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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

OSCAR GUILLERMO CASTRO
BARRIOS,



Petitioner,

Case No.

v.

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

Respondent.

INTRODUCTION

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3 1. Petitioner seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging
4 the statutory and constitutional legality of his ongoing immigration detention. Petitioner is a native
5 and citizen of Guatemala who lawfully presented himself for inspection in 2023 pursuant to an
6 appointment scheduled through the CBP One mobile application, together with his spouse and
7 their three minor children, ages 16, 13, and 9. Petitioner entered for the express purpose of seeking
8 asylum in the United States and timely filed his asylum application within one year of arrival, as
9 required by statute. He has a pending application for employment authorization based on his
10 asylum filing.

11 2. On September 25, 2025, Petitioner was stopped by local police for an alleged traffic
12 infraction related to an obstruction of his license plate. The stop occurred during an ICE
13 enforcement operation. Despite his pending removal proceedings and properly filed asylum
14 application, ICE agents arrested and detained Petitioner. He has remained in custody since that
15 date.

16 3. Petitioner’s continued detention violates the Due Process Clause of the Fifth
17 Amendment. Petitioner lawfully presented himself for inspection, was processed by DHS, and was
18 placed into removal proceedings under INA § 240. He timely applied for asylum—the very
19 purpose for which he entered the United States. His detention was not preceded by any
20 individualized determination of danger or flight risk, nor was he provided notice or an opportunity
21 to contest custody before being deprived of his liberty. The Government’s actions have resulted in
22 prolonged detention without the procedural safeguards required by the Constitution and the
23 Immigration and Nationality Act.
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2 4. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(1) or §
3 1225(b)(2). He presented himself for inspection through an official CBP One appointment, was
4 processed by DHS, and placed into removal proceedings under INA § 240. Any detention authority
5 arises, if at all, under 8 U.S.C. § 1226(a), which authorizes only discretionary detention and entitles
6 Petitioner to an individualized bond hearing before an Immigration Judge. Because Petitioner has
7 not been afforded such a hearing, his detention is unlawful.

8 5. Absent judicial intervention, Petitioner will continue to suffer irreparable harm
9 from the unlawful deprivation of his liberty. His detention separates him from his spouse and three
10 minor children and undermines his ability to pursue his pending asylum claim. Petitioner has
11 complied with all immigration requirements, timely filed his asylum application, and seeks
12 protection through lawful processes established by Congress. ***Petitioner, therefore, respectfully***
13 ***requests that this Court order his immediate release.*** In the alternative, Petitioner requests a
14 prompt individualized bond hearing pursuant to 8 U.S.C. § 1226(a), at which the Government
15 bears the burden of justifying continued detention. Petitioner further requests that the Government
16 be directed to file a written status report detailing the outcome of any custody determination so
17 that this Court may ensure compliance with statutory and constitutional requirements.

18 JURISDICTION

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

21 7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), and 28
22 U.S.C. § 1331 (federal question).

23 8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment
24 Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

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2 **VENUE**

3 9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
4 500 (1973), venue lies in the United States District Court for the Southern District of Georgia, the
5 judicial district in which Petitioner currently is detained.

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

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

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

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

20 **PARTIES**

21 13. Petitioner, Mr. Oscar Guillermo Castro Barrios, is a native and citizen of Guatemala
22 r who is currently detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Folkston
23 Processing Center in Folkston, Georgia, where he has been held since September 25, 2025.

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2 14. Respondent Tony Normand is the Warden of the Folkston Processing Center, which
3 is operated by the GEO Group. As Warden, he exercises immediate physical custody over
4 Petitioner. He is sued in his official capacity.

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

9 **DUE PROCESS FRAMEWORK**

10 **A. The Fifth Amendment and Protected Liberty Interests**

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

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

20 18. Importantly, the existence of statutory authority to arrest or detain an individual
21 does not eliminate constitutional constraints. Even where a statute permits detention, the Due
22 Process Clause may independently require procedural protections beyond those expressly provided
23 by statute. *Id.*; *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973); *Morrissey v. Brewer*, 408 U.S. 471,
24 482 (1972).

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2 **B. Conditional Liberty and the Parole Analogy**

3 19. In determining whether a particular form of conditional release gives rise to a
4 protected liberty interest, courts look to the nature of the release and compare it to parole as
5 described in *Morrissey v. Brewer*. In *Morrissey*, the Supreme Court explained that parole permits
6 an individual “to do a wide range of things open to persons who have never been in custody or
7 convicted of any crime,” including living at home, working, associating with family and friends,
8 and forming the “enduring attachments of normal life.” 408 U.S. at 482.

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

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

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

18 22. Where a protected liberty interest exists, due process requires notice and an
19 opportunity to be heard before that liberty may be terminated. The Supreme Court has consistently
20 applied this principle across multiple contexts involving conditional release, including parole,
21 probation, and parole programs. See *Morrissey*, 408 U.S. at 482; *Gagnon*, 411 U.S. at 782; *Young*,
22 520 U.S. at 147–49.

23 23. These decisions reflect a common constitutional principle: summary revocation of
24 conditional liberty, without procedural safeguards, creates a substantial risk of erroneous
deprivation. As a result, the Constitution requires at least minimal procedures—such as notice of

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2 the grounds for revocation and an opportunity to contest those grounds before a neutral
3 decisionmaker—before liberty may be withdrawn.

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

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

8 25. When evaluating whether the procedures used to deprive an individual of liberty
9 satisfy due process, courts apply the three-factor balancing test articulated in *Mathews v. Eldridge*,
10 424 U.S. 319, 335 (1976). That test requires consideration of:

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

16 26. This framework governs the constitutional analysis where, as here, the government
17 seeks to terminate conditional liberty through detention.

18 **STATUTORY FRAMEWORK GOVERNING DETENTION**
19 **UNDER 8 U.S.C. § 1225 AND 8 U.S.C. § 1226**

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

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

25 28. Separately, Congress authorized the Secretary of Homeland Security to parole
26 certain noncitizens into the United States on a discretionary basis. Under 8 U.S.C. § 1182(d)(5)(A),

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2 DHS may parole a noncitizen “into the United States temporarily under such conditions as [it] may
3 prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public
4 benefit.” Parole does not constitute an admission, but it permits the noncitizen to physically enter
5 and reside in the United States subject to conditions imposed by DHS.

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

9 8 U.S.C. § 1182(d)(5)(A).

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

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

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

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

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

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

5 34. By contrast, § 1226(c) mandates detention of a narrow category of noncitizens with
6 specified criminal convictions. Mandatory detention under § 1226(c) applies only when the
7 statutory criteria are satisfied.

8 **FACTUAL BACKGROUND**

9 35. Petitioner is a native and citizen of Guatemala. On August 28, 2023, he lawfully
10 presented himself for inspection at the United States border pursuant to a pre-scheduled
11 appointment through the CBP One mobile application, together with his spouse and their three
12 minor children, ages 16, 13, and 9. Upon processing, Petitioner and his family were issued Notices
13 to Appear (“NTAs”) and placed into removal proceedings pursuant to § 240 of the Immigration
14 and Nationality Act (“INA”). Petitioner entered the United States for the express purpose of
15 seeking asylum. Consistent with that purpose, he timely filed his Application for Asylum and for
16 Withholding of Removal within one year of his arrival, and his application remains pending before
17 the Immigration Court.

18 36. Since his arrival in the United States, Petitioner has continuously resided in the
19 State of Florida with his spouse and children. He has complied with all requirements of his removal
20 proceedings and has appeared as required. Petitioner has a pending application for employment
21 authorization based on his properly filed asylum application and has sought to regularize his status
22 through the lawful processes established by Congress.

23 37. On September 25, 2025, Petitioner was stopped by local law enforcement for an
24 alleged minor traffic infraction related to an obstruction of his license plate. The stop occurred in

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2 the context of an ICE enforcement operation. Although Petitioner had no criminal history and
3 posed no danger to the community, ICE agents took him into custody. He has remained detained
4 since that date.

5 38. Petitioner has no criminal record of any kind. The September 25 stop involved only
6 an alleged traffic-related issue and did not result in any conviction that would render him subject
7 to mandatory detention. Prior to his arrest, Petitioner had been living peacefully in Florida with
8 his family, pursuing his asylum claim, and complying with all immigration requirements. There
9 had been no individualized finding that he presented a risk of flight or danger to the community.

10 39. Petitioner's detention was imposed without advance notice, without a meaningful
11 opportunity to be heard, and without any individualized custody determination. The Government
12 has not demonstrated that Petitioner falls within any mandatory detention provision of the INA.
13 Rather, any detention authority arises, if at all, under 8 U.S.C. § 1226(a), which authorizes only
14 discretionary detention and entitles Petitioner to an individualized bond hearing before an
15 Immigration Judge.

16 40. Petitioner's continued detention constitutes a severe and unjustified infringement
17 on his fundamental liberty interest in freedom from physical restraint—an interest protected by the
18 Due Process Clause of the Fifth Amendment. The essence of due process is notice and an
19 opportunity to be heard. Here, Petitioner was deprived of both. His warrantless detention following
20 a minor traffic stop, absent individualized findings or procedural safeguards, creates an
21 unacceptably high risk of erroneous deprivation that cannot withstand constitutional scrutiny.

22 **MEMORANDUM OF LAW**

23 **I. Petitioner Possessed a Protected Liberty Interest in His Continued Release**

24 41. Petitioner incorporates by reference the preceding paragraphs.

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2 42. Petitioner was paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A)
3 after presenting himself for inspection through the CBP One process. He then lived in the
4 community for an extended period—residing with his wife and minor children, pursuing asylum
5 relief that remains pending, and maintaining a clean criminal record.

6 43. This extended, stable community release is materially comparable to the
7 conditional liberty described in *Morrissey v. Brewer*, where the Supreme Court recognized that
8 parole allows an individual to live at home, work, support family, and form the enduring
9 attachments of normal life. 408 U.S. 471, 482–84 (1972). Petitioner’s liberty therefore rose well
10 above a transitory or fleeting release and created a protected liberty interest in remaining free
11 absent constitutionally adequate revocation procedures. *Young v. Harper*, 520 U.S. 143, 147–49
12 (1997).

13 44. Petitioner’s compliance history underscores that this liberty interest was real and
14 substantial. He appeared at all required court hearings, complied with parole conditions,
15 maintained lawful employment, and remained entirely free of criminal conduct. Nothing in the
16 record suggests that detention was necessary to ensure appearance or protect public safety.

17 45. Courts confronting similar post-release immigration re-detention circumstances
18 have likewise recognized that once a noncitizen is released and permitted to live in the community,
19 a protected liberty interest may arise that triggers due process protections before re-detention. See,
20 e.g., *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025); *Guillermo M. R. v. Kaiser*,
21 791 F. Supp. 3d 1021, 1029 (N.D. Cal. 2025); *Ortega v. Kaiser*, 2025 WL 1771438, at *3 (N.D.
22 Cal. June 26, 2025).

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2 **II. Under *Mathews v. Eldridge*, Re-Detention Without Notice, Hearing, or**
3 **Individualized Findings Violated Due Process**

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

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

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

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

15 48. The procedures used here created an unacceptably high risk of erroneous
16 deprivation. Petitioner was arrested without prior notice, without explanation, and without any
17 opportunity to contest the basis for detention.

18 49. The record reflects no individualized assessment finding Petitioner posed a flight
19 risk or danger, and no change in circumstances undermining DHS’s original release determination.
20 The absence of notice and a neutral, individualized process is precisely what drives the risk of
21 error in conditional-liberty revocation. *Young*, 520 U.S. at 147–49; *Morrissey*, 408 U.S. at 482–
22 84.

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

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

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

6 52. Requiring basic procedural safeguards before extinguishing conditional liberty
7 imposes a minimal burden compared to the severe deprivation imposed. *Morrissey*, 408 U.S. at
8 482; *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973).

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

10 53. Balancing the profound private interest, the substantial risk of erroneous
11 deprivation created by summary re-detention, and the minimal burden of basic safeguards, the
12 *Mathews* factors overwhelmingly favor Petitioner.

13 54. Because Petitioner's conditional liberty was terminated without notice, without a
14 hearing, and without individualized findings, his detention violates the Due Process Clause of the
15 Fifth Amendment.

16 55. Where detention is the product of a constitutional violation in the process of
17 revoking conditional liberty, habeas relief is warranted. Immediate release is the appropriate
18 remedy to halt the ongoing unlawful deprivation of liberty.

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

21 56. Respondents cannot lawfully justify Petitioner's detention under the mandatory
22 detention provisions of 8 U.S.C. § 1225. Although Petitioner initially presented himself for
23 inspection in August 2023, DHS exercised its discretionary authority to parole him into the United
24 States pursuant to 8 U.S.C. § 1182(d)(5)(A). Following that parole, Petitioner resided openly in
the interior of the United States for more than twenty months prior to his arrest.

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

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

9 59. Petitioner’s arrest further confirms § 1225’s inapplicability. He was not detained at
10 the border or during inspection, but rather in the interior of the United States after prolonged
11 community residence. Courts have repeatedly rejected efforts to stretch § 1225 to cover such
12 circumstances.

13 60. Because § 1225 does not apply, the only possible detention authority is 8 U.S.C. §
14 1226(a), which authorizes discretionary detention and entitles Petitioner to an individualized bond
15 hearing.

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

17 61. Respondents may not cure an unlawful detention by retroactively re-labeling its
18 statutory basis during litigation. Habeas review examines the legality of detention as imposed, not
19 as later reconstructed.

20 62. Allowing post hoc invocation of § 1225 would reward statutory and constitutional
21 violations and permit detention first, authority later.

22 63. Because Petitioner’s detention was unlawful from its inception, immediate
23 release—not remand for a belated bond hearing—is the appropriate remedy.
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CLAIMS FOR RELIEF

COUNT I

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

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64. Petitioner incorporates by reference all preceding paragraphs as if fully set forth herein.

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

66. Petitioner possessed a protected liberty interest arising from his grant of humanitarian parole under 8 U.S.C. § 1182(d)(5)(A) and his prolonged, compliant release into the community. For an extended period, Petitioner lived with his family, worked lawfully pursuant to valid employment authorization, appeared at all required immigration court hearings, complied with all conditions of release, and pursued relief in removal proceedings without incident.

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

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

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

5 70. As demonstrated under the balancing framework set forth in *Mathews v. Eldridge*,
6 424 U.S. 319 (1976), the absence of notice, a hearing, and individualized findings created an
7 intolerably high risk of erroneous deprivation that far outweighs any governmental interest in
8 summary re-detention.

9 71. Respondents' actions therefore violate the Due Process Clause of the Fifth
10 Amendment, rendering Petitioner's detention unconstitutional and unlawful.

11 **COUNT II**

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

13 72. Petitioner incorporates by reference all preceding paragraphs.

14 73. The Immigration and Nationality Act establish distinct statutory frameworks
15 governing immigration detention. Mandatory detention under 8 U.S.C. § 1225 applies only to
16 narrowly defined categories of noncitizens who have not been admitted or paroled into the United
17 States and who are encountered during inspection or expedited removal processing at or near the
18 border.

19 74. Petitioner does not fall within any category subject to mandatory detention under §
20 1225. He was affirmatively paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A),
21 placed into removal proceedings under INA § 240, and resided openly in the interior of the United
22 States for an extended period before his arrest.

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

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

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

13 78. Because § 1225 does not authorize Petitioner’s detention, Respondents lack
14 statutory authority to detain him without a bond hearing. Petitioner’s continued detention therefore
15 violates the INA and exceeds the authority conferred by Congress.

16 **COUNT III**

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

19 79. Petitioner incorporates by reference all preceding paragraphs.

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

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

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2 82. Allowing Respondents to recharacterize the statutory basis for detention after the
3 fact would impermissibly sanction detention first and legal authority later, undermining both the
4 structure of the INA and fundamental principles of due process.

5 83. Because Petitioner's detention was unlawful from its inception and cannot be
6 salvaged through retrospective statutory reclassification, Respondents' continued detention of
7 Petitioner is ultra vires and unlawful.

8 **PRAYER FOR RELIEF**

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

- 10 a. Assume jurisdiction over this matter;
- 11 b. Order that Petitioner shall not be transferred outside the Southern District of
12 Georgia while this habeas petition is pending;
- 13 c. Issue an Order to Show Cause ordering Respondents to show cause why this
14 Petition should not be granted within three days;
- 15 d. Declare that Petitioner's detention is unlawful;
- 16 e. Order Petitioner's immediate release from custody;
- 17 f. In the alternative, order that any continued detention proceed solely under 8 U.S.C.
18 § 1226(a) and require a prompt bond hearing before an impartial immigration judge,
19 at which the Government bears the burden of justifying continued detention;
- 20 g. If a bond hearing is ordered, direct Respondents to file a written status report with
21 this Court within a time set by the Court, stating whether bond was granted or
22 denied, the bond amount and conditions if granted, and a summary of the reasons
23 stated on the record for the custody determination, so as to ensure compliance with
24 statutory and constitutional due process requirements;
- 21 h. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
22 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
23 law; and
- 24 i. Grant any other and further relief that this Court deems just and proper.

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DATED this 11th day of February, 2026.

ZAMBRANO LAW,

/s/ Shirley C. Zambrano
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Counsel for Petitioner

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

I represent Petitioner, Mr. Oscar Castro Barrios, 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 11th day of February, 2026.

ZAMBRANO LAW,

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