial evidence, or unwarranted by the facts. *Id.*

86. To invoke judicial review of an agency action, and hold unlawful or set aside arbitrary or capricious actions under § 706, a plaintiff must demonstrate Article III standing—an injury in fact, traceable to the challenged action, and redressable by a favorable decision—and must show that the interest asserted is "arguably within the zone of interests" protected by the statute invoked. *Ass'n of Data Processing Serv. Orgs., Inc. v. Camp*, 397 U.S. 150, 153 (1970); *Clarke v. Sec. Indus. Ass'n*, 479 U.S. 388, 399 (1987); *Nat'l Credit Union Admin. v. First Nat'l Bank & Trust Co.*, 522 U.S. 479, 492 (1998). This zone-of-interests requirement is not demanding, and any doubt is resolved in the plaintiff's favor. *Nat'l Credit Union Admin.*, 522 U.S. at 492 (reaffirming the standard established by *Sec. Indus. Ass'n*, 479 U.S. 388 (1987)).

87. Finally, to overcome the allegation of an agency's erroneous actions under § 702, the agency must prove to the satisfaction of the reviewing court, that its actions were not arbitrary and capricious under §706. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 52 (1983); 5 U.S.C. § 702; 5 U.S.C. § 706(1)–(2). In *State Farm Mut. Auto. Ins. Co.*, the Court defined the arbitrary and capricious standard of §706 as

requiring the agency to show it engaged in reasoned decision-making when deciding the matter at issue. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. at 52; 5 U.S.C. § 706(1)–(2).

88. The APA framework squarely applies to Petitioner's case. Even assuming, as Respondents contend, that § 1225(b)(2)(A) governs Petitioner's custody, DHS's decision to re-detain Petitioner necessarily rests on the premise that DHS previously exercised parole authority under 8 U.S.C. § 1182(d)(5)(A) and that such parole was subsequently terminated. Whether DHS lawfully terminated parole in accordance with governing statutes and regulations is a discrete, reviewable agency action subject to judicial review under the APA.

89. Under Respondents' own interpretation of the INA, applicants for admission subject to 8 U.S.C. § 1225(b)(2)(A) are mandatorily detained, ineligible for bond, and may only be released from custody through the exercise of parole authority under 8 U.S.C. § 1182(d)(5)(A). Accordingly, DHS's decision to release Petitioner from custody in 2021 necessarily constituted an exercise of parole authority, even though DHS failed to formally label the release as "parole" or issue documentation specifying the purpose or duration of such parole.

90. Having exercised parole authority to release Petitioner, DHS was required to comply with the statutory and regulatory requirements governing the termination of parole before re-detaining him. *See* 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5(e). Those requirements include written notice upon an individualized determination that the purpose of parole has been served or that neither humanitarian reasons nor significant public benefit warrants continued parole. 8 C.F.R. § 212.5(e)(2).

91. DHS failed to comply with these mandatory requirements. The record does not reflect that DHS ever made an individualized determination that the purpose of Petitioner's parole had been served, nor that DHS provided Petitioner with written notice of parole termination as required by regulation. DHS's re-detention of Petitioner therefore constitutes agency action taken "without observance of procedure required by law." 5 U.S.C. § 706(2)(D).

92. DHS's failure to provide notice of parole termination or to engage in an individualized, case-by-case assessment also constitutes agency action "not in accordance with law" and "in excess of statutory authority." 5 U.S.C. § 706(2)(A), (C). Congress authorized parole decisions to be made on a case-by-case basis, 8 U.S.C. § 1182(d)(5)(A), and courts have repeatedly found that parole revocation, like parole grants, requires individualized consideration rather than categorical or automatic action.

93. DHS's actions are further arbitrary and capricious because the agency failed to articulate a reasoned basis for concluding that parole could be terminated without process. *See State Farm Mut. Auto. Ins. Co.*, 463 U.S. at 43 (agency action is arbitrary and capricious where the agency "entirely failed to consider an important aspect of the problem" or offered an explanation counter to the evidence before it).

94. DHS's unlawful revocation of parole has caused Petitioner concrete and ongoing injury, including prolonged physical detention, deprivation of liberty without due process, and denial of the opportunity to remain at liberty under the same conditions that governed his release for over four years. These injuries are directly traceable to DHS's failure to comply with the APA and are redressable by this Court through vacatur of the unlawful agency action and an order directing Petitioner's release.

95. Petitioner's interests fall squarely within the zone of interests protected by the INA's parole provisions and the APA. The parole statute and its implementing regulations are designed to govern when and how DHS may release and re-detain noncitizens, and to protect noncitizens from arbitrary deprivation of liberty through unreviewed or procedurally defective parole decisions.

96. Because DHS unlawfully revoked parole without complying with statutory and regulatory requirements, the Court must hold unlawful and set aside DHS's action under 5 U.S.C. § 706(2) and compel compliance with the law under § 706(1). The appropriate remedy is immediate release from custody.

COUNT FOUR
Violation of the INA:
Request for Relief Pursuant to *Maldonado Bautista*

97. The allegations in the above paragraphs are realleged and incorporated herein.

98. As a member of the Bond Eligible Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

99. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

100. The order granting class certification in *Maldonado Bautista* further orders that "[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole."

101. Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

102. By finding that Petitioner is not a member of the class, Respondents violate Petitioner's statutory rights under the INA and the Court's judgment in *Maldonado Bautista*.

REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests the Court to grant the following relief:

1. Accept jurisdiction over this matter;
2. Order that Petitioner shall not be transferred outside the United States District Court for the District of Colorado while this habeas petition is pending;
3. Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243, directing Respondents to show cause why the petition for a writ of habeas corpus filed by Petitioner should not be granted within three days;
4. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
5. Declare that Petitioner's detention is unlawful;
6. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
7. Grant any further relief this Court deems just and proper.

Respectfully submitted,

s/ *Deliane Quiles*
Deliane Quiles, Esq.
Florida Bar No. 1044089
Liliana Y. Gomez, P.A.
5000 SW 75th Ave., Suite 400
Miami, FL 33155
786.502.7615 Tel
Deliane@gomezquileslaw.com
Counsel for Petitioner

Dated: January 15, 2026

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

I represent Petitioner, Yainier Aranda Garcia, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 15th day of January 2026.

s/ *Deliane Quiles*
Deliane Quiles
Florida Bar No. 1044089