

Alejandro Monsalve
CA SBN 324958
Alex Monsalve Law Firm, PC
240 Woodlawn Ave., Suite 9
Chula Vista, CA 91910
(619) 777-6796
Counsel for Petitioner

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

MIGALES RAMEAU

Petitioner

v.

Christopher LAROSE, Senior Warden, Otay
Mesa Detention Center; et al.,

Case No.:26-cv-1439 CAB SBC,

Judge: Hon. Cathy Ann Bencivengo

**PETITIONER'S TRAVERSE TO
RESPONDENT'S RETURN**

I. Introduction

Petitioner challenges the legality of his continued detention following a grant of humanitarian parole pursuant to INA § 212(d)(5)(A). As explained in the Petition, Petitioner was inspected and paroled into the United States and later re-detained by the Department of Homeland Security without any lawful termination of parole under the procedures required by 8 C.F.R. § 212.5(e).

The Petition presents a narrow threshold question: whether DHS may detain a parolee after granting parole without first terminating that parole through the individualized determination and written notice required by governing regulations.

1 Respondents' Return does not answer that question. Respondents do not identify any
2 action revoking Petitioner's parole, any individualized determination that the purpose of parole
3 has been served, or any written notice terminating parole as required by 8 C.F.R. § 212.5(e).
4 Instead, Respondents propose a bond hearing without addressing the central legal defect
5 identified in the Petition.

6 Because lawful termination of parole is a prerequisite to immigration detention following
7 release on parole, Respondents' failure to demonstrate termination of parole leaves the basis for
8 Petitioner's detention unsupported. As courts in this District—including this Court—have held in
9 materially indistinguishable circumstances, detention cannot be justified where parole remains
10 legally operative and has not been terminated pursuant to regulation. The writ should therefore
11 issue.

12 **II. Respondents Do Not Address the Basis of the Petition**

13 The Petition challenges the legality of Petitioner's detention on a narrow threshold
14 ground: that Petitioner was granted humanitarian parole pursuant to INA § 212(d)(5)(A) and that
15 such parole has never been lawfully terminated in accordance with the procedures required by 8
16 C.F.R. § 212.5(e).

17 The Court ordered Respondents to respond to the Petition and address the legal basis for
18 Petitioner's detention. Respondents' filing does not do so. Respondents do not identify any
19 action revoking Petitioner's parole, any individualized determination that the purpose of parole
20 has been served, or any written notice terminating parole as required by the governing regulation.
21 Nor do Respondents contend that Petitioner's parole was ever terminated pursuant to 8 C.F.R. §
22 212.5(e).

23 Instead, Respondents state only that they do not oppose a bond hearing and do not
24 attempt to defend the legality of Petitioner's detention. That position does not address the
25 question presented in the Petition—whether DHS possesses lawful authority to detain a parolee
26 whose parole has never been terminated pursuant to the governing regulatory framework.

1 A suggestion that Petitioner should receive a bond hearing does not cure this statutory
2 defect. The question presented here is not whether Petitioner may seek release through a
3 discretionary custody determination, but whether Respondents possess lawful authority to detain
4 him in the first instance.

5 Because Respondents do not address whether Petitioner's parole was lawfully terminated,
6 the Return fails to respond to the basis of the Petition and does not establish lawful authority for
7 Petitioner's continued detention.

8 Respondents' failure to assert any lawful termination of parole or statutory basis for
9 detention constitutes a concession that no such authority exists.

10 **III. Lawful Termination of Parole Is a Prerequisite to Detention**

11 Congress authorized the Secretary of Homeland Security to grant temporary parole into
12 the United States for urgent humanitarian reasons or significant public benefit. INA § 212(d)(5)
13 (A). When DHS exercises that authority and grants parole, the terms governing the continuation
14 and termination of that parole are defined by regulation.

15 Under the governing regulation, parole does not simply expire by operation of detention
16 or agency discretion. Rather, DHS must make an individualized determination that the purpose
17 of parole has been served or that continued presence is no longer justified, and must provide
18 written notice of the termination of parole. 8 C.F.R. § 212.5(e). The regulation further provides
19 that when parole is terminated, DHS must serve written notice upon the parolee and restore the
20 individual to the status he or she held at the time parole was granted.

21 These procedural protections are not merely administrative formalities. They define the
22 circumstances under which DHS may transition a parolee from lawful presence under parole to
23 immigration custody. Where DHS fails to comply with the regulatory requirements governing
24 termination of parole, parole remains legally operative. Because parole remains legally operative
25 unless terminated in accordance with the governing regulation, DHS cannot treat a parolee as
26 subject to detention under INA § 235(b) without first terminating parole pursuant to 8 C.F.R. §
27 212.5(e).

1 Here, Respondents do not contend that Petitioner's parole was terminated in accordance
2 with 8 C.F.R. § 212.5(e). They do not identify any individualized determination terminating
3 parole, nor any written notice restoring Petitioner to his prior status. In the absence of such
4 termination, Petitioner remains a parolee as a matter of law, and DHS therefore lacks statutory
5 authority to detain him under INA § 235(b).

6 **IV. This Court Has Already Ordered Release in Identical Circumstances**

7 This Court has already addressed materially indistinguishable circumstances involving
8 the detention of a parolee whose parole had not been lawfully terminated.

9 In *Ayala Perez v. Noem*, Case No. 25-cv-03777-CAB-JLB (S.D. Cal.), the petitioner had
10 been granted humanitarian parole into the United States and was later detained by immigration
11 authorities without any written notice terminating parole pursuant to 8 C.F.R. § 212.5(e). As in
12 this case, the government did not identify any individualized determination terminating parole or
13 any written notice restoring the petitioner to the status held prior to parole.

14 The Court held that the regulatory requirements governing termination of parole are
15 mandatory and that DHS may not detain a parolee under INA § 235(b) without first terminating
16 parole in accordance with those procedures. Because the government failed to demonstrate
17 lawful termination of parole, the Court concluded that the petitioner's detention lacked statutory
18 authority and granted the petition for a writ of habeas corpus directing the petitioner's release.

19 The same defect is present here. Respondents do not contend that Petitioner's parole was
20 terminated pursuant to 8 C.F.R. § 212.5(e), nor do they identify any written notice restoring
21 Petitioner to the status he held prior to parole. Instead, Respondents suggest that Petitioner
22 should receive a bond hearing. But the absence of lawful termination of parole means that DHS
23 lacks statutory authority to detain Petitioner under INA § 235(b) in the first instance.

24 Because Respondents have not identified any lawful termination of parole and have not
25 otherwise established a valid statutory basis for detention, this case presents the same legal
26 defect addressed by this Court in *Ayala Perez*. Consistent with that decision, the writ should
27 issue and Respondents should be directed to release Petitioner from custody.

V. Because Respondents Failed to Justify Custody, the Writ Must Issue

In a habeas proceeding challenging the legality of detention, Respondents bear the burden of establishing lawful authority for custody. Where the government fails to identify a valid statutory basis for detention, continued confinement cannot be sustained.

Here, Respondents do not contend that Petitioner's parole was terminated pursuant to 8 C.F.R. § 212.5(e). They do not identify any individualized determination that the purpose of parole has been served, nor any written notice restoring Petitioner to the status held prior to parole. Instead, Respondents suggest that Petitioner should receive a bond hearing.

That response does not address the central defect identified in the Petition. The question presented in this case is not whether Petitioner may seek release through a discretionary custody determination, but whether Respondents possess lawful authority to detain him in the first instance. Because Respondents have not demonstrated that Petitioner's parole was terminated in accordance with governing regulations, the record establishes that Petitioner's detention lacks statutory authority.

Under these circumstances, habeas relief is warranted. Consistent with the Court's prior decision addressing materially indistinguishable circumstances, the Court should grant the Petition and issue the writ directing Respondents to immediately release Petitioner from custody.

VI. Conclusion

For the reasons set forth above, Respondents have failed to establish lawful authority for Petitioner's continued detention. Because Petitioner's parole has never been lawfully terminated pursuant to 8 C.F.R. § 212.5(e), detention under INA § 235(b) lacks statutory authorization.

Petitioner therefore respectfully requests that the Court grant the Petition for Writ of Habeas Corpus and issue the writ directing Respondents to immediately release Petitioner from custody. Respectfully submitted,

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/s/ Alejandro J. Monsalve, Esq. CA SBN 324958

Alex Monsalve Law Firm, PC

240 Woodlawn Ave, Suite 9

Chula Vista, CA 91910

Phone: (619) 777-6796

Email: info@alexmonsalvelawfirm.com

Counsel for Petitioner

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