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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 NIKOLAI ZUBRIK,
10
11 Petitioners,

12 vs.

13 CHRISTOPHER LAROSE, warden of
14 Otay Mesa Detention Center
15 DANIEL A. BRIGHTMAN, San Diego
16 Field Office Director, Immigration and
17 Customs Enforcement and Removal
18 Operations (“ICE/ERO”);
19 TODD LYONS, Acting Director of
20 Immigration Customs Enforcement
21 (“ICE”);
22 KRISTI NOEM, Secretary of the
23 Department of Homeland Security
24 (“DHS”);
25 PAMELA BONDI, Attorney General of
26 the United States,
27 U.S. DEPARTMENT OF HOMELAND
28 SECURITY;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;

Respondents.

Case No.: '26CV320 TWRBJW

Agency Number: 

PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE

INTRODUCTION

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1. Russian can be a dangerous place for those who oppose government policy and to those who dissent. It can be especially dangerous for those who supported Navalny and his group of protesters. Their anti-corruption work put many in danger, including the Petitioner, Nikolai Zubrik.

2. In 2023, after return from an international trip, the government began investigating Mr. Zubrik's politics and beliefs. They began to contact his family members warning that they were investigating him. Eventually Mr. Zubrik came to believe that life for him and his family was no longer safe in Russia. He made plans to escape and come to America to seek refuge.

3. Petitioner came to a United States port of entry on September 28, 2023 pursuant to a CBP One appointment. He was held at Imperial Detention Center for approximately a month. He was given a Credible Fear Interview which he passed. He was then paroled into the United States so he could file for asylum and any other relief available to him. See Exhibit A. Respondents also commenced removal proceedings against him in immigration court, entitling him to present his asylum claim with the attendant due process rights under 8 U.S.C. § 1229a. He filed his asylum application before the one-year bar date. Even though Respondents granted him his liberty now, without reason or right, they seek to take it back.

1 4. On November 13, 2025, the Petitioner went to his local ICE office
2 for a regularly scheduled ICE check in. To his surprise and dismay, he was put in
3 handcuffs and led away to detention. Respondents did not make an individualized
4 determination that the petitioner was a flight risk or a danger to the community.
5 Respondents continue to detain him based not on his personal circumstances or
6 individualized facts, but because of Respondents' interpretation of President
7 Trump's whim and categorical determination that, the Fifth Amendment
8 notwithstanding, noncitizens are not entitled to due process.
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11 5. But Respondents cannot evade the law so easily. The law which
12 they purport to detain the petitioners does not authorize their actions and the U.S.
13 Constitution requires the Respondents provide at least the rights available to him
14 when he filed his applications for asylum¹.
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18 6. Accordingly, to vindicate Petitioner's rights, this Court should grant
19 the instant petition for a writ of habeas corpus. Mr. Zubrik asks this Court to find
20 that Respondents' attempts to detain him are arbitrary and capricious and in
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¹ See, e.g., NBC News, Meet the Press interview of President Donald Trump (May 4, 2025), <https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-interviewed-meet-press-mod-rcna203514> (in response to a question whether noncitizens deserve due process under the Fifth Amendment, President Trump replied "I don't know. It seems—it might say that, but if you're talking about that, then we'd have to have a million or 2 million or 2 million trials.").

1 violation of the law, and to immediately issue an Order to Show Cause and an
2 Order preventing his transfer out of this district.
3

4 JURISDICTION

5 7. This action arises under the Constitution of the United States and
6 the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.
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8 8. This court has subject matter jurisdiction under 28 U.S.C. § 2241
9 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the
10 United States Constitution (Suspension Clause).
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12 9. This Court may grant relief under the habeas corpus statutes, 28
13 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq.,
14 the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8
15 U.S.C. § 1252(e)(2).
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18 VENUE

19 10. Venue is proper because Petitioners are in Respondents' custody
20 in San Diego, California. Venue is further proper because a substantial part of the
21 events or omissions giving rise to Petitioner's claims occurred in this District,
22 where Petitioners are now in Respondent's custody. 28 U.S.C. § 1391(e).
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25 REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

26 11. The Court must grant the petition for writ of habeas corpus or
27 issue an order to show cause (OSC) to the Respondents "forthwith," unless the
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1 petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court
2 must require Respondents to file a return “within three days unless for good cause
3 additional time, not exceeding twenty days, is allowed.” *Id.*

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5 12. Courts have long recognized the significance of the habeas statute
6 in protecting individuals from unlawful detention. The Great Writ has been
7 referred to as “perhaps the most important writ known to the constitutional law of
8 England, affording as it does a swift and imperative remedy in all cases of illegal
9 restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).
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12 13. Petitioners are “in custody” for the purpose of § 2241 because
13 they are arrested and detained by Respondents.
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15 **PARTIES**

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17 14. Nikolai Zubrik (“Petitioner”) is a 30-year-old citizen of Russia. He
18 is a resident of San Diego, California, currently detained at Otay Mesa Detention
19 Center and is present within the state of California as of the time of the filing of
20 this petition.
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23 15. Respondent Christopher LaRose is the Warden of the Otay Mesa
24 Detention Center and is a legal custodian of Petitioner.

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26 16. Respondent Daniel A. Brightman is the Field Office Director for
27 the San Diego Field Office, Immigration and Customs Enforcement and Removal
28 Operations (“ICE”). The San Diego Field Office is responsible for local custody

1 decisions relating to non-citizens charged with being removable from the United
2 States, including the arrest, detention, and custody status of non- citizens. The San
3 Diego Field Office's area of responsibility includes San Diego, California and the
4 Otay Mesa Detention Center. Respondent Daniel A. Brightman is a legal custodian
5 of Petitioner.
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8 17. Respondent Todd Lyons is the acting director of U.S. Immigration
9 and Customs Enforcement, and he has authority over the actions of respondent
10 Sergio Albarran and ICE in general. Respondent Lyons is a legal custodian of
11 Petitioner.
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13 18. Respondent Kristi Noem is the Secretary of the Department of
14 Homeland Security (DHS) and has authority over the actions of all other DHS
15 Respondents in this case, as well as all operations of DHS. Respondent Noem is a
16 legal custodian of Petitioner and is charged with faithfully administering the
17 immigration laws of the United States.
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20 19. Respondent Pamela Bondi is the Attorney General of the United
21 States, and as such has authority over the Department of Justice and is charged
22 with faithfully administering the immigration laws of the United States.
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25 20. Respondent U.S. Immigration Customs Enforcement is the federal
26 agency responsible for custody decisions relating to non-citizens charged with
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1 being removable from the United States, including the arrest, detention, and
2 custody status of non-citizens.
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4 21. Respondent U.S. Department of Homeland Security is the federal
5 agency that has authority over the actions of ICE and all other DHS Respondents.
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7 22. This action is commenced against all Respondents in their official
8 capacities.
9

10 **LEGAL FRAMEWORK**

11 23. The INA prescribes three basic forms of detention for the vast
12 majority of noncitizens in removal proceedings conducted pursuant to 8 U.S.C. §
13 1229a or they can be released on Parole.
14

15 24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in §
16 1229a removal proceedings before an IJ. Individuals covered by § 1226(a)
17 detention are generally entitled to a bond hearing at the outset of their detention,
18 see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while certain noncitizens who have been
19 arrested, charged with, or convicted of certain crimes are subject to mandatory
20 detention. See 8 USC§ 1226(a).
21

22 25. Second, the INA provides for mandatory detention of noncitizens
23 subject to an Expedited Removal order imposed pursuant to 8 U.S.C. § 1225(b)(1)
24 and for other noncitizen applicants for admission to the U.S. who are deemed not
25 clearly entitled to be admitted. See 8 U.S.C. § 1225(b)(2).
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1 26. Last, the INA provides for detention of noncitizens who have been
2 ordered removed, including individuals in withholding-only proceedings. See 8
3 USC § 1231. (a)— (b).
4

5 27. Alternatively, noncitizens can be granted parole rather than be
6 detained. 8 U.S.C. § 1226(a)(2)(B). The regulations for granting parole and
7 revocation of parole are found at 8 CFR § 212.5,
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9 28. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a)
10 and 1225(b)(2) and the revocation of parole.
11

12 29. The detention provisions at § 1226(a) and § 1225(b)(2) were
13 enacted as part of the Illegal Immigration Reform and Immigrant Responsibility
14 Act (IIRIRA) of 1996, Pub. L. No. 104—208, Div. C, §§ 302—03, 110 Stat,
15 3009- 546, 3009-582 to 3009-583, 3009-585. Section 1226(a) was most recently
16 amended in early 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3
17 (2025).
18

19 30. Following the enactment of the IIRIRA, EOIR drafted new
20 regulations applicable to proceedings before immigration judges explaining that, in
21 general people who entered the country without inspection — also referred to as
22 being “present without admission” - were not considered detained under § 1225
23 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
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1 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
2 Proceedings; Asylum Procedures, 62 Fed. Reg, 10312, 10323 (Mar_6, 1997).
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4 31. Thus, in the decades that followed, most people who entered
5 without inspection and were placed in standard § 1229a removal proceedings
6 received bond hearings before IJs, unless their criminal history rendered them
7 ineligible. That practice was consistent with many more decades of prior practice,
8 in which noncitizens who were not deemed “arriving” were entitled to a custody
9 hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see
10 also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
11 “restates” the detention authority previously found at § 1252(a)).
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15 32. This practice both pre- and post-enactment of IIRIRA is consistent
16 with the fact that noncitizens present within the United States — as opposed to
17 noncitizens present at a border and seeking admission - have constitutional rights.
18 “{T]he Due Process Clause applies to all ‘persons’ within the United States,
19 including aliens, whether their presence here is lawful, unlawful, temporary, or
20 permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
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24 33. On July 8, 2025, ICE, “in coordination with” the Department of
25 Justice, announced a new policy that rejected the well-established understanding of
26 the statutory framework and reversed decades of practice.
27
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1 34. The new policy, entitled “Interim Guidance Regarding Detention
2 Authority for Applicants for Admission, claims that all noncitizens present within
3 the United States who entered without inspection shall now be deemed “applicants
4 for admission” under 8 U.S.C. § 1225, and therefore are subject to mandatory
5 detention under § 1225(b)(2)(A). The policy applies regardless of when a person is
6 apprehended, and affects those who have resided in the United States for months,
7 years, and even decades.
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11 35. In a May 22, 2025 unpublished decision by the Board of
12 Immigration Appeals (BIA), EOIR adopted this same position. That decision holds
13 that all noncitizens who entered the United States without admission or parole and
14 who are present within the United States are considered applicants for admission
15 and ineligible for IJ bond hearings. That was further affirmed by the BIA in *Yajure*
16 *Hurtado*, 29 I&N Dec. 216 (BIA 2025). There the BIA held that Immigration
17 Judges do not have jurisdiction in these cases. This makes it impossible for
18 noncitizens who have entered at a port of entry or entered without inspection to
19 apply for a bond and are all subject to mandatory detention.
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23 36. ICE and EOIR have adopted this position even though federal
24 courts have rejected this exact conclusion. For example, after an IJ in the Tacoma,
25 Washington immigration court stopped providing bond hearings for persons who
26 entered the United States without inspection and who have since resided here, the
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1 U.S. District Court for the Western District of Washington found that such a
2 reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to
3 noncitizens who are not apprehended upon arrival to the United States. *Rodriguez*
4 *Vazquez v. Bostock*, --- F. Supp. 3d ---, 2025 WL_1193850 (W.D. Wash. Apr_24,
5 2025); see also *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 1208256 9WL 299, at
6 *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion).
7
8 Courts in the Central District have reached the same conclusion. See *Maldonado*
9 *Bautista et al. v. Santacruz, et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July
10 28, 2025), Order Granting Temporary Restraining Order, Dkt. 14 at 9 (TRO issued
11 after DHS adopted “Interim Guidance Regarding Detention Authority for
12 Applicants for Admission.”); *Ceja Gonzalez, et al. v. Noem, et al.*, No. 5:25-cv-
13 02054-ODW-BFM (C.D. Cal. August 13, 2025), Order Granting Ex Parte
14 Application for TRO and OSC, Dkt,1 2 (Same).

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19 37. DHS’s and EOIR’s interpretation defy the INA. As the *Rodriguez*
20 *Vazquez* court explained, the plain text of the statutory provisions demonstrates
21 that § 1226(a), not § 1225(b), applies to people like Petitioners. Section 1226(a)
22 applies by default to all persons “pending a decision on whether the [noncitizen] is
23 to be removed from the United States.” *Rodriguez Vazquez*, 2025 WL.1193850 at
24 *12. See also *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM (C.D. Calif July
25 28, 2025) Order Granting Temporary Restraining Order, Dkt14 .at 9 (“[T]he Court

1 finds that the potential for Petitioners’ continued detention without an initial bond
2 hearing would cause immediate and irreparable injury, as this violates statutory
3 rights afforded under § 1226(a.)”); *Ceja Gonzalez*, No. 5:25-cv-02054-ODW-BFM
4 (C.D. Cal. August 13, 2025), Order Granting *Ex Parte* Application for TRO and
5 OSC, Dkt. 12 at 7 (§ 1226 applies to aliens present in the United States.)
6
7

8 38. Other portions of the text of § 1226 also explicitly apply to people
9 charged as being inadmissible, including those who entered without inspection.
10 See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to inadmissible
11 individuals makes clear that, by default, inadmissible individuals not subject to
12 subparagraph (E)(1) are afforded a bond hearing under subsection (a). As the
13 Rodriguez Vazquez court explained, “[w]hen Congress creates “specific
14 exceptions” to a statute’s applicability, it “proves” that absent those exceptions, the
15 statute generally applies. *Rodriguez Vazquez*, W20L25 1193850, at *12 (citing
16 *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400
17 (2010)).
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22 39. Section 1226 therefore leaves no doubt that it applies to
23 noncitizens who are present without admission and who face charges in removal
24 proceedings of being inadmissible to the United States.
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26 40. By contrast, § 1225(b) applies to people arriving at U.S. ports of
27 entry or who recently entered the United States and are encountered at or near the
28

1 border. The statute’s entire framework is premised on inspections at the border of
2 people who are “seeking admission” to the United States. 8 U.S.C. §
3 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory
4 detention scheme applies ““at the Nation’s borders and ports of entry, where the
5 Government must determine whether a[] [noncitizen] seeking to enter the country
6 is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

9 41. Accordingly, the mandatory detention provision of § 1225(b)(2)
10 does not apply to people like Petitioners who have already entered and were
11 residing in the United States at the time they were apprehended.

12 42. Immigration detention should not be used as a punishment and
13 should only be used when, under an individualized determination, a noncitizen is a
14 flight risk because they are unlikely to appear for immigration court or a danger to
15 the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

16 43. Once a determination has been made that a noncitizen should not
17 be detained they may be released on conditional parole or humanitarian parole. The
18 regulations for revocation of that parole are set out in 8 CFR § 212.5(e).

19 Specifically, this revocation must be

20 ***On notice.*** In cases not covered by paragraph (e)(1) of this section,
21 upon accomplishment of the purpose for which parole was authorized or when in
22 the opinion of one of the officials listed in paragraph (a) of this section, neither
23 humanitarian reasons nor public benefit warrants the continued presence of the
24 alien in the United States, parole shall be terminated upon written notice to the

1 alien and he or she shall be restored to the status that he or she had at the time of
2 parole. 8 CFR § 212.5(e)(2)(i)

3 **FACTUAL BACKGROUND**

4 44. Petitioner is a citizen of Russia. He is a bright young man
5 dedicated to a democratic open society in Russia.
6

7 45. One of his heroes is Alexei Navalny. He participated in rallies for
8 his policies and his freedom. Eventually the Russian authorities turned their
9 attention to him. His life and the lives of his family were threatened by the
10 authorities and he fled Russia.
11

12 46. On or about September 28, 2023, pursuant to a CBP One
13 appointment, Petitioner came to a port of entry of the United States to to seek
14 asylum. Respondents detained Mr. Zubrik for a brief time at Imperial Detention
15 Center and conducted a Credible Fear Interview. Once it was determined he had a
16 credible fear and he was not a threat or a flight risk, Respondents granted him
17 Parole and welcomed him into the United States so he could file for asylum and
18 any other immigration benefit that might be available to him. This release into the
19 United States was based on the individualized facts in his case.
20

21 47. Respondents commenced removal proceedings against Petitioners
22 under 8 U.S.C. § 1229a.
23

1 48. On information and belief, Petitioner regularly complied with and
2 appeared for ICE check-ins whether in person or electronic check-in.
3

4 49. Petitioner applied for asylum before the Immigration Court.

5 50. Respondents issued work authorization to Petitioners pursuant to 8
6 C.F.R. § 274a.12(c)(08).
7

8 51. On November 17, 2025, Mr. Zubrik attended an in-person ICE
9 check-in. He was led into a room and was immediately told to turn and face the
10 wall and put his hands behind his back. He was handcuffed, placed in leg shackles,
11 searched and his personal belongings were seized. He asked why he was being
12 detained. The officers claimed they had a warrant but said nothing else.
13
14

15 52. He was not presented with a judicial warrant when he was
16 detained. He was not trying to flee or to cause harm when he was detained. He was
17 not given notice that his parole was being revoked. He was not given a pre-
18 detention hearing to determine if the facts of his release had changed such that he
19 was now a flight risk or that he was a danger to the community. He was deprived
20 of his liberty for no other reason than that the President of the United States had
21 decided that he and millions of others like him should no longer be free.
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25 53. On January 20, 2025, President Donald Trump issued several
26 executive actions relating to immigration, including “Protecting the American
27 People Against Invasion,” an executive order (EO) setting out a series of interior
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1 immigration enforcement actions. The Trump administration, through this and
2 other actions, has outlined sweeping, executive branch-led changes to immigration
3 enforcement policy, establishing a formal framework for mass deportation. The
4 “Protecting the American People Against Invasion” EO instructs the DHS
5 Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to
6
7 prioritize civil immigration enforcement procedures including through the use of
8
9 mass detention.

10
11 54. The January 2025 Designation does not state that it applies to
12 noncitizens who were in the United States before its effective date.

13
14 55. On information and belief, Respondents are using the immigration
15 detention system, including extra-territorial transfer and detention, as a means to
16
17 punish individuals for asserting rights under the Refugee Act.

18 56. On information and belief, Petitioner has no criminal history.

19 **BOND IS NOT THE APPROPRIATE RELIEF**

20
21 57. Recently the government’s response to petitions such as this has
22 alleged that, pursuant to *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-
23 SSS-BFM, --- F.R.D. ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025)
24
25 “Petitioner is detained under 8 U.S.C. § 1226(a) and is entitled to an order from
26 this Court directing a bond hearing be held pursuant to 8 U.S.C. § 1226(a).” ECF 6
27
28 p.2. However, Petitioner’s detention was and remains unlawful *ab initio*, not

1 traditional factors of (1) the private interest at issue, (2) the risk of erroneous
2 deprivation of that interest through the procedures used, and (3) the government's
3 interest. *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976). Here, these factors
4 easily weigh in Mr. Soleimani’s favor.
5
6

7 61. First, the private interest at issue is the Mr. Zubrik’s deprivation of
8 liberty—i.e., remaining on parole, rather than being detained. *See Morrissey v.*
9 *Brewer*, 408 U.S. 471, 482-483 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690
10 (2001) (“Freedom from imprisonment—from government custody, detention, or
11 other forms of physical restraint—lies at the heart of the liberty that [the Due
12 Process] Clause protects.”). Not only is Petitioner’s general liberty interest
13 substantial, he has an added interest in remaining out of custody so he can work
14 with his attorney to prepare his asylum cases. Thus, the first factor weighs heavily
15 in Petitioners’ favor.
16

17 62. Second, the procedures the agency used to determine whether to
18 revoke Petitioner’s parole presented a high risk of erroneous deprivation of liberty.
19 To date, the agency’s actions surrounding Petitioner’s parole have completely
20 failed to comply with the statute, the regulations, and even the agency’s own
21 decision. After granting Petitioner parole in November 2023, the agency
22 inexplicably revoked this parole when he appeared for his ICE check in. It did so
23 even though Petitioner had attended all his check-in appointments, had no criminal
24 history, and had timely filed asylum applications. The agency did not claim that
25 “the purposes of such parole . . . have been served,” 8 U.S.C. § 1182(d)(5)(A), nor
26 that the “reasons” for his parole no longer existed, 8 C.F.R. § 212.5(e)(2)(i).
27 Because consideration of any of these factors should have led to a different result,
28

1 the risk of erroneous deprivation of Petitioner’s parole without these procedures
2 was high, and this factor weighs heavily in his favor.

3
4 63. Finally, any government interest in revoking Petitioners’ parole is
5 minimal. Mr. Zubrik has complied with all his check-in requirements, has no
6 criminal history, has timely applied for asylum, and does not represent a danger or
7 a flight risk. All the government need do is comply with its *own decision* to grant
8 him parole. Thus, the *Mathews v. Eldrige* factors weigh heavily in Petitioners
9 favor, and this revocation of parole violates procedural due process.

10
11 **COUNT TWO**

12 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**

13
14 **Not in Accordance with Law and in Excess of Statutory Authority**

15 **Unlawful Detention**

16
17 64. Petitioner restates and realleges all paragraphs as if fully set forth
18 here.

19
20 65. Under the APA, a court shall “hold unlawful and set aside agency
21 action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

22
23 66. An action is an abuse of discretion if the agency “entirely failed to
24 consider an important aspect of the problem, offered an explanation for its decision
25 that runs counter to the evidence before the agency, or is so implausible that it
26 could not be ascribed to a difference in view or the product of agency expertise.”
27
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1 *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551U.S. 644, 658 (2007)
2 (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*,
3 463 U.S. 29, 43 (1983)).

5 67. To survive an APA challenge, the agency must articulate “a
6 satisfactory explanation” for its action, “including a rational connection between
7 the facts found and the choice made.” *Dep't of Com. v. New York*, 139 S. Ct. 2551,
8 2569 (2019) (citation omitted).

10 68. By categorically revoking Petitioner’s parole and transferring him
11 to a Detention Center without consideration of his individualized facts and
12 circumstances, Respondents have violated the APA.

14 69. Respondents have made no finding that Petitioner is a danger to
15 the community.

17 70. Respondents have made no finding that Petitioner is a flight risk
18 because, in fact, they were arrested while appearing at an ICE office.

20 71. By detaining the Petitioner categorically, Respondents have
21 further abused their discretion because there have been no changes to his facts or
22 circumstances since the agency made its initial determination to parole him into the
23 United States that support detention.

25 72. Respondents have already considered Petitioner’s facts and
26 circumstances and determined that he was not a flight risk or danger to the
27

1 community. There have been no changes to the facts that justify this revocation of
2 his parole.
3

4
5 **PRAYER FOR RELIEF**
6

7
8 WHEREFORE, Petitioner respectfully requests this Court to grant the
9 following:
10

11 (1) Assume jurisdiction over this matter;

12 (2) Issue an Order to Show Cause ordering Respondents to show
13 cause why this Petition should not be granted within three days;
14

15 (3) Declare that Petitioner's re-detention without an individualized
16 determination violates the Due Process Clause of the Fifth Amendment and the
17 Administrative Procedures Act;
18

19 (5) Issue a Writ of Habeas Corpus ordering Respondents to release
20 Petitioner from custody;
21

22 (6) Issue an Order prohibiting the Respondents from transferring
23 Petitioner from the district without the court's approval;
24

25 (7) Order that the Petitioners may not be re-detained without further
26 order of this court;
27

1 (8) Award Petitioner attorney's fees and costs under the Equal Access
2 to Justice Act, and on any other basis justified under law; and
3

4 (8) Grant any further relief this Court deems just and proper.
5

6
7 Dated: January 19, 2026.

/s/ Brian J. McGoldrick
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