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9 UNITED STATES DISTRICT COURT  
10 SOUTHERN DISTRICT OF CALIFORNIA

11 SANDRA LUGO SALVADOR,  
12  
13 Petitioner,  
14 v.  
15 CHRISTOPHER J. LAROSE, et al.  
16 Respondents.

Case No.: 26-cv-00553-BAS-MMP

**PETITIONER'S TRAVERSE IN  
SUPPORT OF PETITION FOR  
WRIT OF HABEAS CORPUS**

1 The Petition makes three (3) claims for relief, namely, 1) Due Process Violation  
2 under the Fifth Amendment of the United States Constitution (unlawful re-detention  
3 without first being provided a due process hearing to determine whether her incarceration  
4 is justified, as well as unreasonably prolonged detention), 2) Violation of the  
5 Administrative Procedure Act, 5 U.S.C. § 706(2) Unlawful Revocation of Parole (as well  
6 as unlawful re-detention without first being provided a due process hearing to determine  
7 whether her incarceration is justified), and 3) Statutory Violation – that Petitioner’s  
8 Detention is in Violation of 8 U.S.C. § 1226(a)-(b).  
9

10 Although Respondents concede in their return that the Petitioner is in fact detained  
11 under Section 1226, yet they erroneously state that the Petitioner is a *Maldonado Bautista*  
12 class member. See *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, ---  
13 F. Supp. 3d ---, 2025 WL 3289861 (C.D. Cal. Dec. 18, 2025).<sup>1</sup> As stated in the Petition –  
14 and not contested by Respondents in their return – the Petitioner was arrested and  
15 released on conditional parole shortly after crossing into the United States over six years  
16 ago. As such, she is not as *Maldonado Bautista* class member.  
17

18 Respondents further incorrectly suggest that the remedy Petitioner is entitled to is a  
19 post-deprivation bond hearing. Rather, the remedy for the Petitioner being re-detained  
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21 <sup>1</sup> Bond Eligible Class: All noncitizens in the United States without lawful status who (1)  
22 have entered or will enter the United States without inspection; **(2) were not or will not**  
23 **be apprehended upon arrival;** and (3) are not or will not be subject to detention under 8  
24 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland  
Security makes an initial custody determination. [emphasis added]. *Id.*, Dkt. No. 93  
(Amended Order Consolidating the Court’s Order on Motion for Partial Summary  
Judgment, Class Certification, and Clarification)

1 without a pre-deprivation hearing violates the Petitioner’s well-established due process  
2 rights – something the Respondents also do not address in their return. As such, and as  
3 further discussed below, the remedy owed Petitioner is immediate release.

4 **A. Petitioner’s Parole Revocation and Re-Detention Violates Due Process**

5 Respondents’ Return fails to address the substantial body of law regarding  
6 Petitioner’s significant due process rights as someone who was previously released and  
7 has lived in the United States for over six years. Indeed, “due process” is not mentioned  
8 at all in Respondents’ Return.

9  
10 As discussed in the Petition, numerous courts have determined ICE’s authority to  
11 revoke conditional parole is constrained by the due process clause – including the  
12 Supreme Court in *Morrissey v. Brewer*, 408 U.S. 471, 480-82 (1972) (a parolee’s liberty  
13 involves significant values within the protection of the Due Process Clause of the  
14 Fourteenth Amendment) and the Ninth Circuit in *Hernandez v. Sessions*, 872 F.3d 976,  
15 981 (9th Cir. 2017) (“the government’s discretion to incarcerate non-citizens is always  
16 constrained by the requirements of due process”). The guidance provided by *Matter of*  
17 *Sugay*, 17 I&N Dec. 647 (BIA 1981)—that ICE should not re-arrest a noncitizen absent  
18 changed circumstances—is insufficient to protect Petitioner’s weighty interest in her  
19 freedom from detention.

20  
21 In accordance with the Supreme Court and Ninth Circuit, district courts have also  
22 repeatedly recognized that the demands of due process and the limitations on DHS’s  
23 authority to revoke a noncitizen’s release set out in DHS’s stated practice and *Matter of*  
24

1 *Sugay* both require a pre-deprivation hearing for a noncitizen on conditional parole, like  
2 Petitioner, *before* ICE re-detains her. *See, e.g., Ortega v. Bonnar*, 415 F. Supp. 3d 963  
3 (N.D. Cal. 2019); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020 WL 5074312, at \*3  
4 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST, 2021 WL  
5 783561, at \*2 (N.D. Cal. Mar. 1, 2021).

6  
7 But “even when ICE has the initial discretion to detain or release a noncitizen  
8 pending removal proceedings, after that individual is released from custody she has a  
9 protected liberty interest in remaining out of custody.” *Pinchi v. Noem*, 792 F. Supp. 3d  
10 1025, 1032 (N.D. Cal. 2025) (citing *Romero v. Kaiser*, Case No. 22-cv-02508-TSH, 2022  
11 WL 1443250, at \*2 (N.D. Cal. May 6, 2022) (“[T]his Court joins other courts . . . facing  
12 facts similar to the present case and finds Petitioner raised serious questions going to the  
13 merits of her claim that due process requires a hearing before an IJ prior to re-  
14 detention.”)); *see Padilla v. U.S. ICE*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023)  
15 (“The Supreme Court has consistently held that non-punitive detention violates the  
16 Constitution unless it is strictly limited, and, typically, accompanied by a prompt  
17 individualized hearing before a neutral decisionmaker to ensure that the imprisonment  
18 serves the government’s legitimate goals.”)

19  
20 Petitioner’s re-arrest and the revocation of her release on conditional parole  
21 without a pre-deprivation hearing violate the Due Process Clause. The Due Process  
22 Clause prohibits deprivations of life, liberty, and property without due process of law.  
23 U.S. Const. amend. V. “[T]he Due Process Clause applies to all ‘persons’ within the  
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1 United States, including [noncitizens], whether their presence here is lawful, unlawful,  
2 temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Courts analyze  
3 procedural due process claims such as this one in two steps: the first asks whether there  
4 exists a protected liberty interest under the Due Process Clause, and the second examines  
5 the procedures necessary to ensure any deprivation of that protected liberty interest  
6 accords with the Constitution. *See Kentucky Dep’t of Corrections v. Thompson*, 490 U.S.  
7 454, 460 (1989).

8  
9 To determine which procedures are constitutionally sufficient to satisfy the Due  
10 Process Clause, Courts apply the three-part test established in *Mathews v. Eldridge*, 424  
11 U.S. 319 (1976). The Court must consider: (1) “the private interest that will be affected  
12 by the official action;” (2) the “risk of an erroneous deprivation of such interest through  
13 the procedures used, and the probable value, if any, of additional or substitute procedural  
14 safeguards;” and (3) “the Government’s interest including the function involved and the  
15 fiscal and administrative burdens that the additional or substitute procedural requirement  
16 would entail.” *Id.* at 335.

17  
18 All three factors support a finding that Respondents’ revocation of Petitioner’s  
19 conditional parole release without an opportunity to be heard deprived Petitioner of her  
20 due process rights. First, Petitioner has a significant liberty interest in remaining out of  
21 custody pursuant to her conditional parole. For over six years preceding her re-detention  
22 on January 21, 2026, Petitioner exercised that freedom under an immigration officer’s  
23 decision to grant her conditional parole after a determination that she presented neither a  
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1 flight risk nor a danger to the community. In the over six years following her release,  
2 Petitioner has timely filed her asylum application, has applied for and has been granted  
3 work authorization with which she has married a U.S. citizen, given birth to one, has  
4 been working hard and supporting herself and her family, hired counsel to represent her  
5 in her political asylum case, and has established other extensive community ties in the  
6 United States.

7  
8 Although Petitioner was released on conditional parole (and thus under  
9 government custody), she retained a weighty liberty interest under the Due Process  
10 Clause of the Fifth Amendment in avoiding re-incarceration. *See Young v. Harper*, 520  
11 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v.*  
12 *Brewer*, 408 U.S. 471, 482-483 (1972). “Even individuals who face significant  
13 constraints on their liberty or over whose liberty the government wields significant  
14 discretion retain a protected interest in their liberty.” *Pinchi*, 792 F. Supp. 3d at 1032.  
15 Although the initial decision to detain or release an individual may be within the  
16 government’s discretion, “the government’s decision to release an individual from  
17 custody creates ‘an implicit promise,’ upon which that individual may rely, that their  
18 liberty ‘will be revoked only if [they] fail[] to live up to the . . . conditions of release.’”  
19 *Id.* (quoting *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)); see also *Zadvydas*, 533 U.S.  
20 at 690 (“Freedom from imprisonment— from government custody, detention, or other  
21 forms of physical restraint—lies at the heart of the liberty [the Due Process Clause]  
22 protects.”); *Morrissey*, 408 U.S. at 482 (“Subject to the conditions of her parole, she can  
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1 be gainfully employed and is free to be with family and friends and to form the other  
2 enduring attachments of normal life.”); *Oliveros v. Kaiser*, No. 25-CV-07117-BLF, 2025  
3 WL 2677125, at \*7 (N.D. Cal. Sept. 18, 2025).

4 “Second, the risk of an erroneous deprivation of such interest is high as Petitioner’s  
5 parole was revoked without . . . giving [him] an opportunity to be heard.” *Gonzalez*  
6 *Salazar v. Casey*, Case No.: 25-CV-2784 JLS (VET), 2025 WL 3063629, at \*4 (S.D. Cal.  
7 Nov. 3, 2025); *see also Singh v. Andrews*, No. 1:25-cv-00801-KES-SKO (HC), 2025 WL  
8 1918679, at \*7 (E.D. Cal. July 11, 2025) (finding where Petitioner “has not received any  
9 bond or custody redetermination hearing,” the “risk of an erroneous deprivation of liberty  
10 is high”). “Civil immigration detention is permissible only to prevent flight or protect  
11 against danger to the community.” *Pinchi*, 792 F. Supp. 3d at 1035 (citing *Zadvydus*, 533  
12 U.S. at 690).

14 Here, there is no evidence that Petitioner’s detention would serve either purpose.  
15 “Since DHS’s initial determination that Petitioner should be [conditionally] paroled  
16 because [he] posed no danger to the community and was not a flight risk, there is no  
17 evidence that these findings have changed.” *Gonzales Salazar*, 2025 WL 3063629, at \*3  
18 (citing *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017) (“Release  
19 reflects a determination by the government that the noncitizen is not a danger to the  
20 community or a flight risk.”); *see also Ledesma Gonzalez v. Bostock*, 2025 WL 2841574.

22 Third, Respondents’ interest in detaining Petitioner without a hearing is low. *See*  
23 *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019) (“If the government wishes  
24

1 to re-arrest [the petitioner] at any point, it has the power to take steps toward doing so;  
2 but its interest in doing so without a hearing is low.”); *Pinchi*, 792 F. Supp. 3d at 1036  
3 (“Detention for its own sake, to meet an administrative quota, or because the government  
4 has not yet established constitutionally required pre-detention procedures is not a  
5 legitimate government interest.”). “Therefore, because Respondents detained Petitioner  
6 by revoking [his] parole in violation of the Due Process Clause, [his] detention is  
7 unlawful.” *Gonzalez Salazar*, at \*5; see also, *Doe v. Becerra*, 2:25-cv-00647, (E.D. Cal.  
8 2025); *Rodriguez-Flores v. F. Semaia et al.*, No. CV 25-6900 JGB (JCX), 2025 WL  
9 2684181 (C.D. Cal. Aug. 14, 2025).

10  
11 Based on the *Mathews* factors, due process requires Petitioner to be released from  
12 custody and receive a bond hearing before an IJ before being re-detained.

13 **B. The Appropriate Remedy for Respondents’ Violation is Immediate Release**

14 Respondents suggest that the proper remedy would be directing a bond hearing  
15 under § 1226(a). But this argument “misapprehend[s] the purpose of a pre-detention  
16 hearing: if Petitioner is detained, she will already have suffered the injury she is now  
17 seeking to avoid.” *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1055 (N.D. Cal. 2021);  
18 see also *E.A.T.B. v. Wamsley*, --- F. Supp. 3d ---, 2025 WL 2402130, at \*6 (W.D. Wash.  
19 2025) (“Although the Government notes that Petitioner may request a bond hearing while  
20 detained, such a post-deprivation hearing cannot serve as an adequate procedural  
21 safeguard because it is after the fact and cannot prevent an erroneous deprivation of  
22 liberty.”); *Domingo v. Kaiser*, Case No. 25-cv-05893, 2025 WL 1940179, at \*3 (N.D.  
23  
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1 Cal. July 14, 2025) (“Even if Petitioner[] received a prompt post-detention bond hearing  
2 under 8 U.S.C. § 1226(a) and was released at that point, she will have already suffered  
3 the harm that is the subject of her motion; that is, her potentially erroneous detention.”).

4 This is not a case of someone who entered without inspection but was never  
5 previously detained. As affirmed recently by the Central District of California, the  
6 remedy for that class of non-citizens is a bond hearing. *Maldonado Bautista v. Noem*, No.  
7 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025). This case concerns the class of non-  
8 citizens who entered without inspection, were detained shortly after entry, were then  
9 released, but then later re-detained. In other words, this is a re-detention case involving  
10 the due process violation of the Petitioner not being provided with a hearing prior to  
11 being re-detained. As such, the appropriate remedy for such a violation is immediate  
12 release.  
13

14 This Court has joined the growing chorus of district courts that have recognized  
15 that noncitizens have a significant liberty interest in both “continued freedom after  
16 release on own recognizance,” and have ordered immediate release. *Bonifaz v. LaRose*,  
17 No. 3:25-cv-03226-JLS-AHG (S.D. Cal. Dec. 2, 2025); *Shen v. LaRose*, No. 3:25-cv-  
18 03235-GPC-BLM (S.D. Cal. Dec. 11, 2025); *Sanchez Avalos v. Noem*, No. 3:25-cv-  
19 02906-CAB-VET (S.D. Cal. Nov. 24, 2025); *Alegria Palma v. Larose*, No. 25-cv-1942-  
20 BJC-MMP, ECF No. 14, at \*6 (S.D. Cal. Aug. 11, 2025); *Sanchez v. LaRose*, No. 25-CV-  
21 2396-JES-MMP, 2025 WL 2770629, at \*3 (S.D. Cal. Sept. 26, 2025); *see also Prieto-*  
22 *Cordova*, No. 25-cv-2824-CAB-DDL, 2025 WL 3228953 (S.D. Cal. Nov. 19, 2025);  
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1 *Faizyan v. Casey*, No. 25-cv-02884-RBM-JLB, 2025 WL 3208844 (S.D. Cal. Nov. 17,  
2 2025); *Sayed Naser Noor v. Christopher LaRose*, et al., No. 25-CV- 1824-GPC-MSB,  
3 2025 WL 2800149, at \*14 (S.D. Cal. Oct. 1, 2025); *N.A. v. LaRose et. al.*, No.: 25-cv-  
4 2384-RSH-BLM (S.D. Cal. Oct. 7, 2025); *Francisco Gonzalez v. LaRose et. al.*, No.  
5 3:25-cv-03547-JLS-MSB (S.D. Cal. Dec. 23, 2025); *Buitrago Sanchez v. LaRose et. al.*,  
6 No. 3:25-cv-03024-BJC-BLM (S.D. Cal. Dec. 23, 2025).

7  
8 Finally, in addition to the due process violation, Petitioner also seeks relief under  
9 the Administrative Procedures Act. Under the APA, a court must “hold unlawful and set  
10 aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not  
11 in accordance with the law,” that is “contrary to constitutional right [or] power,” or that is  
12 “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5  
13 U.S.C. § 706(2)(A)-(C). Because the revocation of parole and arrest of the Petitioner on  
14 January 21, 2026 was arbitrary and capricious, as well as in violation of § 1226 and the  
15 due process clause of the Constitution, the agency action must be set aside and Petitioner  
16 should be immediately released.

17  
18 As such, immediate release (and not a bond hearing) is the appropriate remedy  
19 here.

20 Dated: February 6, 2026,

21 By: /s/ Bashir Ghazialam  
22 Bashir Ghazialam  
23 Attorney for Petitioner  
24 Email: bg@lobg.net

**CERTIFICATE OF SERVICE**

I hereby certify that on February 6, 2026, I caused the foregoing document to be electronically filed with the Clerk of the Court for the United States District Court for the Southern District of California by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

Executed on: February 6, 2026

/s/ Bashir Ghazialam  
Bashir Ghazialam

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