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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
WAYCROSS DIVISION

JOSE MIGUEL APOLO-CISNEROS,



Petitioner,

v.

TONY NORMAND, WARDEN,  
FOLKSTON ICE PROCESSING  
CENTER; KRISTI NOEM, DHS  
SECRETARY

Respondent.

Case No.

PETITION FOR WRIT OF  
HABEAS CORPUS

**INTRODUCTION**

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3 1. Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging  
4 the constitutionality and statutory legality of his current immigration detention. Petitioner is a  
5 native and citizen of Ecuador who entered the United States on March 16, 2024, after presenting  
6 himself for inspection pursuant to an appointment scheduled through the CBP One mobile  
7 application, together with his wife and their minor child. On the same day, DHS issued Petitioner  
8 a Notice to Appear and placed him into removal proceedings under INA § 240. Immigration  
9 officials affirmatively granted Petitioner parole pursuant to 8 U.S.C. § 1182(d)(5)(A) through  
10 March 15, 2026. Petitioner lived freely in the community, complied with all conditions of parole,  
11 appeared at every scheduled immigration court hearing, maintained lawful employment pursuant  
12 to a valid Employment Authorization Document, and established substantial family and  
13 community ties. Despite the continued validity of his parole, and without notice, explanation, or  
14 any individualized determination, ICE abruptly arrested and detained Petitioner on December 30,  
15 2025, during an enforcement operation in which agents were seeking another individual.

16 2. Petitioner’s re-detention violates the Due Process Clause of the Fifth Amendment.  
17 By granting parole under 8 U.S.C. § 1182(d)(5)(A), the Government created a protected liberty  
18 interest in Petitioner’s continued freedom from physical restraint for the duration of that parole.  
19 The Government extinguished that liberty interest without written notice, without a hearing, and  
20 without any individualized finding that the purpose of parole had been accomplished or that  
21 humanitarian or public-benefit grounds no longer warranted parole. Because Petitioner’s liberty  
22 was revoked in the complete absence of constitutionally required procedures and in violation of  
23 governing statutes and regulations, his continued detention is unlawful.

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2 3. In the alternative, should the Court decline to order Petitioner's immediate release  
3 based on the due process and parole-termination violations, Petitioner is entitled to a bond hearing  
4 because he is not subject to any mandatory detention provision of the Immigration and Nationality  
5 Act, including 8 U.S.C. §§ 1225(b)(1) or 1225(b)(2). Petitioner was paroled into the United States,  
6 placed into removal proceedings under INA § 240, and arrested in the interior of the country while  
7 residing with his family in North Carolina. Section 1225 therefore does not apply. Any detention  
8 authority arises, if at all, under 8 U.S.C. § 1226(a), which authorizes only discretionary detention  
9 and entitles Petitioner to an individualized bond hearing before an impartial immigration judge.

10 4. Absent judicial intervention, Petitioner will continue to suffer irreparable harm  
11 from an unlawful deprivation of liberty imposed through executive action unsupported by notice,  
12 individualized findings, or compliance with DHS's own statutory and regulatory framework.  
13 Petitioner therefore respectfully requests that this Court order his immediate release from custody.  
14 In the alternative, Petitioner requests a prompt bond hearing pursuant to 8 U.S.C. § 1226(a). *Should*  
15 *the Court order such a hearing, Petitioner respectfully requests that the Government be directed*  
16 *to file a written status report with this Court detailing the outcome of the bond determination and*  
17 *the reasons for continued custody, if any, so that this Court may ensure compliance with statutory*  
18 *and constitutional due process requirements.*

19 **JURISDICTION**

20 5. Petitioner is in the physical custody of Respondent. Petitioner is detained at the  
21 Folkston Processing Center located in Folkston, Georgia.

22 6. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), and 28  
23 U.S.C. § 1331 (federal question).  
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2 7. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment  
3 Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

4 **VENUE**

5 8. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-  
6 500 (1973), venue lies in the United States District Court for the Southern District of Georgia, the  
7 judicial district in which Petitioner currently is detained.

8 9. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because  
9 Respondents are employees, officers, and agencies of the United States, and because a substantial  
10 part of the events or omissions giving rise to the claims occurred in the Southern District of Georgia.

11 **REQUIREMENTS OF 28 U.S.C. § 2243**

12 10. The Court must grant the petition for writ of habeas corpus or order Respondents  
13 to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an  
14 order to show cause is issued, Respondents must file a return “within three days unless for good  
15 cause additional time, not exceeding twenty days, is allowed.” *Id.*

16 11. Habeas corpus is “perhaps the most important writ known to the constitutional  
17 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or  
18 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the  
19 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and  
20 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208  
21 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

**PARTIES**

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3 12. Petitioner, Mr. Jose Apolo Cisneros, is a native and citizen of Ecuador who is  
4 currently detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Folkston  
5 Processing Center in Folkston, Georgia, where he has been held since December 30, 2025.

6 13. Respondent Tony Normand is the Warden of the Folkston Processing Center, which  
7 is operated by the GEO Group. As Warden, he exercises immediate physical custody over  
8 Petitioner. He is sued in his official capacity.

9 14. Respondent Kristi Noem is the Secretary of the United States Department of  
10 Homeland Security (“DHS”). In that capacity, she has legal custody and ultimate authority over  
11 Petitioner’s detention through DHS and its component agency, ICE. She is sued in her official  
12 capacity.

13 **STATUTORY AND REGULATORY FRAMEWORK GOVERNING PAROLE AND**  
14 **TERMINATION OF PAROLE**

15 15. The Immigration and Nationality Act authorizes the Secretary of Homeland  
16 Security to parole a noncitizen into the United States on a temporary basis “for urgent humanitarian  
17 reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A). The statute expressly requires that  
18 parole decisions be made “only on a case-by-case basis.” *Id.* A grant of parole therefore reflects  
19 an individualized determination by the government that detention is not warranted under the  
20 circumstances.

21 16. As the Supreme Court has explained, parole under § 1182(d)(5)(A) allows a  
22 noncitizen to be released from custody while their immigration case continues, and when parole is  
23 granted, the noncitizen’s case “shall continue to be dealt with in the same manner as that of any  
24 other applicant for admission to the United States.” *Jennings v. Rodriguez*, 583 U.S. 281, 288

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2 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)). Thus, parole is a legally operative status that carries  
3 real consequences for custody and liberty.

4 17. Once parole has been granted, it remains valid for the authorized period unless and  
5 until it is lawfully terminated. Termination of parole is governed by regulation, which provides  
6 that, in cases not involving automatic termination, parole may be terminated only upon either (1)  
7 accomplishment of the purpose for which parole was authorized, or (2) a determination that neither  
8 humanitarian reasons nor significant public benefit warrants the noncitizen's continued presence  
9 in the United States. 8 C.F.R. § 212.5(e)(2)(i).

10 18. Critically, the regulation mandates that parole "shall be terminated upon written  
11 notice to the alien," and that the noncitizen must be restored to the status held at the time parole  
12 was granted. *Id.* Termination is therefore not implicit, automatic, or discretionary in silence; it  
13 requires an affirmative act by DHS and written notice to the noncitizen.

14 19. Courts interpreting § 1182(d)(5)(A) and its implementing regulations have  
15 consistently held that just as parole must be granted on a case-by-case basis, revocation or  
16 termination of parole likewise requires an individualized, case-specific assessment and compliance  
17 with the notice requirements of 8 C.F.R. § 212.5(e). *See, e.g., Loaiza Arias v. LaRose*, No. 3:25-  
18 cv-02595, 2025 WL 3295385, at 3 (S.D. Cal. Nov. 25, 2025) (holding that parole "may be  
19 terminated only if the purpose of parole is accomplished, or humanitarian reasons or public benefit  
20 no longer warrant parole"); *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 146 (W.D.N.Y.  
21 2025) (finding revocation of parole requires a case-by-case assessment and granting injunctive  
22 relief).

23 20. Numerous district courts have concluded that DHS violates the INA and its own  
24 regulations when it re-detains paroled noncitizens without complying with the statutory and

1  
2 regulatory framework governing parole termination. *See, e.g., Y-Z-L-H v. DHS*, 792 F. Supp. 3d  
3 1137, 1147 (D. Mass. 2025); *Noori v. LaRose*, No. 25-cv-1824, 2025 WL 2800149, at \*10–13  
4 (S.D. Cal. Oct. 1, 2025); *Munoz Materano v. Arteta*, No. 25-CIV-6137, 2025 WL 2630826, at  
5 \*14–17 (S.D.N.Y. Sept. 12, 2025); *Gabriel B.M. v. Bondi*, No. 25-cv-4298, 2025 WL 3443584, at  
6 \*6–7 (D. Minn. Dec. 1, 2025).

## 7 **DUE PROCESS FRAMEWORK**

### 8 **A. The Fifth Amendment and Protected Liberty Interests**

9 21. The Due Process Clause of the Fifth Amendment provides that no person shall be  
10 deprived of liberty without due process of law. This protection applies to all “persons” within the  
11 United States, including noncitizens, and safeguards freedom from physical restraint as a core  
12 constitutional interest.

13 22. A protected liberty interest may arise not only from freedom from initial  
14 confinement, but also from conditional release from physical custody. The Supreme Court has  
15 recognized that when the government grants an individual conditional liberty—allowing the  
16 individual to live in the community subject to specified terms—that liberty interest is protected by  
17 the Due Process Clause. *See Young v. Harper*, 520 U.S. 143, 147–49 (1997).

18 23. Importantly, the existence of statutory authority to arrest or detain an individual  
19 does not eliminate constitutional constraints. Even where a statute permits detention, the Due  
20 Process Clause may independently require procedural protections beyond those expressly provided  
21 by statute. *Id.*; *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973); *Morrissey v. Brewer*, 408 U.S. 471,  
22 482 (1972).

### 23 **B. Conditional Liberty and the Parole Analogy**

24 24. In determining whether a particular form of conditional release gives rise to a  
protected liberty interest, courts look to the nature of the release and compare it to parole as

1  
2 described in *Morrissey v. Brewer*. In *Morrissey*, the Supreme Court explained that parole permits  
3 an individual “to do a wide range of things open to persons who have never been in custody or  
4 convicted of any crime,” including living at home, working, associating with family and friends,  
5 and forming the “enduring attachments of normal life.” 408 U.S. at 482.

6 25. Although parolees remain subject to conditions and supervision, the Court  
7 emphasized that their status “is very different from that of confinement in a prison.” *Id.* Because  
8 parole allows the individual to structure his life around continued freedom, the Court held that  
9 revocation of parole inflicts a “grievous loss” and therefore implicates a protected liberty interest.  
10 *Id.* at 482–84.

11 26. The Court further recognized that conditional release carries an implicit promise  
12 that liberty will be revoked only upon failure to comply with release conditions. *Id.* This reliance  
13 interest is a key feature distinguishing conditional liberty from temporary or transitory release.

14 **C. Procedural Protections Required Before Revocation of Conditional Liberty**

15 27. Where a protected liberty interest exists, due process requires notice and an  
16 opportunity to be heard before that liberty may be terminated. The Supreme Court has consistently  
17 applied this principle across multiple contexts involving conditional release, including parole,  
18 probation, and parole programs. See *Morrissey*, 408 U.S. at 482; *Gagnon*, 411 U.S. at 782; *Young*,  
19 520 U.S. at 147–49.

20 28. These decisions reflect a common constitutional principle: summary revocation of  
21 conditional liberty, without procedural safeguards, creates a substantial risk of erroneous  
22 deprivation. As a result, the Constitution requires at least minimal procedures—such as notice of  
23 the grounds for revocation and an opportunity to contest those grounds before a neutral  
24 decisionmaker—before liberty may be withdrawn.

1  
2 29. Courts addressing immigration detention have similarly recognized that once a  
3 noncitizen is released from custody and permitted to live in the community, a protected liberty  
4 interest in remaining free may arise, triggering due process protections before re-detention.

5 **D. The Mathews v. Eldridge Framework**

6 30. When evaluating whether the procedures used to deprive an individual of liberty  
7 satisfy due process, courts apply the three-factor balancing test articulated in Mathews v. Eldridge,  
8 424 U.S. 319, 335 (1976). That test requires consideration of:

- 9 1) the private interest affected by the official action;  
10 2) the risk of erroneous deprivation under the procedures used, and the probable value  
11 of additional or substitute safeguards; and  
12 3) the government's interest, including the fiscal and administrative burdens that  
13 additional procedures would entail.

14 31. This framework governs the constitutional analysis where, as here, the government  
15 seeks to terminate conditional liberty through detention.

16 **STATUTORY FRAMEWORK GOVERNING DETENTION**  
17 **UNDER 8 U.S.C. § 1225 AND 8 U.S.C. § 1226**

18 **A. Inspection, Parole, and Applicants for Admission**

19 32. The Immigration and Nationality Act (“INA”) establishes distinct statutory  
20 frameworks governing inspection, parole, and detention of noncitizens. Under 8 U.S.C. § 1225(a),  
21 a noncitizen who presents himself for inspection is treated as an “applicant for admission.”  
22 Applicants for admission may be inspected by immigration officers to determine admissibility to  
23 the United States.

24 33. Separately, Congress authorized the Secretary of Homeland Security to parole  
certain noncitizens into the United States on a discretionary basis. Under 8 U.S.C. § 1182(d)(5)(A),  
DHS may parole a noncitizen “into the United States temporarily under such conditions as [it] may  
prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public

1  
2 benefit.” Parole does not constitute an admission, but it permits the noncitizen to physically enter  
3 and reside in the United States subject to conditions imposed by DHS.

4 34. When parole is granted, the statute provides that upon termination of parole, the  
5 noncitizen “shall return or be returned to the custody from which he was paroled and thereafter his  
6 case shall continue to be dealt with in the same manner as that of any other applicant for admission.”

7 8 U.S.C. § 1182(d)(5)(A).

8 **B. Mandatory Detention and Expedited Removal Under 8 U.S.C. § 1225**

9 35. Section 1225(b) governs the inspection and initial processing of certain applicants  
10 for admission. Under § 1225(b)(1), DHS may subject certain noncitizens to expedited removal and  
11 mandatory detention. That provision applies only to specific categories of individuals, including  
12 noncitizens who have not been admitted or paroled into the United States and who cannot establish  
13 a requisite period of continuous physical presence. See 8 U.S.C. § 1225(b)(1)(A)(iii).

14 36. Section 1225(b)(2) governs detention of other applicants for admission pending a  
15 determination of admissibility. Both provisions operate in the context of inspection and processing  
16 at or near the point of entry and are tied to an applicant’s initial encounter with immigration  
17 authorities.

18 **C. Discretionary Detention Pending Removal Proceedings Under 8 U.S.C. § 1226**

19 37. Once a noncitizen is placed into removal proceedings, detention authority is  
20 governed by 8 U.S.C. § 1226. Section 1226(a) provides the general rule for detention pending a  
21 decision on removability. Under that provision, DHS may arrest and detain a noncitizen, or release  
22 the noncitizen on bond or conditional parole, pending the outcome of removal proceedings.

23 38. Detention under § 1226(a) is discretionary and contemplates individualized custody  
24 determinations. Noncitizens detained under § 1226(a) are entitled to a bond hearing before an  
immigration judge to determine whether continued detention is warranted.

1  
2 39. By contrast, § 1226(c) mandates detention of a narrow category of noncitizens with  
3 specified criminal convictions. Mandatory detention under § 1226(c) applies only when the  
4 statutory criteria are satisfied.

### 5 **FACTUAL BACKGROUND**

6 40. Petitioner is a native and citizen of Ecuador. He entered the United States on or  
7 about March 16, 2024, after presenting himself for inspection and applying for admission through  
8 the CBP One mobile application, together with his wife and their minor child. On the same day,  
9 Petitioner and his family were issued Notices to Appear (“NTAs”) and placed into removal  
10 proceedings pursuant to § 240 of the Immigration and Nationality Act (“INA”). Petitioner was  
11 charged with inadmissibility under § 212(a)(7)(A)(i)(I) of the INA as an immigrant not in  
12 possession of valid entry or travel documents at the time of application for admission. Immigration  
13 officials subsequently exercised their discretionary authority to parole Petitioner into the United  
14 States pursuant to 8 U.S.C. § 1182(d)(5), with parole authorized through March 15, 2026.

15 41. Immigration officials may parole a noncitizen under 8 U.S.C. § 1182(d)(5)(A) for  
16 “urgent humanitarian reasons” or “significant public benefit,” provided the noncitizen presents  
17 neither a danger to the community nor a risk of absconding. See 8 C.F.R. § 212.5(b). A grant of  
18 parole therefore reflects a considered determination by the government that the noncitizen does  
19 not pose a public safety risk and is likely to comply with all immigration requirements.

20 42. Following his release, Petitioner established residence in North Carolina, where he  
21 has continuously resided with his wife and their six-year-old child since their arrival in the United  
22 States. Petitioner and his family have diligently complied with all requirements of their removal  
23 proceedings, including appearing at every scheduled master calendar hearing on May 2, 2024, and  
24

1  
2 June 4, 2025. Petitioner timely filed an Application for Asylum and for Withholding of Removal,  
3 which remains pending in his removal proceedings.

4 43. During his period of parole, Petitioner was granted a Social Security number and  
5 an Employment Authorization Document valid through March 15, 2026. Since his arrival in the  
6 United States, Petitioner has been continuously employed as an auto mechanic and has remained  
7 a productive, law-abiding member of his community. He has no criminal history of any kind and  
8 has complied with all conditions imposed by the Department of Homeland Security.

9 44. On December 30, 2025, Petitioner was apprehended and detained during an ICE  
10 enforcement operation that was not directed at him. ICE agents were reportedly seeking another  
11 individual when Petitioner was taken into custody. Petitioner was detained without prior notice,  
12 explanation, or any individualized assessment of flight risk or danger to the community. He  
13 remains detained despite his ongoing parole authorization and pending removal proceedings.

14 45. Petitioner's parole into the United States was expressly premised on a governmental  
15 determination that he did not pose a risk to public safety or a risk of flight. Nothing in the record  
16 before this Court demonstrates any material change in circumstances since that determination was  
17 made. Prior to his arrest on December 30, 2025, no DHS or ICE official conducted any  
18 individualized analysis concluding that Petitioner warranted re-detention.

19 46. Petitioner's continued detention constitutes a severe and unjustified infringement  
20 on his fundamental liberty interest in freedom from physical restraint—an interest that lies at the  
21 core of the Fifth Amendment's Due Process Clause. The essence of due process is notice and an  
22 opportunity to be heard. Here, Petitioner was deprived of both. His warrantless re-detention, absent  
23 notice, explanation, or individualized findings, creates an unacceptably high risk of erroneous  
24 deprivation that cannot withstand constitutional scrutiny.

**MEMORANDUM OF LAW**

**I. Petitioner's Re-Detention Violated the INA and DHS's Parole Regulations**

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4 47. Petitioner is a native and citizen of Ecuador who entered the United States on March  
5 16, 2024, together with his wife and six-year-old child, after presenting himself for inspection  
6 pursuant to an appointment scheduled through the CBP One mobile application. On the same day,  
7 the Department of Homeland Security ("DHS") issued Petitioner a Notice to Appear ("NTA") and  
8 placed him into removal proceedings under INA § 240. DHS affirmatively exercised its  
9 discretionary authority to parole Petitioner into the United States pursuant to 8 U.S.C. §  
10 1182(d)(5)(A), authorizing parole through March 15, 2026.

11 48. Petitioner fully complied with all conditions of parole and removal proceedings. He  
12 and his family appeared at all scheduled master calendar hearings on May 2, 2024, and June 4,  
13 2025. Petitioner timely filed an application for asylum, obtained a Social Security number, and  
14 was issued an Employment Authorization Document valid through March 15, 2026. Since his  
15 arrival, Petitioner has continuously resided in North Carolina with his family, maintained steady  
16 lawful employment as an auto mechanic, and has no criminal history.

17 49. On December 30, 2025, Petitioner was apprehended and detained during an ICE  
18 enforcement operation that was not directed at him. Prior to this arrest, DHS never issued any  
19 written notice terminating Petitioner's parole, never made any individualized finding that the  
20 purpose of parole had been accomplished, and never determined that humanitarian reasons or  
21 significant public benefit no longer justified parole.

22 50. Based on the record before the Court, the purpose of Petitioner's parole has not  
23 been accomplished. Petitioner remains an asylum seeker with a pending application, continues to  
24 comply with all immigration obligations, and presents no danger to the community or risk of flight.

1  
2 There is likewise no evidence that the humanitarian or public-benefit grounds supporting parole  
3 have ceased to exist.

4 51. Because Respondents failed to comply with the statutory and regulatory  
5 requirements governing termination of parole, Petitioner's parole remained valid and operative at  
6 the time of his arrest. His re-detention without notice, explanation, or individualized assessment  
7 violates 8 U.S.C. § 1182(d)(5)(A), 8 C.F.R. § 212.5(e), and the Due Process Clause of the Fifth  
8 Amendment.

9 **II. Petitioner Possessed a Protected Liberty Interest in His Continued Release**

10 52. Petitioner incorporates by reference the preceding paragraphs.

11 53. Petitioner was paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A)  
12 after presenting himself for inspection through the CBP One process. He then lived in the  
13 community for an extended period—residing with his wife and minor child, working lawfully  
14 pursuant to valid employment authorization, pursuing asylum relief that remains pending, and  
15 maintaining a clean criminal record.

16 54. This extended, stable community release is materially comparable to the  
17 conditional liberty described in *Morrissey v. Brewer*, where the Supreme Court recognized that  
18 parole allows an individual to live at home, work, support family, and form the enduring  
19 attachments of normal life. 408 U.S. 471, 482–84 (1972). Petitioner's liberty therefore rose well  
20 above a transitory or fleeting release and created a protected liberty interest in remaining free  
21 absent constitutionally adequate revocation procedures. *Young v. Harper*, 520 U.S. 143, 147–49  
22 (1997).

23 55. Petitioner's compliance history underscores that this liberty interest was real and  
24 substantial. He appeared at all required court hearings, complied with parole conditions,

1  
2 maintained lawful employment, and remained entirely free of criminal conduct. Nothing in the  
3 record suggests that detention was necessary to ensure appearance or protect public safety.

4 56. Courts confronting similar post-release immigration re-detention circumstances  
5 have likewise recognized that once a noncitizen is released and permitted to live in the community,  
6 a protected liberty interest may arise that triggers due process protections before re-detention. See,  
7 e.g., *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025); *Guillermo M. R. v. Kaiser*,  
8 791 F. Supp. 3d 1021, 1029 (N.D. Cal. 2025); *Ortega v. Kaiser*, 2025 WL 1771438, at \*3 (N.D.  
9 Cal. June 26, 2025).

10 **III. Under *Mathews v. Eldridge*, Re-Detention Without Notice, Hearing, or Individualized  
Findings Violated Due Process**

11 **A. The Private Interest Affected Is Profound**

12 57. The private interest affected—freedom from physical restraint—is at the apex of  
13 due process protection. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner’s liberty interest  
14 is particularly weighty because it followed a prolonged period of stable, compliant community  
15 release, during which he lawfully worked, supported his family, and pursued relief in removal  
16 proceedings.

17 58. Re-detention did not merely adjust the conditions of supervision; it extinguished  
18 Petitioner’s liberty entirely. Under *Morrissey*, that loss is “grievous” and constitutionally  
19 significant. 408 U.S. at 482–84.

20 **B. The Risk of Erroneous Deprivation Was Exceptionally High, and Minimal Safeguards  
Would Have Significant Value**

21 59. The procedures used here created an unacceptably high risk of erroneous  
22 deprivation. Petitioner was arrested without prior notice, without explanation, and without any  
23 opportunity to contest the basis for detention.  
24

1  
2 60. The record reflects no individualized assessment finding Petitioner posed a flight  
3 risk or danger, and no change in circumstances undermining DHS's original release determination.  
4 The absence of notice and a neutral, individualized process is precisely what drives the risk of  
5 error in conditional-liberty revocation. *Young*, 520 U.S. at 147–49; *Morrissey*, 408 U.S. at 482–  
6 84.

7 61. Minimal safeguards—notice of the asserted basis for re-detention and a prompt  
8 hearing before a neutral decisionmaker—would materially reduce the risk of erroneous deprivation  
9 by requiring the Government to articulate and support its reasons and permitting Petitioner to  
10 respond.

11 **C. The Government's Interest Does Not Justify Summary Re-Detention**

12 62. The Government has an interest in administering the immigration system and  
13 ensuring appearance and community safety. But Petitioner's extended compliance, stable  
14 residence, and lawful employment demonstrate that less restrictive measures were effective.

15 63. Requiring basic procedural safeguards before extinguishing conditional liberty  
16 imposes a minimal burden compared to the severe deprivation imposed. *Morrissey*, 408 U.S. at  
17 482; *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973).

18 **D. Balancing the Mathews Factors Confirms a Due Process Violation and Warrants  
19 Immediate Release**

20 64. Balancing the profound private interest, the substantial risk of erroneous  
21 deprivation created by summary re-detention, and the minimal burden of basic safeguards, the  
22 *Mathews* factors overwhelmingly favor Petitioner.

23 65. Because Petitioner's conditional liberty was terminated without notice, without a  
24 hearing, and without individualized findings, his detention violates the Due Process Clause of the  
Fifth Amendment.

1  
2 66. Where detention is the product of a constitutional violation in the process of  
3 revoking conditional liberty, habeas relief is warranted. Immediate release is the appropriate  
4 remedy to halt the ongoing unlawful deprivation of liberty.

5 **IV. Petitioner Is Not Subject to Mandatory Detention Under 8 U.S.C. § 1225, and His  
6 Detention Is Governed by 8 U.S.C. § 1226(a)**

7 67. Respondents cannot lawfully justify Petitioner's detention under the mandatory  
8 detention provisions of 8 U.S.C. § 1225. Although Petitioner initially presented himself for  
9 inspection in March 2024, DHS exercised its discretionary authority to parole him into the United  
10 States pursuant to 8 U.S.C. § 1182(d)(5)(A). Following that parole, Petitioner resided openly in  
11 the interior of the United States for more than twenty months prior to his arrest.

12 68. The plain text of § 1225(b)(1) forecloses its application here. That provision applies  
13 only to noncitizens "who ha[ve] not been admitted or paroled into the United States." Because  
14 Petitioner was paroled, § 1225(b)(1) cannot serve as the statutory basis for his detention.

15 69. Nor does the termination or expiration of parole retroactively transform a parolee  
16 into an arriving alien subject to § 1225. The parole statute provides only that upon termination, the  
17 individual's case "shall continue to be dealt with in the same manner as that of any other applicant  
18 for admission." 8 U.S.C. § 1182(d)(5)(A). That posture is governed by § 1226, not § 1225.

19 70. Petitioner's arrest further confirms § 1225's inapplicability. He was not detained at  
20 the border or during inspection, but rather in the interior of the United States after prolonged  
21 community residence. Courts have repeatedly rejected efforts to stretch § 1225 to cover such  
22 circumstances.

23 71. Because § 1225 does not apply, the only possible detention authority is 8 U.S.C. §  
24 1226(a), which authorizes discretionary detention and entitles Petitioner to an individualized bond  
hearing.

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3 **V. The Government May Not Salvage an Unlawful Detention Through Post Hoc**  
4 **Recharacterization**

5 72. Respondents may not cure an unlawful detention by retroactively re-labeling its  
6 statutory basis during litigation. Habeas review examines the legality of detention as imposed, not  
7 as later reconstructed.

8 73. Allowing post hoc invocation of § 1225 would reward statutory and constitutional  
9 violations and permit detention first, authority later.

10 74. Because Petitioner's detention was unlawful from its inception, immediate  
11 release—not remand for a belated bond hearing—is the appropriate remedy.

12 **CLAIMS FOR RELIEF**

13 **COUNT I**

14 **Violation of the Fifth Amendment Due Process Clause**  
15 **(Unlawful Revocation of Conditional Liberty Without Notice, Hearing, or Individualized**  
16 **Findings)**

17 75. Petitioner incorporates by reference all preceding paragraphs as if fully set forth  
18 herein.

19 76. The Due Process Clause of the Fifth Amendment prohibits the Government from  
20 depriving any person of liberty without due process of law. Freedom from physical restraint lies  
21 at the core of the liberty protected by the Constitution and may not be withdrawn absent  
22 constitutionally adequate procedures.

23 77. Petitioner possessed a protected liberty interest arising from his grant of  
24 humanitarian parole under 8 U.S.C. § 1182(d)(5)(A) and his prolonged, compliant release into the  
community. For an extended period, Petitioner lived with his family, worked lawfully pursuant to

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2 valid employment authorization, appeared at all required immigration court hearings, complied  
3 with all conditions of release, and pursued relief in removal proceedings without incident.

4 78. Once the Government granted Petitioner conditional liberty, it created a reliance  
5 interest and an implicit promise that his liberty would not be revoked absent noncompliance with  
6 release conditions or a constitutionally adequate, individualized determination justifying re-  
7 detention.

8 79. Respondents revoked Petitioner's conditional liberty by arresting and detaining him  
9 without prior notice, without identifying any violation of parole conditions, and without affording  
10 him an opportunity to be heard before a neutral decisionmaker.

11 80. Respondents further failed to conduct any individualized assessment finding that  
12 Petitioner posed a danger to the community or a risk of flight prior to re-detaining him,  
13 notwithstanding DHS's prior determination that such risks did not exist.

14 81. As demonstrated under the balancing framework set forth in *Mathews v. Eldridge*,  
15 424 U.S. 319 (1976), the absence of notice, a hearing, and individualized findings created an  
16 intolerably high risk of erroneous deprivation that far outweighs any governmental interest in  
17 summary re-detention.

18 82. Respondents' actions therefore violate the Due Process Clause of the Fifth  
19 Amendment, rendering Petitioner's detention unconstitutional and unlawful.

20 **COUNT II**

21 **Detention Without Statutory Authority Under the Immigration and Nationality Act**  
22 **(Misapplication of 8 U.S.C. § 1225 Instead of 8 U.S.C. § 1226(a))**

23 83. Petitioner incorporates by reference all preceding paragraphs.

24 84. The Immigration and Nationality Act establishes distinct statutory frameworks  
governing immigration detention. Mandatory detention under 8 U.S.C. § 1225 applies only to

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2 narrowly defined categories of noncitizens who have not been admitted or paroled into the United  
3 States and who are encountered during inspection or expedited removal processing at or near the  
4 border.

5 85. Petitioner does not fall within any category subject to mandatory detention under §  
6 1225. He was affirmatively paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A),  
7 placed into removal proceedings under INA § 240, and resided openly in the interior of the United  
8 States for an extended period before his arrest.

9 86. The plain language of § 1225(b)(1)(A)(iii) applies only to noncitizens who “ha[ve]  
10 not been admitted or paroled into the United States.” Because Petitioner was paroled, § 1225  
11 cannot serve as the statutory basis for his detention.

12 87. Nor does termination or revocation of parole retroactively transform Petitioner into  
13 an “arriving alien” or return him to the legal fiction of standing at the threshold of entry. Under 8  
14 U.S.C. § 1182(d)(5)(A), a parolee’s case “shall continue to be dealt with in the same manner as  
15 that of any other applicant for admission,” which includes noncitizens physically present in the  
16 United States without admission.

17 88. Detention of such individuals is governed by 8 U.S.C. § 1226(a), which authorizes  
18 discretionary detention pending removal proceedings and requires individualized custody  
19 determinations, including the opportunity for release on bond.

20 89. Because § 1225 does not authorize Petitioner’s detention, Respondents lack  
21 statutory authority to detain him without a bond hearing. Petitioner’s continued detention therefore  
22 violates the INA and exceeds the authority conferred by Congress.  
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2 **COUNT III**

3 **Ultra Vires Action and Unlawful Post Hoc Recharacterization of Detention Authority**  
4 **(Detention First, Legal Justification Later)**

5 90. Petitioner incorporates by reference all preceding paragraphs.

6 91. Petitioner was arrested and detained without any contemporaneous determination  
7 that his custody was authorized under 8 U.S.C. § 1225, § 1226(c), or any other mandatory detention  
8 provision of the INA.

9 92. Respondents may not cure an unlawful detention by retroactively invoking a  
10 different statutory basis during litigation. Habeas review examines whether detention was lawful  
11 at the time it was imposed, not whether the Government can later identify a post hoc justification.

12 93. Allowing Respondents to recharacterize the statutory basis for detention after the  
13 fact would impermissibly sanction detention first and legal authority later, undermining both the  
14 structure of the INA and fundamental principles of due process.

15 94. Because Petitioner's detention was unlawful from its inception and cannot be  
16 salvaged through retrospective statutory reclassification, Respondents' continued detention of  
17 Petitioner is ultra vires and unlawful.

18 **COUNT IV**

19 **Violation of the Administrative Procedure Act**

20 *(Arbitrary and Capricious Agency Action; Action Not in Accordance with Law; Failure to*  
21 *Observe Required Procedures)*  
22 *5 U.S.C. § 706(2)(A), (C), (D)*

23 95. Petitioner incorporates by reference all preceding paragraphs.

24 96. The Administrative Procedure Act ("APA") requires federal agencies to act in  
accordance with law, follow their own regulations, and engage in reasoned decision-making. 5  
U.S.C. § 706.

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2 97. Respondents' decision to arrest and detain Petitioner while his parole remained  
3 valid constitutes final agency action subject to judicial review because it marks the consummation  
4 of the agency's decision-making process and directly affects Petitioner's rights and liberty.

5 98. Respondents acted not in accordance with law and in excess of statutory authority  
6 by detaining Petitioner without terminating parole in compliance with 8 U.S.C. § 1182(d)(5)(A)  
7 and 8 C.F.R. § 212.5(e). See 5 U.S.C. § 706(2)(A), (C).

8 99. Respondents further failed to observe procedures required by law by terminating  
9 Petitioner's parole without written notice, without explanation, and without any individualized  
10 determination that parole was no longer warranted. See 5 U.S.C. § 706(2)(D).

11 100. Respondents' actions were also arbitrary and capricious because they departed from  
12 DHS's prior determination that Petitioner posed no danger and no flight risk, without  
13 acknowledging or explaining that departure, and without identifying any change in circumstances  
14 justifying re-detention.

15 101. The APA prohibits agencies from acting through unexplained inconsistency, silent  
16 reversal of prior determinations, or enforcement decisions untethered from governing statutes and  
17 regulations.

18 102. Because Respondents' actions violate the APA, they are unlawful and must be set  
19 aside. The Court should therefore vacate the decision to detain Petitioner and order appropriate  
20 relief, including immediate release or, in the alternative, a lawful custody determination consistent  
21 with statutory and constitutional requirements.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 24 a. Assume jurisdiction over this matter;

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- b. Order that Petitioner shall not be transferred outside the Southern District of Georgia while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Declare that Petitioner’s detention is unlawful;
- e. Order Petitioner’s immediate release from custody;
- f. In the alternative, order that any continued detention proceed solely under 8 U.S.C. § 1226(a) and require a prompt bond hearing before an impartial immigration judge, at which the Government bears the burden of justifying continued detention;
- g. If a bond hearing is ordered, direct Respondents to file a written status report with this Court within a time set by the Court, stating whether bond was granted or denied, the bond amount and conditions if granted, and a summary of the reasons stated on the record for the custody determination, so as to ensure compliance with statutory and constitutional due process requirements;
- h. 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
- i. Grant any other and further relief that this Court deems just and proper.

DATED this 20th day of January, 2026.

ZAMBRANO LAW,

/s/ Shirley C. Zambrano

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

I represent Petitioner, Mr. Jose Apolo Cisneros, 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 20th day of January, 2026.

ZAMBRANO LAW,

/s/ Shirley C. Zambrano

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