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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MOATAZ M A FROUKH,

Petitioner

v.

CHRISTOPHER J. LAROSE, Senior
Warden, Otay Mesa Detention Center;
DANIEL A. BRIGHTMAN, San Diego
Field Office Director, U.S. Immigration
& Customs Enforcement (ICE) ; TODD
LYONS, Acting Director, U.S. ICE;
KRISTI NOEM, U.S. Secretary of
Homeland Security; PAMELA BONDI,
Attorney General of the United States

Respondents.

Case No. '26CV0350 RSH VET

Agency No. 

**PETITION FOR WRIT OF
HABEAS CORPUS AND ORDER
TO SHOW CAUSE WITHIN
THREE DAYS**

INTRODUCTION

1. This case challenges the unlawful re-detention of Mr. Froukh who entered the United States on February 23, 2024, to seek asylum. He was apprehended shortly after his entry but was released the same day on his own recognizance while he pursued his removal proceedings. He has never missed a court hearing and has never been convicted of a crime.

2. Since his release, Mr. Froukh has filed an asylum application with the Immigration Court, obtained a work permit and a Social Security Card. He has been working as a locksmith while at the same time preparing for his upcoming immigration court hearing, which was scheduled for January 20, 2026, in San Diego, California.

3. On January 5, 2026, Mr. Froukh went to Camp Pendelton Military Base Camp in San Diego, California, to assist a customer locked out of her vehicle. When he arrived at the Camp, he presented his employment authorization card and his California Real ID as identification and was arrested by ICE officers. Mr. Froukh was eventually taken to the Otay Mesa Detention Center (OMDC), where he remains to this day.

4. Immigration records show that at the time of his arrest, immigration officers were aware that Mr. Froukh was from Palestine and in active removal proceedings.

5. Before re-detaining him on January 5, 2026, Respondents did not provide Mr. Froukh with any written notice explaining the basis for the revocation of his release. Nor did they provide a hearing before a neutral decision-maker where ICE was required to justify the basis for re-detention or explain why Mr. Froukh is a flight risk or danger to the community.

6. By failing to provide such a hearing, Respondents have violated Mr. Froukh's constitutional right to due process.

7. Accordingly, this Court should grant the instant petition for a writ of habeas corpus and order his immediate release.

JURISDICTION

8. This action arises under the Constitution of the United States, the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq. and the Administrative Procedure Act (APA), 5 U.S.C. §551 et seq.

9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All-Writs Act, 28 U.S.C. § 1651.

VENUE

11. Venue is properly with this Court because Respondent Warden LAROSE is Mr. Froukh's immediate custodian at OMDC, in Otay Mesa, California. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the judicial district in which Mr. Froukh currently is in custody.

12. Venue is also properly in this Court pursuant to 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 Southern District Of California.

REQUIREMENTS OF 28 U.S.C. § 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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.*

14. Habeas corpus is “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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (habeas corpus is “a speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination”)

PARTIES

15. Mr. Froukh is an adult from Palestine who resides in the Southern District Of California and is currently detained at the OMDC.

16. Respondent CHRISTOPHER J. LAROSE is the warden at Otay Mesa Detention Center. Respondent LaRose oversees the day-to-day operations at OMDC and acts at the

direction of Respondents BRIGHTMAN, LYONS, NOEM, AND BONDI. He is custodian of the Petitioner and is named in this official capacity.


17. Respondent DANIEL A. BRIGHTMAN is the Field Office Director for ICE's San Diego Field Office. The San Diego Field Office is responsible for local custody decisions relating to noncitizens charged with being removable from the United States. Respondent is a legal custodian of Petitioner and is sued in his official capacity.

18. Respondent TODD LYONS is the Acting Director of ICE and is named in his official capacity. In his official capacity, he is a legal custodian of the Petitioner.

19. Respondent KRISTI NOEM is the Secretary of the Department of Homeland Security (DHS). She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

20. Respondent PAMELA BONDI is the Attorney General of the United States, and as such has authority over the Department of Justice. She is sued in her official capacity.

FACTUAL BACKGROUND

21. The Petitioner, Mr. Moataz Froukh, was born on  in Hebron, Palestine. Mr. Froukh entered the United States on February 23, 2024, to seek asylum. He was subsequently apprehended by immigration officials.

22. On the same day, after placing him in removal proceedings and issuing him a Notice to Appear in immigration court, ICE released Mr. Froukh on his own recognizance. His

release was conditioned on his appearing at his immigration court hearings, reporting to ICE when requested and not violating any laws.

23. Since his release, Mr. Froukh has filed his asylum application with the immigration court. He has also received an employment authorization document, a U.S. Social Security card and a California Driver's license. Since April 2025 he has been working as a locksmith with 24/7 locksmith and Everyday Available locksmith.

24. On January 5, 2026, Mr. Froukh was dispatched by 24/7 locksmith to Camp Pendelton military base in Oceanside, California, to assist a customer who was locked out of her vehicle. When he arrived, he presented his employment authorization card and his California Real ID to the security guard. With the aid of google translate, the security guard asked Mr. Froukh if he had asylum. Mr. Froukh replied he had an upcoming court hearing on January 20, 2026. The guard then told the 24/7 locksmith customer to find someone else because Mr. Froukh did not have a passport.

25. Around 25 minutes later, Mr. Froukh was ordered out of the car and handcuffed. An officer drove him to the other side of the base where he met two ICE officers, who removed the cuffs and escorted him to a room. After questioning, Mr. Froukh was handcuffed and restrained and taken by ICE to the San Diego office, then transferred to Otay Mesa Detention Center, where he remains.

26. Mr. Froukh has pursued his asylum application before the immigration court in San Diego, California. He has appeared for a hearing in immigration court on April 16, 2025 and on November 6, 2025. His next court appearance was scheduled for January 20, 2026.

27. Mr. Froukh's arrest record (Form I-213) provides no basis for his re-arrest and states that he is in the country illegally and even though the arresting officers realized that he had previously been released and had pending immigration proceedings.

28. Prior to Mr. Froukh's re-arrest, he did not receive written notice of the reason for his re-detention.

29. Prior to Mr. Froukh's re-arrest, ICE did not assess whether Mr. Froukh presented a flight risk or a danger to the community, or whether his re-arrest was justified for some other reason.

30. Prior to Mr. Froukh's re-detention, he never received a hearing before a neutral decisionmaker to determine if his re-detention is justified.

LEGAL FRAMEWORK

31. Due process requires that if DHS seeks to re-arrest a person like Mr. Froukh, who has lived in the United States without incident after DHS first released him, and has submitted an application for protection from removal and generally complied with the terms of his release—the government must afford a hearing before a neutral decisionmaker to determine whether any re-detention is justified, and whether the person is a flight risk or danger to the community.

32. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Civil detention, including that of a non-citizen, violates due process in the absence of a “special justification” sufficient to outweigh one's “constitutionally

protected interest in avoiding physical restraint.” *Id.* (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)) (internal quotation marks omitted).

33. This interest in freedom from detention is particularly strong for individuals who are facing termination of previous release conditions and re-detention. Individuals released on parole or other forms of conditional release have a liberty interest in their “continued liberty.” *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Such liberty is protected by the Fifth Amendment because, “although indeterminate, [it] includes many of the core values of unqualified liberty,” such as the ability to be gainfully employed and live with family, “and its termination inflicts a ‘grievous loss’ on the [released individual] and often on others.” *Id. See, Carballo v. Andrews*, No. 1:25-CV-00978- KES-EPG (HC), 2025 WL 2381464, at *4 (E.D. Cal. Aug. 15, 2025)(There is “a meaningful distinction between a challenge to an initial period of detention . . . and a challenge to *re-detention* after a court has previously granted release on bond pending immigration proceedings.”)(emphasis in original).

34. To protect against arbitrary re-detention and to ensure the right to liberty, due process requires “adequate procedural protections” that test whether the government’s asserted justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (citation modified).

35. Due process thus guarantees notice and an individualized hearing before a neutral decisionmaker to assess danger or flight risk before the revocation of an individual’s release. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law

is the opportunity to be heard at a meaningful time in a meaningful manner.”(citation modified)); *see also, e.g., Morrissey*, 408 U.S. at 485 (requiring “preliminary hearing to determine whether there is probable cause or reasonable ground to believe that the arrested parolee has committed . . . a violation of parole conditions” and that such determination be made “by someone not directly involved in the case” (citation modified)).

36. “In practice, the DHS re-arrests individuals only after a ‘material’ change in circumstances. To satisfy due process, those changed circumstances must represent individualized legal justification for detention.” *Sanchez v. LaRose*, No. 25cv2396-JES-MMP (S.D. Cal. Sept. 26, 2025) (internal citations omitted); *Tran v. Noem*, No. 25cv2334-JES-MSB, at *6-7 (S.D. Cal. Sept. 29, 2025) (citing *Ying Fong v. Ashcroft*, 317 F.Supp. 2d 398, 403 (S.D.N.Y.2004). “This standard prevent[s] arbitrary revocations and ensure[s] that detention decisions rest [] on individualized assessment of changed circumstances rather than categorical assumptions. *Gonzalez v. Bostock*, No. 2:25cv01404-JNW-GJL at *13 (W.D. Wash. Oct.7, 2025 (discussing *Vagas v. Jennings*, No. 20-cv-5785, 2020 WL 5074312, at *2 (N.D. Cal. August 23, 2020) (quoting *Ortega v. Bonnar*, 415 F.Supp.3d 963, 968 (N.D. Cal. 2019) (quoting *Matter of Sugay*, 17 I&N Dec. 637, 640 (B.I.A. 1981))) *Saravia v. Sessions*, 280 F.Supp.3d 1168, 1197 (N.D. Cal. 2017).

37. The same framework and principles apply here and compel Mr. Froukh’s immediate release.

CLAIM FOR RELIEF
Violation of Fifth Amendment Right to Due Process

38. Mr. Froukh. restates and realleges all the prior paragraphs as if fully set forth herein.

39. Due process does not permit the government to re-detain Mr. Froukh and strip him of his liberty without written notice and a pre-deprivation hearing before a neutral decisionmaker to determine whether re-detention is warranted based on danger or flight risk. *See Morrissey*, 408 U.S. at 487–88. Such written notice and a hearing must occur prior to any re-detention.

40. Respondents revoked Mr. Froukh’s release and deprived him of liberty without providing him written notice and a meaningful opportunity to be heard by a neutral decisionmaker prior to his re-detention.

41. Accordingly, Mr. Froukh’s re-detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
Violation of the Administrative Procedure Act—5 U.S.C. § 706(2)(A)
Abuse of Discretion
Violation of 8 U.S.C. § 1226(b), 8 CFR § 1236.1(c)(9)

42. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

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

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

45. To prevail against such a claim, the agency must articulate “a satisfactory explanation for its action, including a rational connection between the facts found and the choice made.” *Dept. of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

46. Respondents considered Petitioner’s individual facts and circumstances in February 2024 and determined that he was not a flight risk or danger to the community. There have been no changes to the Petitioner’s circumstances that justify this revocation of release and re-detention. The fact that the Petitioner has already been granted release by Respondents under the same facts and circumstances that continue to exist at this time, shows that the Respondents do not consider him a flight risk or danger to the community and have not for the last two years.

47. By categorically revoking Petitioner’s release and re-detaining him without consideration of his individualized facts and circumstances, Respondents have violated the APA by failing to exercise discretion at all, let alone find facts and make a rational choice based on those facts.

PRAYER FOR RELIEF

WHEREFORE, Mr. Froukh. respectfully requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause within three days as to why this Petition should not be granted as required by 28 U.S.C. § 2243, and ordering that they not transfer Mr. Froukh out of this district during the pendency of the court’s adjudication of this Petition;
- (3) Issue a Writ of Habeas Corpus ordering Respondents to release Mr. Froukh from custody immediately and permanently enjoining his re-detention during the pendency of his removal proceeding absent written notice and a hearing prior to re-detention where Respondents must prove by clear and convincing evidence that he is a flight risk or danger to the community and that no alternatives to detention would mitigate those risks;
- (4) Declare that Mr. Froukh’s re-detention while removal proceedings are ongoing without first providing an individualized determination before a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment;

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- (5) Award Ms. Froukh's attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law;
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted on this 20th day of January 2026.

/s/R.Sherif

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Counsel for Petitioner-Plaintiff

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Dated: January 20, 2026

/s/ R.Sherif
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Counsel for Petitioner-Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed on January 20, 2026, through the ECF system and that it will be sent electronically to the registered participants as identified on the Notice Of Electronic Filing.

Dated: January 20, 2026

/s/R.Sherif

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