

**UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT**

JUNIOR FRANCOIS,

Petitioner,

-against-

GREG HALE, IN HIS OFFICIAL CAPACITY AS SUPERINTENDENT, NORTHWEST STATE CORRECTIONAL FACILITY; DAVID W. JOHNSTON, IN HIS OFFICIAL CAPACITY AS VERMONT SUB-OFFICE DIRECTOR OF IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS; PATRICIA HYDE, IN HER OFFICIAL CAPACITY AS ACTING BOSTON FIELD OFFICE DIRECTOR, IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS; TODD M. LYONS, IN HIS OFFICIAL CAPACITY AS ACTING DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; AND PAMELA BONDI, IN HER OFFICIAL CAPACITY AS U.S. ATTORNEY GENERAL,

Respondents.

Case No.
2:26-cv-13

**EMERGENCY
PETITION FOR
WRIT OF HABEAS
CORPUS**

**ORAL
ARGUMENT
REQUESTED**

INTRODUCTION

1. Mr. Junior Francois (Mr. Francois or Petitioner), by and through undersigned counsel, respectfully submits this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. This petition challenges the unlawful detention of Mr. Francois and seeks immediate release from detention by the Respondents. Petitioner is currently in custody of the Northwest State Correctional Facility (NWSCF) under the

authority of the Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE).

2. Mr. Francois was apprehended shortly after entering the United States in July of 2024 and subsequently released for the purpose of continuing his removal proceedings from out of custody. Based on information and belief, in the nearly 18 months subsequent to his release, he timely filed an application for asylum with the Executive Office of Immigration Review (EOIR), fulfilled conditions of release as set by ICE, received employment authorization, and anticipated attending an initial Master Calendar hearing scheduled before the Cleveland, Ohio Immigration Court on April 2, 2026.
3. Despite Mr. Francois' compliance while out of custody he was re-detained by Customs and Border Protection (CBP) on or about January 11, 2026.
4. Prior to detaining Mr. Francois, Respondents did not provide any notice explaining the basis for the revocation of his release. Likewise, Respondents did not assess whether Mr. Francois was a flight risk or danger to the community prior to his detention, nor did they provide Mr. Francois with a hearing before a neutral decision maker where DHS was to justify the basis for Mr. Francois' re-detention.
5. By failing to provide such a hearing, Respondents have violated Mr. Francois' constitutional rights to due process. Accordingly, this Court should grant the instant petition for a writ of habeas corpus and order Mr. Francois' immediate release.

PARTIES

6. Petitioner, Junior Francois, is currently in the custody of NWSCF, located at 3649 Lower Newton Road, Swanton, VT 05478.
7. Greg Hale is named in his capacity as the superintendent of NWSCF. In this capacity he has jurisdiction over the detention facility in which Petitioner is held, has authority to release Petitioner, and is a legal custodian of Petitioner.
8. David W. Johnston is named in his official capacity as Vermont Sub-office Director of Immigration and Customs Enforcement. In this capacity, he has jurisdiction over the detention center in which Petitioner is held, has authority to release Petitioner, and is a legal custodian of Petitioner.
9. Patricia Hyde is named in her official capacity as the Field Office Director for the New England Office of Immigration and Customs Enforcement ("ICE"). In this capacity, she has jurisdiction over the detention facility in which Petitioner is held, is authorized to release Petitioner, and is a legal custodian of Petitioner.
10. Todd M. Lyons is named in his official capacity as the Acting Director of ICE. In this capacity, he has responsibility for the enforcement of the immigration laws. As such, he is a legal custodian of Petitioner.
11. Pamela Bondi is named in her official capacity as the Attorney General of the United States, the chief officer within the Department of Justice ("DOJ"). The DOJ encompasses the Board of Immigration Appeals ("BIA") and the Immigration Courts as sub-agencies of the Executive Office of Immigration Review ("EOIR"). Attorney General Bondi shares responsibility for the implementation and enforcement of the immigration laws and is a legal custodian of Petitioner.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2241 (habeas corpus); Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause); 5 U.S.C. § 706 (Administrative Procedure Act ("APA")); 28 U.S.C. § 2201 (Declaratory Judgment); and 28 U.S.C. § 1651 (All Writs Act).
13. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 208 (3d Cir. 2020); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Furthermore, the Supreme Court has found that it has jurisdiction to review statutory and constitutional claims by noncitizens challenging their detention without bail pursuant to, inter alia, § 1225(b), concluding that neither 8 U.S.C. § 1252(b)(9) nor § 1226(e) deprives the federal courts of jurisdiction to review those claims. *See Jennings v. Rodriguez*, 583 U.S. 281, 292-96 (2018).
14. Federal courts also have jurisdiction through the APA to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus"). The APA affords a right of review to

a person who is "adversely affected or aggrieved by agency action." 5 U.S.C. § 702.

15. Venue is proper in this District pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1391 because Petitioner is detained and presently in the custody of Respondents in this District at NWSCF, which is within the jurisdiction of the District of Vermont.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

16. There is no statutory requirement to exhaust administrative remedies where a noncitizen challenges the lawfulness of detention. *Pujalt-Leon v. Holder*, 934 F. Supp. 2d 759, 773 (M.D. Pa. 2013). Where, as here, the agency has predetermined a dispositive issue, no further action is necessary. *Woodall v. Fed. Bureau of Prisons*, 432 F.3d 235, 239 n.2 (3d Cir. 2005).
17. Specifically, agency regulations and precedent decisions by the BIA require an IJ to find that individuals who are detained pursuant to 8 U.S.C. § 1225(b) are subject to detention without bond. *See* 8 C.F.R. § 1003.19(h)(2)(i)(B); *Matter of Oseiwsu*, 22 I&N Dec. 19 (BIA 1998). Nor may the Board entertain the constitutional challenges presented here. *See Matter of C-*, 20 I&N Dec. 529, 532 (BIA 1992).

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

18. Mr. Francois is a 38-year-old native and citizen of Haiti. Based on information and belief Mr. Francois entered the United States on or about July 17, 2024.¹ Mr.

¹ Petitioner intends to submit a signed declaration and additional available evidence as soon as possible. Because Petitioner is subject to imminent interstate transfer, this motion is being submitted on an emergency basis without delay.

Francois presented himself at a point of entry near Tucson, AZ, for a scheduled CBP One appointment, scheduled through the CBP One application.² At his appointment Mr. Francois was detained for several hours, granted humanitarian parole, and issued a Notice to Appear for immigration court before the Cleveland Immigration Court on April 2, 2026.

19. Based on information and belief, Mr. Francois relocated to Springfield, Ohio, upon release from custody in July 2024. He applied for and received work authorization on or about October 2024.
20. Based on information and belief Mr. Francois submitted an asylum application to the Cleveland Immigration Court on or about April 2025. That application remains pending before the immigration court.
21. To his knowledge, Mr. Francois complied with all terms and conditions of his release into the United States. Mr. Francois remained in regular communication with ICE ERO as required by his conditions of release.
22. Based on information and belief Mr. Francois relocated temporarily to St. Albans, Vermont, upon securing employment at a clothing warehouse. Mr. Francois has resided in Vermont for the last approximately 10 months, where he has friends,

² CBP One is a mobile application maintained by DHS through which noncitizens who seek to travel to the U.S. via the southwest border can schedule an appointment to present themselves for inspection at a port of entry. *See U.S. Customs and Border Patrol, Fact Sheet: Using CBP One to Schedule an Appointment* (accessed Jan. 24, 2026), https://www.cbp.gov/sites/default/files/assets/documents/2023-Jan/CBP%20One%20Fact%20Sheet_English_3.pdf.

family, community support, and remained gainfully employed until the date of his detention.

23. Based on information and belief, on or about January 11, 2026, Mr. Francois was stopped by CBP Officers while driving near St. Albans, Vermont. Despite Mr. Francois' understanding and explanation that he had work authorization, a pending asylum application, and parole, CBP re-detained Mr. Francois. Based on information and belief, CBP officers processed Mr. Francois at an agency facility and ultimately transported him to NWSCF, where he remains detained today.
24. Based on information and belief, Mr. Francois has always followed the law and made every effort to follow regular procedures to seek asylum in the United States—entering the country through CBP One, filing his asylum application on time, cooperating with terms of release, and obtaining work authorization. He has no criminal history in the United States or any country.
25. Prior to Mr. Francois' re-detention on January 11, 2026, he did not receive written notice of the reason for his re-detention.
26. Prior to Mr. Francois' re-detention, DHS did not assess whether he presented a flight risk nor a danger to the community, or whether his re-detention was justified for some other reason.
27. Prior to Mr. Francois' re-detention, he never received a hearing before a neutral decisionmaker to determine if his re-detention is justified.

LEGAL ARGUMENT

I. Parole, as Defined by the INA and Regulations, Requires Process Before Termination.

24. Individuals like Mr. Francois who are, based on information and belief, detained under § 1225(b)(2), are ineligible for a custody redetermination hearing before the immigration court. *See Jennings*, 583 U.S. at 297 (quoting 8 U.S.C. § 1225(b)(2)(A)) (Individuals "covered by § 1225(b)(2) 'shall be detained for a [removal] proceeding' if an immigration officer 'determines that [they are] not clearly and beyond a doubt entitled to be admitted' into the country").
25. The only mechanism by which individuals detained pursuant to § 1225(b)(2) may seek release is through a request for humanitarian parole under 8 U.S.C. § 1182(d)(5)(A). *Jennings*, 583 U.S. 281 at 300 (quoting 8 U.S.C. § 1182(d)(5)(A) ("With a few exceptions not relevant here, the Attorney General may "for urgent humanitarian reasons or significant public benefit" temporarily parole [noncitizens] detained under §§ 1225(b)(1) and (b)(2). That express exception to detention implies that there are no other circumstances under which [noncitizens] detained under § 1225(b) may be released.")).
26. Indeed, the Executive Branch has long been permitted to exercise its discretion to temporarily allow into the United States noncitizens who are applying for admission to the country instead of holding them in detention. *See* 8 U.S.C. § 1182(d)(5)(A). Currently, the DHS Secretary holds that parole authority by statute. *See id.*

27. Parole may be granted "under such conditions as [the DHS Secretary] may prescribe" and "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." *Id.* The Secretary or her delegees may terminate a grant of parole when "in the opinion of the Secretary of Homeland Security," "the purposes of parole... have been served." *Id.*
28. DHS regulations provide the conditions under which the DHS Secretary and her delegees may grant and terminate parole. *See* 8 C.F.R. § 212.5(a). As relevant here, the regulation provides that parole decisions be made "in accordance with" the terms of INA § 212(d)(5) (8 U.S.C. § 1182(d)(5)), *i.e.*, on a case-by-case basis.
29. A grant of parole terminates automatically, without written notice, (a) when the noncitizen departs the United States, or (b) "if not departed, at the expiration of the time for parole was authorized." 8 C.F.R. § 212.5(e)(1). In all other cases, parole "shall be terminated upon written notice to the [noncitizen]." *Id.* § 212.5(e)(2). Those other cases include when the "purpose for which parole was authorized" is "accomplish[ed]" or "when in the opinion of the DHS Secretary or an authorized official "neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States." *Id.*
30. Courts have found that immigration parole revocation without notice violates due process and the APA. *See Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 WL 1953796, at* 17 (W.D.N.Y. July 16, 2025) (granting preliminary injunction and release because revocation of parole without "any opportunity to be heard" likely violated due process); *Rodriguez Orellana v. Francis et al.*, No. 25-

CV-04212 (OEM), 2025 WL 2402780, *6 (E.D.N.Y. Aug. 19, 2025) ("[B]y denying Petitioner the required procedure before purporting to terminate his parole, Respondents acted arbitrarily and capriciously and violated the APA."); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068 (E.D. Cal. Aug. 21, 2025) (petitioner released on parole under 8 C.F.R. § 1236.l(c)(8) entitled to pre-deprivation hearing prior to re-detention).

31. Revocation of parole without notice or explanation is particularly egregious here, where Mr. Francois had dutifully complied with all ICE reporting requirements and has been found to have not been provided notice of the single missed hearing. Accordingly, DHS's decision to revoke Mr. Francois's parole and failure to follow regulatory requirements in doing so constitutes arbitrary and capricious action.

II. Due Process Requires Notice and a Hearing Prior to Revocation of Parole and Prior to Re-detention.

32. Due process requires that if DHS seeks to re-arrest a person like Mr. Francois — an individual who has lived in the United States without incident after DHS first released him, submitted applications for protection from removal, and otherwise 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.
33. "In our society liberty is the norm," and detention is the "carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755 (1987). "Freedom from

imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

34. Consistent with this principle, 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). This rationale equally applies to the revocation of parole, conditions of release and re-detention by ICE. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)) (“It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.”).
35. 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.*
36. 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).
37. 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)).

38. District courts around the country have recognized that these principles apply with respect to the re-detention of the many noncitizens that DHS has arbitrarily begun taking back into custody, often after such persons have been released for months and years. *See, e.g. Kelly v. Almodovar*, No. 25 CIV. 6448 (AT), 2025 WL 2381591, *3 (S.D.N.Y. Aug. 15, 2025) (ICE check-in detention without notice violated due process); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *9 (S.D.N.Y. Aug. 13, 2025) (immigration courthouse arrest without notice violated due process); *Chipantiza-Sisalema v. Francis*, No. 25 CIV. 5528 (AT), 2025 WL 1927931, at *4 (S.D.N.Y. July 13, 2025) (immigration courthouse arrest without notice violated due process); *Ramirez Lopez v. Trump et al.*, 25 Civ. 4826 (JAV), ECF No. 31 (S.D.N.Y. July 10, 2025) (granting TRO and release because re-detention of person on order of supervision without notice likely violated due process); *Valdez v. Joyce*, No. 25 CIV. 4627 (GBD), 2025 WL 1707737, *2 (S.D.N.Y. June 18, 2025) (immigration courthouse arrest without notice violated due process); *Ceesay v. Kurzdorfer*, No. 25-CV-267-LJV, 2025 WL 1284720, at *13 (W.D.N.Y. May 2, 2025) (“[T]he mere fact that the government has the authority to

detain someone does not mean that it may do so in any manner it chooses, without affording due process."); *see also Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099, at *18 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted sub nom. Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) ("A basic principle-that individuals placed at liberty are entitled to due process before the government again imprisons them-has particular relevance here, where Rosado's detention was previously found to be unnecessary to serve any purpose."); *Castellon v. Kaiser*, No. 1:25-CV-00968 JLT EPG, 2025 WL 2373425 (E.D. Cal. Aug. 14, 2025); *Prieto Salazar v. Kaiser, et. al*, No. 1:25-CV-01017-JLT-SAB, 2025 WL 2456232 (E.D. Cal. Aug. 26, 2025); *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) (applying *Morrissey* and *Gagnon* to conclude that the non-citizen petitioner had a "liberty interest in remaining out of [immigration] custody"); *see also Meza v. Bonnar*, No. 18-cv-02708-BLF, 2018 WL 2554572, at *3-4 (N.D. Cal. June 4, 2018) (concluding that petitioner raised "serious questions going to the merits" that she had a "vested interest" in her continued release from immigration detention). Indeed, as the court in *Ortega* recognized, a petitioner subject to a civil detention scheme has an "arguably greater" liberty interest "than the interest of parolees in *Morrissey*." *Ortega*, 415 F. Supp. at 970.

39. The Second Circuit has applied a three-part test set out in *Mathews v. Eldridge*, 424 U.S. 319, 335, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976), when determining the adequacy of process in the context of civil immigration confinement. *Velasco Lopez v. Decker*,

978 F.3d 842, 851 (2d Cir. 2020).³

40. As set forth in *Mathews v. Eldridge*, this Court must consider three factors to determine what procedural protections the Constitution requires: (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." 424 U.S. 319, 335 (1976); *see also Mata Velasquez*, 2025 WL 1953796, at* 17 (applying *Mathews* test to find that parole revocation without notice likely violated due process).
41. In *Mata Velasquez*, the court granted a preliminary injunction and held that DHS violated petitioner's due process rights when it revoked his discretionary humanitarian parole and detained him without providing any meaningful opportunity to be heard. The court framed its analysis under the *Mathews* balancing test, recognizing that: (1) the petitioner has a substantial liberty interest in freedom from detention, (2) that the government's generalized immigration-management interests did not outweigh this interest, and that (3) failing to provide individualized

³ This court has applied the *Mathews* test several times within the last year in evaluating similar petitions for writ of habeas corpus under 28 U.S.C. § 2241 involving alleged violations of the Due Process Clause of the Fifth Amendment with respect to civil immigration detention. *See e.g. Yupangui v. Hale*, No. 2:25-cv-884, 2025 WL 3207070 (D. Vt. Nov. 17, 2025); *Walizada v. Trump*, No. 2:25-cv-00768, 2025 WL 3551972 (D. Vt. Dec. 11, 2025); *Portillo Vasquez v. Turek*, No. 2:25-cv-741, 2025 WL 2733631 (D. Vt. Sept. 25, 2025).

procedures before revoking his parole created a high risk of erroneous deprivation of liberty. *Id.* at *17. Applying these factors, the court determined that some constitutional process — including a meaningful opportunity to be heard before revocation and re-detention — was required and that its absence rendered his detention unlawful, warranting his release and an injunction against re-detention without due process. *Id.*

42. Because Mr. Francois's humanitarian parole and conditions of release have been unlawfully revoked and he has been re-detained without due process, his immediate release must be ordered until such a time that notice is provided and a hearing is held to determine whether there are sufficient grounds for revocation and re-detention. *See Mata Velasquez*, 2025 WL 1953796, at *17; *Kiareldeen v. Reno*, 71 F. Supp. 2d 402,414 (D.N.J. 1999) ("The INS procedures patently failed the *Mathews* test of constitutional sufficiency. And the court finds this failure to be sufficient basis to grant the petitioner's writ of habeas corpus and direct his release from custody.")
43. The balance of factors makes clear that, at a minimum, the Respondents were required to provide a pre-deprivation hearing where the government bears the burden of proving that the revocation of humanitarian parole, conditions of release and re-detaining Mr. Francois were constitutionally permissible, and Mr. Francois must be immediately released unless and until a notice and hearing in accordance with due process takes place prior to any re-detention.
44. Because of Mr. Francois's protected interest in his liberty while on humanitarian

parole and conditions of release, the Due Process Clause requires, at a minimum, sufficient procedural protections before the government can strip Mr. Francois of that liberty. Therefore, Mr. Francois is entitled to immediate release.

CLAIMS FOR RELIEF

Count One — Violation of the INA and Federal Regulations

44. Petitioner realleges and incorporates the paragraphs above.
45. Respondents' revocation of Mr. Francois's humanitarian parole without written notice violates the purpose of parole as defined in the INA at 8 U.S.C. § 1182(d)(5) and the corresponding federal regulations at 8 C.F.R. § 212. *See Mata Velasquez*, 2025 WL 1953796, at *17 (immigration parole revocation requires notice and "opportunity to be heard").

Count Two – Revocation of Humanitarian Parole in Violation of the Due Process Clause of the Fifth Amendment

46. Petitioner realleges and incorporates the paragraphs above.
47. The January 11, 2026, revocation of humanitarian parole, conditions of release and re-detention by ICE caused Mr. Francois to be placed in a carceral setting. His re-detention therefore infringed upon a liberty interest that cannot be revoked without adequate due process under the Fifth Amendment to the U.S. Constitution. *See Ceesay*, 2025 WL 1284720, at* 13 ("[T]he mere fact that the government has the authority to detain someone does not mean that it may do so in any manner it chooses, without affording due process.")

48. Under a *Mathews* analysis, notice of an intent to revoke parole and conditions of release and a hearing before a neutral arbitrator was required before Respondents could incarcerate Mr. Francois in ICE detention. *See Mata Velasquez*, 2025 WL 1953796, at *17 (applying *Mathews* test to find that parole revocation without notice likely violated due process).
49. Respondents violated Mr. Francois' due process rights under the Fifth Amendment to the U.S. Constitution by detaining him after he was released on humanitarian parole and conditions of release without providing adequate procedural protections to ensure that the parole revocation and re-detention serve a valid governmental purpose. *See Morrissey*, 408 U.S. at 471.
50. Accordingly, Mr. Francois' re-detention violates the Due Process Clause of the Fifth Amendment.

Count Three – Violation of the Administrative Procedure Act (APA)

51. Petitioner realleges and incorporates the paragraphs above.
52. The APA allows courts to hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law, or without observance of procedure required by law. 5 U.S.C. § 706(2).
53. Agencies are liable under the APA for failing to comply with rules that have the force and effect of law. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265 (1954); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own

procedures.").

54. A rule has the force of law where it binds the agency and affects the rights of individuals, whether or not the rule is more rigorous than would otherwise be required and whether or not it has been published in the Federal Register. *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991).
55. Respondents' revocation of Mr. Francois's humanitarian parole and re-detention violated the agency's own regulations with respect to notice and justification; it was arbitrary, capricious, and an abuse of discretion and was made without observance of procedure required by law. *See Rodriguez Orellana*, 2025 WL 2402780, *6.

PRAYER FOR RELIEF

WHEREFORE, Petitioner 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 Petitioners out of this district during the pendency of the court's adjudication of this petition;
3. Grant Petitioner a writ of habeas corpus and order his immediate release from custody on his own recognizance or under reasonable conditions of supervision, pending notice and a pre-revocation hearing where the government bears the burden of proof to demonstrate sufficient changed circumstances or violations of conditions to justify revocation of humanitarian parole and conditions of release;

4. Alternatively, grant Petitioner a writ of habeas corpus and order Respondents to provide a prompt hearing where the government bears the burden of proof to demonstrate sufficient changed circumstances or violations of conditions to justify revocation of humanitarian parole and conditions of release;
5. Alternatively, declare that Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment and order Petitioner's immediate release;
6. In the alternative, conduct, or order Respondents to schedule before an immigration judge within seven days, an individualized bond hearing, at which Respondents bear the burden to establish by clear and convincing evidence that Petitioner poses a present danger to the community or a flight risk, and at which the adjudicator must take into account Petitioner's ability to pay bond and the alternatives to detention that may mitigate danger or flight risk;
7. Retain jurisdiction over this matter to conduct its own bond hearing or order other appropriate remedies should Respondents fail to comply with this Court's order;
8. Award Petitioner all costs incurred in maintaining this action, including attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. § 504, 28 U.S.C. § 2412, and on any other basis justified by law; and
9. Grant any other further relief as the Court deems just and proper.

Respectfully submitted this 26th day of January, 2026.



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

I represent Petitioner, Junior Francois, 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 26th day of January, 2025.



Brett Stokes, Esq.

Certificate of Service

I hereby certify that on 1/26/2026, a true and correct copy of the foregoing Petition for Writ of Habeas Corpus was served via electronic ECF filing.

Respectfully submitted,



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