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

9 IKHTIER ISOEV,

10 Plaintiff,

11 vs.

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

Respondents.

Case No.: 3:26-cv-1361-JES-DD

TRAVERSE TO PETITION FOR
WRIT OF HABEAS CORPUS

STATEMENT OF FACTS

Ikhtier ISOEV, [REDACTED] is an immigrant from Russia.

He was a supporter of Alexei Navalny and the anticorruption reforms he supported.

The Russian authorities have severely oppressed these supporters and Mr. Isoev became a target for persecution by the government. He realized his life was in danger so he fled Russia for the United States. He has applied for asylum with the United States.

His attorney was able to get him an appointment with CBP in Brownsville. He was admitted into the United States on 9 January 2023 and was granted Humanitarian Parole for one year. He was also presented with an NTA which initiated a removal process with EOIR. He filed for Asylum on November 30, 2023. He eventually was granted was granted work authorization.

Mr. Isoev continued his life in the United States after his release on parole. He received work authorization. He found a place to live and integrated himself into the local community. In the more than three years he has lived here he has established himself financially as well. Most recently he has been working as a rideshare driver for UBER.

On December 25, 2025, Mr. Isoev got a request to a customer. The request required him to drive onto Camp Pendleton Marine Base. Mr. Isoev had no idea that picking him up at the base would be a problem. He exited the freeway

1 saw that he was immediately in the entry lane for the base. There are several entry
2 lanes that go to the gate. Once you enter the lane, there is no way to exit. When he
3 arrived at the gate, the guard asked to see his identification. He showed him his ID
4 and the guard asked if he had a green card. Mr. Isoev said no. The guard then
5 asked him to pull to the side and wait there. He lied to him and told him a
6 supervisor need to ask him a few questions and they were doing a security check. I
7 asked several times to have my license returned so I could leave. I was told I could
8 not go. Approximately 2 hours later ICE agents showed up. He was escorted out of
9 his car and led to a building near the gate. He was then placed in handcuffs, waist
10 and leg irons. He was taken to downtown San Diego for initial processing and then
11 transferred to Otay Mesa Detention Center where he remains today. He asked
12 again why he was being detained. He was not told why he was arrested. He was
13 not told what law he had violated. He was not advised of his Miranda rights. With
14 no cause and no explanation and no warrant he was put into detention. His nearly
15 three years of liberty ended with no regard to his right to remain free or any
16 process to deprive him of his liberty.

23 **I. PETITIONER WAS ILLEGALLY DETAINED AND MUST BE**
24 **RELEASED.**

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26 Mr. Isoev's liberty cannot be taken from him without, at the very
27 least, after an individualized determination that the purpose of his release is no
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1 longer valid and that he has somehow become a flight risk or a danger to the
2 community. However, the government’s arrest and detention of Mr. Isoev was not
3 authorized under color of any law. His arrest and detention were a violation of his
4 right to due process guaranteed by the Fifth Amendment to the Constitution and
5 was a violation of the Administrative Procedures Act.
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8 In cases raising similar claims, the government has argued that this
9 Court lacks jurisdiction to consider or grant relief under 8 U.S.C. §§ 1252(g) and
10 1252(b)(9). This argument fails here for at least three independent reasons. First,
11 Mr. Isoev’s claims are inextricably intertwined with the government’s authority to
12 detain him, which this Court has jurisdiction to consider. Second, this Court has
13 jurisdiction to review whether the agency has complied with due process and its
14 mandatory, nondiscretionary duties. Finally, even if Mr. Isoev’s claims *were*
15 precluded by the statute, which they are not, this Court could review them under
16 the Suspension Clause.
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21 **A. Mr. Isoev’s claims challenge the government’s authority to detain**
22 **him.**

23 Courts have jurisdiction to “decide a purely legal question that does not
24 challenge the Attorney General’s discretionary authority.” *Ibarra-Perez v. United*
25 *States*, 154 F.4th 989, 996 (9th Cir. 2025) (quotations omitted). In *Ibarra-Perez*,
26 the Ninth Circuit squarely held that “§ 1252(g) does not prohibit challenges to
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1 unlawful practices merely because they are in some fashion connected to removal
2 orders.” *Id.* at 997. Accordingly, the question is whether Mr. Isoev’s claims
3 “challenge the Attorney General’s discretionary authority.” *Id.* at 996.

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5 They do not. First, Mr. Isoev’s claims relate to the government’s authority to
6 detain him, and courts have widely held that review of issues related to detention is
7 not barred by § 1252(g) or (b)(9). *See, e.g., Flores–Torres v. Mukasey*, 548 F.3d
8 708, 711 (9th Cir. 2008) (holding that habeas jurisdiction exists to review a
9 challenge to immigration detention based on a citizenship claim); *Kong v. United*
10 *States*, 62 F.4th 608, 617 (1st Cir. 2023) (holding that “assertions of illegal
11 detention [were] plainly collateral to ICE’s prosecutorial decision to execute [a
12 detainee’s removal” and thus not subject to § 1252’s jurisdictional bars); *Cardoso*
13 *v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000) (“[S]ection 1252(g) does not bar courts
14 from reviewing an alien detention order[.]”); *Parra v. Perryman*, 172 F.3d 954,
15 957 (7th Cir. 1999) (§ 1252(g) did not apply to a “claim concern[ing] detention”).
16 To undersigned counsel’s knowledge, every judge in this district has held that it
17 has jurisdiction to consider claims that an individual is unlawfully detained.
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23 Importantly, all of the claims Mr. Isoev asserts in his habeas petition relate
24 to the government’s authority to detain him. In his habeas, Mr. Isoev asks this
25 Court to find that the denial of his liberty interest granted to him through his initial
26 parole violated procedural due process and the Administrative Procedures Act.
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1 Importantly, a person shall only be “returned to the custody from which he
2 was paroled” when “the purposes of such parole . . . have been served.” 8 U.S.C. §
3 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e) (parole may only be terminated “upon
4 accomplishment of the purpose for which parole was authorized”); *Y-Z-L-H v.*
5 *Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *12 (D. Or. July 9, 2025)
6 (noncitizen should not be returned to custody unless the purposes of the parole
7 have been served). Additionally, parole shall only be “terminated upon written
8 notice to the alien.” 8 C.F.R. § 212.5(e)(2)(i). As Petitioner will show below, the
9 fact that his humanitarian parole expired on its own does not cancel his liberty
10 interest nor does it cancel his due process rights regarding his liberty.
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15 **B. This Court has jurisdiction to consider claims alleging that the**
16 **government failed to comply with its mandatory duties and due**
17 **process.**

18 Even if Mr. Isoev’s claims were *not* inextricably intertwined with the
19 government’s authority to detain him, they would still not be jurisdictionally
20 barred. That is because the jurisdictional bars of § 1252 do not bar review of
21 claims that ICE is “failing to carry out non-discretionary statutory duties and
22 provide due process.” *J.R. v. Bostock*, No. 2:25-CV-01161-JNW, 2025 WL
23 1810210, at *3 (W.D. Wash. June 30, 2025); *see also D.V.D. v. U.S. Dep’t of*
24 *Homeland Sec.*, 778 F. Supp. 3d 355, 377–78 (D. Mass. 2025) (§ 1252(g) did not
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1 bar review of “the purely legal question of whether the Constitution and relevant
2 statutes require notice and an opportunity to be heard”).
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4 That is precisely what Judge Curiel recently held in a similar case. In *Sayed*
5 *Nasser Noori v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *1
6 (S.D. Cal. Oct. 1, 2025) the petitioner was an asylum seeker from Afghanistan who
7 “presented himself at the U.S. Port of Entry in San Ysidro, California and applied
8 for admission with a CBP One application.” Immigration officials “paroled him
9 into the United States” under a similar type of parole as Mr. Isoev. *Id.* But after the
10 government cancelled the petitioner’s removal proceedings and placed him in
11 expedited removal, he filed a habeas petition, and the government argued that §§
12 1252(g) and (b)(9) stripped the court of jurisdiction to hear his claims. *Id.* at *5.
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14 Nevertheless, Judge Curiel found that he had jurisdiction to hear the claims,
15 noting that “Petitioner does not challenge the decision to commence proceedings.”
16 *Id.* at *6. Instead, “Petitioner challenges the legality of the revocation of
17 humanitarian parole in violation of the law and dismissal of ongoing removal
18 proceedings without due process.” *Id.* So even assuming the agency’s revocation of
19 parole “constitutes a decision or action to adjudicate cases,” that action is not “in
20 the discretion” of the agency under § 1252(g) where it was “not performed in
21 accordance with the mandatory procedures.” *Id.* (quoting *Sharkey v. Quarantillo*,
22 541 F.3d 75, 86 (2d Cir. 2008) (alterations omitted)).
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1 Other courts have held the same. In *Dep't of Homeland Sec. v. Regents of the*
2 *Univ. of California*, 140 S. Ct. 1891, 1907 (2020), the Supreme Court held that §
3 1252(b)(9) “does not present a jurisdictional bar” where those bringing suit “are
4 not asking for review of an order of removal,” “the decision to seek removal,” or
5 “the process by which removability will be determined.” (quotations and
6 alterations omitted). And in *Vasquez Garcia v. Noem*, 25-cv-02180-DMS-MMP,
7 2025 WL 2549431, Dkt. 7 at *8 (S.D. Cal. Sept. 3, 2025), Judge Sabraw held that
8 “§ 1252(g) does not limit the Court’s jurisdiction in the present case” because the
9 petitioners were “enforcing their constitutional rights to due process in the context
10 of the removal proceedings—not the legitimacy of the removal proceedings or any
11 removal order.”

12 Here, Mr. Isoev similarly challenges the legality of the government’s
13 arbitrary decision to strip him of his liberty and declare him subject to mandatory
14 detention. Because these actions were “not performed in accordance with the
15 mandatory procedures,” they were not undertaken “in the discretion” of the
16 agency. *Noori*, 2025 WL 2800149, at *6; *see also United States ex rel. Accardi v.*
17 *Shaughnessy*, 347 U.S. 260, 265–68 (1954) (holding that agencies must adhere to
18 their own binding regulations, both substantively and procedurally). Accordingly,
19 this Court is not jurisdictionally barred from reviewing them.

1 **C. Mr. Isoev’s claims do not fall within the plain language of § 1252**
2 **and if they did, the statute would violate the Suspension Clause**
3 **and Due Process.**

4 Finally, Mr. Isoev’s claims do not fall within the plain language of the
5 § 1252(g) and § 1252(b)(9) jurisdictional bars. And even if they did, this Court
6 could still review them under the Suspension Clause.

7 Section 1252(g) precludes judicial review of an agency decision to
8 “commence proceedings, adjudicate cases, or execute removal orders.” “The
9 Supreme Court has instructed that we should read § 1252(g) narrowly.” *Ibarra-*
10 *Perez v. United States*, 154 F.4th 989, 991 (9th Cir. 2025) (citing *Reno v. Am.-Arab*
11 *Anti-Discrimination Comm. (AADAC)*, 525 U.S. 471, 487 (1999); *Dep’t of*
12 *Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020). That is
13 because, as a general matter, establishing unreviewability is a “heavy burden,” and
14 “where substantial doubt about the congressional intent exists, the general
15 presumption favoring judicial review of administrative action is controlling.” *Block*
16 *v. Cmty. Nutrition Inst.*, 467 U.S. 340, 351 (1984).

17 Here, Mr. Isoev’s challenge does not fall within any of the three categories
18 of § 1252(g). He does not challenge the agency’s decision to “commence
19 proceedings” under § 1252(g) because his asylum proceedings had already
20 “commenced”. Nor does he challenge the agency’s decision to “adjudicate” his
21 case—only the arbitrary decision to detain him. And Mr. Isoev could not
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1 challenge the agency’s ability to “execute [his] removal order” given that he
2 doesn’t have one. Reading § 1252(g) “narrowly,” *Ibarra-Perez*, 154 F.4th at 991,
3 thus shows that Mr. Isoev’s claims do not fall within any of these three categories.
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5 The same is true of § 1252(b)(9). This section bars “[j]udicial review of all
6 questions of law and fact, including interpretation and application of constitutional
7 and statutory provisions, arising from any action taken or proceeding brought to
8 remove an alien from the United States[.]” 8 U.S.C. § 1252(b)(9). But the Ninth
9 Circuit holds that this statute, by its plain language, applies only to “judicial review
10 of an order of removal” and does not eliminate the ability of a court to review
11 claims that are “independent of challenges to removal orders.” *Singh v. Gonzales*,
12 499 F.3d 969, 978 (9th Cir. 2007) (quotations omitted). Rather, § 1252(b)(9) was
13 designed to limit noncitizens to “one bite of the apple with regard to challenging an
14 order of removal,” precluding, for instance, claims that the BIA erred in finding an
15 individual “ineligible for asylum, withholding of removal, and relief under the
16 [Convention Against Torture].” *Martinez v. Napolitano*, 704 F.3d 620, 622–23 (9th
17 Cir. 2012). Thus, determining jurisdiction under § 1252 “requires a case-by-case
18 inquiry turning on a practical analysis” of the noncitizen’s circumstances. *Singh v.*
19 *Holder*, 638 F.3d 1196, 1211 (9th Cir. 2011).
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26 Here, Mr. Isoev does not challenge any decision that the BIA or a circuit
27 court could review as part of a final order of removal. Nor could he, since the
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1 agency has yet to issue a decision regarding his removal. Rather, he seeks review
2 of the agency's parole revocation which does not relate to the substance of his
3 removal proceedings. Thus, neither provision in § 1252 strips this Court of
4 jurisdiction to hear his claims.
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6 But even if the government's expansive reading of § 1252 *were* correct, this
7 Court could still hear Mr. Isoev's claims under the Suspension Clause. Under the
8 Suspension Clause, "[t]he Privilege of the Writ of Habeas Corpus shall not be
9 suspended, unless when in Cases of Rebellion or Invasion the public Safety may
10 require it." U.S. Const. Art. I ¶ 9, cl. 2. Courts have held that even when "Congress
11 intended to strip all courts of jurisdiction over [a petitioner's] claim, the
12 Suspension Clause of the Constitution nonetheless requires that [he] may bring his
13 challenge through the writ of habeas corpus." *Ragbir v. Homan*, 923 F.3d 53, 57–
14 58 (2d Cir. 2019), *cert. granted, judgment vacated sub nom. Pham v. Ragbir*, 141
15 S. Ct. 227 (2020). In determining the reach of the Suspension Clause, courts are
16 required to consider "(1) the citizenship and status of the detainee and the
17 adequacy of the process through which that status determination was made; (2) the
18 nature of the sites where apprehension and then detention took place; and (3) the
19 practical obstacles inherent in resolving the prisoner's entitlement to the writ."
20 *Boumediene v. Bush*, 553 U.S. 723, 766 (2008).
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1 In *Noori*, Judge Curiel applied these factors to hold that review was also
2 available under the Suspension Clause. *See* 2025 WL 2800149, at *9. Judge Curiel
3 explained that “although Petitioner is not a citizen, he was paroled into the United
4 States upon a finding that he was not a flight risk or a danger to the community,”
5 and has “remained here for more than a year,” “received a work authorization,”
6 and “developed ties to the community.” *Id.* Judge Curiel also noted that the
7 petitioner was “apprehended and detained within the United States,” and there was
8 “no evidence that Petitioner is a danger to the community or a flight risk—in fact,
9 Respondents decided to parole Petitioner when he arrived without ties to the
10 community after determining that he did not have any criminal history and then
11 approved a work authorization.” *Id.* Judge Curiel thus concluded that “even if
12 Section 1252 precluded the Court from reviewing Respondents’ decision to detain
13 him, the Court would have jurisdiction to review this decision under the
14 Suspension Clause.” *Id.*

15 Here, the facts in Mr. Isoev’s case are materially identical to those in *Noori*.
16 Mr. Isoev was “paroled into the United States upon a finding that he was not a
17 flight risk or a danger to the community,” has “remained here for nearly a [three]
18 year,” and “developed ties to the community.” *Id.* Thus, as in *Noori*, the
19 *Boumediene* factors weigh in his favor, and at a minimum, this Court has
20 jurisdiction to review his claims under the Suspension Clause.

1 **II. On the merits, the government's actions violated the Administrative**
2 **Procedures Act and due process.**

3 Moving to the merits, Mr. Isoev argues that the agency's deprivation of his
4 liberty violated the Administrative Procedures Act and procedural due process.

5 **A. Revoking Mr. Isoev's liberty and subjecting him to detention**
6 **violates the Administrative Procedures Act and Due Process.**

7 As recounted above, the government paroled Mr. Isoev into the United
8 States to allow him to apply for asylum. When ICE detained Mr. Isoev no one
9 articulated what change in his individual circumstances had led the agency to find
10 that he was now a flight risk or a danger to the community. The government's
11 actions violate the Administrative Procedures Act and Due Process.
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14 1. The government's actions violated the Administrative Procedures
15 Act.

16 Under the Administrative Procedures Act (APA), an agency action may be
17 held unlawful and set aside if it is "arbitrary, capricious, an abuse of discretion, or
18 otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). An action is an abuse
19 of discretion if the agency "entirely failed to consider an important aspect of the
20 problem, offered an explanation for its decision that runs counter to the evidence
21 before the agency, or is so implausible that it could not be ascribed to a difference
22 in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs.*
23 *of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S.,*
24 *Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). For a challenged
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1 agency action to be upheld, the agency “must explain the evidence which is
2 available, and must offer a rational connection between the facts found and the
3 choice made.” *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983) (internal quotations
4 omitted) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168
5 (1962)).
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8 Here, the government violated the APA because the agency did not provide
9 notice in which it “offered a rational connection between the facts found and the
10 choice made”—i.e., the fact that Mr. Isoev was still at liberty, yet the agency
11 decided to detain him. *Motor Vehicle Mfrs*, 463 U.S. at 52. And nothing suggests
12 that there *was* a “rational” reason for this choice, given that Mr. Isoev had filed an
13 asylum application, complied with all the conditions of his parole, and had no
14 criminal history. This was the epitome of an “arbitrary” and “capricious” act under
15 the APA. 5 U.S.C. § 706(2)(A).
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19 Even with the expiration of his parole, the government also violated the
20 APA. As explained, a person shall only be “returned to the custody from which he
21 was paroled” when “the purposes of such parole . . . have been served.” 8 U.S.C.
22 § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be terminated
23 “upon accomplishment of the purpose for which parole was authorized”); *Y-Z-L-H*,
24 2025 WL 1898025, at *12 (same). Alternatively, the regulations permit revocation
25 of parole, and by extension, the liberty interest inherent in that parole, when
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1 “neither humanitarian reasons nor public benefit warrants the [noncitizen’s]
2 continued presence.” 8 C.F.R. § 212.5(e)(2)(i). But under either scenario, parole
3 shall only be “terminated upon written notice to the alien.” 8 C.F.R. §
4 212.5(e)(2)(i). So, under the statute and the regulations and pursuant to the original
5 parole document given to Mr. Isoev upon his release, the agency may only re-
6 detain a noncitizen when the parole’s purpose is served or no humanitarian reasons
7 warrant it *and* the noncitizen receives written notice.
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11 None of this occurred here. Because “the purpose[] of [Mr. Isoev’s] parole”
12 was to allow him to apply for asylum, that purpose has not yet “been served”
13 because his asylum claim has not been adjudicated. 8 U.S.C. § 1182(d)(5)(A).
14 Moreover, the “humanitarian reasons” for Mr. Isoev’s parole have not changed. 8
15 C.F.R. § 212.5(e)(2)(i).
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18 **2. The government’s actions violated procedural due process.**
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20 “[T]he Due Process Clause applies to all ‘persons’ within the United
21 States, including aliens, whether their presence here is lawful, unlawful, temporary,
22 or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693, 121 S.Ct. 2491, 2500
23 (2001). “It is well established that the Fifth Amendment entitles aliens to due
24 process of law in the context of removal proceedings.” *Trump v. J. G. G.*, 604 U.S.
25 670, 673, 145 S.Ct. 1003, 1006 (2025) (internal quotation marks omitted).
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1 Although “detention during deportation proceedings [is] a constitutionally valid
2 aspect of the deportation process[.]” *Demore v. Kim*, 538 U.S. 510, 523, 123 S.Ct.
3 1708, 1717 (2003), due process “requires some kind of a hearing before the State
4 deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127,
5 110 S.Ct. 975, 984 (1990).
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8 Petitioner’s procedural due process claim involves two steps: “the first asks
9 whether there exists a protected liberty interest under the Due Process Clause, and
10 the second examines the procedures necessary to ensure any deprivation of that
11 protected liberty interest accords with the Constitution.” *Fernandez Lopez v.*
12 *Wofford*, 2025 WL 2959319, *3 (E.D. Cal. 2025) (internal quotation marks
13 omitted). “[D]ue process is flexible and calls for such procedural protections as the
14 particular situation demands.” *Morrissey v. Brewer*, 408 U.S. 471, 481, 92 S.Ct.
15 2593, 2600 (1972). To determine what protections due process demands in a given
16 situation, courts consider three factors: (1) the private interest that will be affected
17 by the official action; (2) the risk of erroneous deprivation of such interest through
18 the procedures used, and the probable value of additional safeguards; and (3) the
19 government’s interest, including the function involved and the burdens that would
20 be imposed by additional process. *See Mathews v. Eldridge*, 424 U.S. 319, 335, 96
21 S.Ct. 893, 903 (1976).
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1 **a. Petitioner Possesses a Liberty Interest in Remaining Out of**
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3 **Custody.**

4 Here, petitioner invokes “the most significant liberty interest there is – the
5 interest in being free from imprisonment.” *Velasco Lopez v. Decker*, 978 F.3d 842,
6 851 (2d Cir. 2020). While “the initial decision to detain or release an individual
7 may be within the government’s discretion, the government’s decision to release
8 an individual from custody creates ‘an implicit promise,’ upon which that
9 individual may rely, that their liberty ‘will be revoked only if they fail to live up to
10 the . . . conditions of release.’” *Pinchi v. Noem*, 792 F.Supp.3d 1025, 1032 (N.D.
11 Cal. 2025) (alteration marks omitted). Accordingly, “[w]hen an immigrant is
12 placed into parole status after having been detained, a protected liberty interest
13 may arise[,]” and the “Due Process Clause may protect this liberty interest even
14 where a statute allows the immigrant’s arrest and detention and does not provide
15 for procedural protections.” *Espinoza v. Kaiser*, 2025 WL 2675785, *9 (E.D. Cal.
16 2025).

17 Respondents’ decision to grant parole to petitioner in 2023 “reflect[ed] a
18 determination by the government that the noncitizen is not a danger to the
19 community or a flight risk.” *Fernández López*, 2025 WL 2959319, at *2 (internal
20 quotation marks omitted). The grant of parole “constituted an implied promise that
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1 [his] liberty would not be revoked unless [he] failed to live up to the conditions of
2 [his] release.” *Pinchi*, 792 F.Supp.3d at 1034 (internal quotation marks omitted);
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4 see e.g., *Sharif, et al. v. F. Semaia, et al.*, Case No. ED CV 25-2834 (finding that
5 noncitizen petitioners who arrived to Dulles International Airport and were paroled
6 into the country under 8 U.S.C. § 1182(d)(5)(A) gained a protected liberty interest
7 in their release). In short, petitioner has a protected liberty interest in remaining out
8 of custody absent a showing that he poses a risk of flight or danger. See, e.g.,
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10 *Fernández López*, 2025 WL 2959319, at *4-5 (finding that petitioner released from
11 immigration detention on parole pursuant to § 1182(d)(5)(A) had protected liberty
12 interest in remaining out of custody); *Noori v. Larose*, 2025 WL 2800149, *4, 9-10
13 (S.D. Cal. 2025) (finding that petitioner who was paroled from immigration
14 detention under § 1182(d)(5)(A) had protected liberty interest in remaining out of
15 custody).
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20 That petitioner’s parole may have expired is irrelevant because
21 “petitioner’s liberty interest did not expire along with his parole.” *Omer G.G. v.*
22 *Kaiser, et al.*, 2025 WL 3254999, *5 (E.D. Cal. 2025); see, e.g., *Ramirez Tesara v.*
23 *Wamsley*, 800 F.Supp.3d 1130, 1136 (W.D. Wash. 2025) (finding, on similar facts,
24 that “[c]ontrary to Respondents’ arguments, this private interest did not expire
25 along with Petitioner’s parole agreement.”). Put differently, the fact “[t]hat the
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27 express terms of Petitioner’s parole allowed for discretionary termination or
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1 expiration does not somehow obviate the need for the government to” comport
2 with due process “prior to re-detaining him given the significance of his liberty
3 interest.” *Rodriguez Cabrera*, 2025 WL 3072687, *11 (D. Nev. 2025). The first
4 *Mathews* factor therefore weighs strongly in favor of petitioner.
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7 **b. Petitioner Was Entitled to Notice and a Pre-Deprivation**
8 **Hearing Prior to His Re-Detention.**
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10 Under the applicable regulatory framework, petitioner’s parole
11 terminated on the date set out in the I-94. See 8 C.F.R. § 212.5(e)(2)(i). But
12 determining whether respondents provided petitioner with the required notice of
13 his parole termination would not resolve the question before the court, i.e., whether
14 respondents provided petitioner with sufficient due process prior to his re-
15 detention. See *Rodriguez Cabrera*, 2025 WL 3072687, at *10. The central inquiry
16 for the Court is whether Petitioner’s re-arrest and detention without the pre-
17 deprivation hearing violated due process. Because § 1182(d)(5)(A)’s “enacting
18 regulations [do not] provide any procedure for a noncitizen to challenge the
19 revocation or expiration of parole[,]” *Rodriguez Cabrera*, 2025 WL 3072687, at
20 *13, there is, in effect, no procedural safeguards to determine if re-detention is
21 justified.
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1 To be sure, the record indicates that respondents may have
2 detained petitioner years after the termination of his parole. But under the
3 circumstances here, due process requires that respondents provide petitioner with
4 notice and a pre-deprivation bond hearing prior to his detention. See, e.g., *Ramirez*
5 *Tesara*, 800 F.Supp.3d at 1137 (granting TRO and ordering that petitioner, who
6 was re-detained months after the expiration of his parole, “should be released and
7 only re-detained after a hearing [in] front of an immigration judge”); *Rodriguez*
8 *Cabrera*, 2025 WL 3072687, at *15 (granting habeas petition where petitioner was
9 re-detained three years after the expiration of his parole, and enjoining the
10 government “from re-detaining Petitioner in connection with his current removal
11 proceedings without an individualized bond hearing”); see also *Valdez v. Joyce*,
12 2025 WL 1707737, *4 (S.D.N.Y. 2025) (“In the context of revocation of civil
13 release, an individual whose release is sought to be revoked is entitled to due
14 process such as notice of the alleged grounds for revocation, a hearing, and the
15 right to testify at such a hearing.”) (internal quotation marks omitted). In short, the
16 court finds, under the second Mathews factor, that the risk of an erroneous
17 deprivation of petitioner’s liberty interest is high. See, e.g., *Fernández López*, 2025
18 WL 2959319, at *6 (“[T]he risk of an erroneous deprivation [of liberty] is high
19 where, as here, [the petitioner] has not received any bond or custody
20 redetermination hearing.”) (internal quotation marks omitted); *Escobar Salgado v.*

1 *Mattos, et al.*, 2025 WL 3205356, *24 (D. Nev. 2025) (“The risk of erroneous
2 deprivation is extraordinarily high where ICE and DHS agency officials have sole,
3 unguided, and unreviewable discretion to detain Petitioners without any
4 individualized showing of why their detention is warranted, nor any process for
5 Petitioners to challenge the exercise of that discretion.”).
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9 **c. Respondents’ Interest Does Not Outweigh the First Two**
10 **Factors.**

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12 “As to the third and final *Mathews* prong, the Attorney General’s
13 discretion to detain individuals . . . is valid where it advances a legitimate
14 governmental purpose, such as ensuring the appearance of aliens at future
15 immigration proceedings and preventing danger to the community.” *Maldonado*,
16 2025 WL 2772765, at *10 (internal quotation marks and alterations omitted). But
17 respondents do not contend that petitioner was detained for such purposes. Indeed,
18 over the nearly three years that petitioner was released, he complied with his
19 immigration requirements, and there is nothing in the record to establish that
20 petitioner poses a flight risk or a danger to the community. Thus, respondents have
21 “failed to show a significant interest in Petitioner’s continued detention.”
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23 *Maldonado*, 2025 WL 2772765, at *10.
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27 **III. LIKELIHOOD OF IRREPARABLE HARM**
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1 “It is well established that the deprivation of constitutional rights
2 ‘unquestionably constitutes irreparable injury.’” *Melendres v. Arpaio*, 695 F.3d
3 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373, 96 S.Ct.
4 2673, 2690 (1976)); see *Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th Cir.
5 2017) (recognizing the “irreparable harms imposed on anyone subject to
6 immigration detention” and holding that plaintiffs had “established a likelihood of
7 irreparable harm by virtue of the fact that they are likely to be unconstitutionally
8 detained for an indeterminate period of time”). Where “an alleged deprivation of a
9 constitutional right is involved, most courts hold that no further showing of
10 irreparable injury is necessary.” *Warsoldier v. Woodford*, 418 F.3d 989, 1001-02
11 (9th Cir. 2005) (internal quotation marks omitted). Here, there is no doubt that
12 petitioner has been and will continue to be irreparably harmed by the continued
13 deprivation of his liberty in violation of his due process rights.
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19 **IV. BALANCE OF THE EQUITIES AND PUBLIC INTEREST.**

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21 The final two merged factors likewise weigh heavily in favor of petitioner.
22 Although the government has a compelling interest in the enforcement of its
23 immigration laws, that interest cannot justify the violation of petitioner’s
24 constitutional rights. See *Index Newspapers LLC v. U.S. Marshals Serv.*, 977 F.3d
25 817, 838 (9th Cir. 2020) (“It is always in the public interest to prevent the violation
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1 of a party's constitutional rights.") (internal quotation marks omitted); *Vargas v.*
2 *Jennings*, 2020 WL 5074312, *4 (N.D. Cal. 2020) ("Just as the public has an
3 interest in the orderly and efficient administration of this country's immigration
4 laws . . . the public has a strong interest in upholding procedural protections against
5 unlawful detention.") (internal quotation marks and citation omitted); *Valle del Sol*
6 *Inc. v. Whiting*, 732 F.3d 1006, 1029 (9th Cir. 2013) ("[I]t is clear that it would not
7 be equitable or in the public's interest to allow the [government] . . . to violate the
8 requirements of federal law[.]") (internal quotation marks omitted).
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12 **V. BOND IS NOT THE PROPER REMEDY**

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15 Many courts recently have been ordering a bond hearing as an
16 alternative avenue for relief. If Mr. Isoev's detention was unlawful, *ab initio*, he
17 should not be required to post a bond and, in effect, pay a ransom to be released
18 from this illegal detention. Nothing in the government's response indicates that Mr.
19 Isoev has somehow become a flight risk or a danger to the community. He was not
20 detained because he was suddenly a flight risk or a danger to the community.
21
22 When ICE put him in handcuffs, they did not assert that they had suddenly
23 determined he was a flight risk or a danger to the community. He was simply
24 swept up in this administrations scheme to lock up all immigrants without green
25 cards.
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1 Ordering a bond hearing because he is no longer deemed subject to
2 mandatory detention rewards the government's unlawful behavior. First, it
3 legitimizes his detention. Second, it allows the government to detain without a
4 prior determination of a change in individual circumstances regarding flight risk
5 and danger. Third, it requires the petitioner to prove that he is not a flight risk or a
6 danger to the community, something the government already determined when
7 they released him. Fourth, it requires the petitioner to pay a fee to the parties that
8 unlawfully detained him in order to be released from his unlawful detention.
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11 **VI. TERMS OF RELEASE.**

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13 In addition, the current practice at Otay Mesa Detention Center is,
14 upon release, to immediately enroll detainees in an Alternative to Detention
15 program and put an ankle monitor on them before their actual release. This is also
16 done without any individualized consideration of whether the detainee is a
17 potential flight risk or a danger to the community. Mr. Isoev had been at liberty for
18 quite a while prior to his detention and should not be enrolled in any ATD program
19 and especially should not be forced to wear an ankle monitor.
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24 **CONCLUSION**

25 Petitioner respectfully requests this Court to grant the following:
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1 (1) Declare that Petitioner's detention without a prior individualized
2 determination violates the Due Process Clause of the Fifth Amendment and the
3 Administrative Procedures Act;
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5 (2) Issue a Writ of Habeas Corpus ordering Respondents to release
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7 Petitioner from custody;

8 (3) Issue an Order prohibiting the Respondents from enrolling the
9
10 Petitioner in any Alternative to Detention program, specifically barring them from
11 requiring an ankle monitor;

12 (4) Grant any further relief this Court deems just and proper.
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14 Dated: March 9, 2026

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CERTIFICATE OF SERVICE

I, Brian J. McGoldrick, CERTIFY

I am over the age of 18 and not a party to this matter. My business address is 4916 Del Mar Avenue, San Diego, CA 92107. On March 9, 2026, I served a copy of this **TRAVERSE TO PETITION FOR WRIT OF HABEAS CORPUS** by the method and to the parties listed below:

On March 9, 2026, I accessed the electronic mailing list for CM/ECF users in this case and representatives of all parties are CM/ECF users and are noticed as follows:

- **Antonio Estrada**

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/s/Brian J. McGoldrick
Brian J. McGoldrick, Esq.
Counsel for Respondent