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Attorney for Petitioner
JOSE ERNESTO RAZO-GAMBOA

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

JOSE ERNESTO RAZO-GAMBOA,

Plaintiff,

v.

ERIC ROKOSKY, Warden of Eloy
Detention Center. FIELD OFFICE
DIRECTOR, Phoenix Field Office,
Immigration and Customs Enforcement
and Removal Operations ("ICE/ERO");
TODD M. LYONS, Acting Director of
Immigration Customs Enforcement
("ICE"); U.S. Immigration and Customs
Enforcement; KRISTI NOEM, Secretary
of the Department of Homeland Security
("DHS"); U.S. Department of Homeland
Security; and PAMELA BONDI,
Attorney General of the United States,

Respondents.

CASE NO.:

**PETITION FOR WRIT OF HABEAS
CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS;
COMPLAINT FOR DECLARATORY
RELIEF**

Challenge to Unlawful Incarceration;
Request for Declaratory and Injunctive
Relief

Petitioner Jose Ernesto Razo-Gamboa petitions this Court for a writ of habeas corpus under 28 U.S.C. section 2241 to remedy Respondents' detaining him unlawfully, and states as follows:

SUMMARY OF PETITION

This case concerns the unlawful detention of a noncitizen who followed the precise process the United States government created for migrants to present themselves lawfully at the border.

Petitioner entered the United States through a CBP One appointment, was inspected at a port of entry, and was granted humanitarian parole valid until July 5, 2026, as confirmed by DHS's own Form I-94.

The government later moved to dismiss removal proceedings while Petitioner remained in valid parole status. Nevertheless, ICE detained Petitioner on February 28, 2026, months before his parole expires and without any individualized determination that he poses a flight risk or danger.

Because Petitioner's parole has never been lawfully revoked and because DHS lacks statutory authority to detain him under these circumstances, his continued detention violates the Immigration and Nationality Act, the Administrative Procedure Act, and the Fifth Amendment.

GROUND FOR HABEAS RELIEF

Petitioner's detention is unlawful for several independent reasons:

1. Petitioner's humanitarian parole remains valid. DHS issued a Form I-94 authorizing parole from July 6, 2024 through July 5, 2026, and Respondents have

1 never made an individualized determination revoking that parole as required by 8
2 U.S.C. §1182(d)(5)(A).

3 2. DHS lacks statutory authority to detain Petitioner. Removal proceedings were
4 dismissed and Petitioner has no final order of removal. Because Petitioner was
5 inspected and paroled into the United States, the border detention framework of 8
6 U.S.C. §1225 has concluded.

7
8 3. DHS cannot convert a previously paroled individual back into an arriving alien.
9 After inspecting and paroling Petitioner into the United States, DHS cannot
10 retroactively place him back into the border inspection framework.
11

12 4. Detention results from an unlawful categorical policy. Petitioner's detention stems
13 from a blanket policy cancelling parole for individuals who entered through the CBP
14 One process.
15

16 5. Detention violates the Fifth Amendment. DHS granted Petitioner liberty through
17 parole and authorized his presence until July 5, 2026. Detaining him without lawful
18 revocation of parole violates due process.
19

20 INTRODUCTION

21
22 1. Petitioner Jose Ernesto Razo-Gamboa ("Petitioner" or "Mr. Razo-Gamboa") is a
23 thirty-six-year-old, Mexican, asylum seeker detained at Eloy Detention Center in
24 Eloy, Arizona. He was persecuted in Mexico including suffering threats of physical
25 harm and violence because of his particular social group.
26

27 2. On July 6, 2024, Petitioner entered the United States through a scheduled
28

1 appointment at a port of entry using the CBP One application, a system created
2 by the Department of Homeland Security (“DHS”) to allow migrants to present
3 themselves for inspection at designated ports of entry.

- 4
- 5 3. After inspection, DHS exercised its authority under 8 U.S.C. §1182(d)(5)(A) to
6 grant Petitioner humanitarian parole. DHS issued Petitioner a Form I-94
7 Arrival/Departure Record authorizing parole from July 6, 2024, through July 5,
8 2026.
- 9
- 10 4. Petitioner therefore entered the United States lawfully pursuant to parole.
- 11
- 12 5. DHS initially initiated removal proceedings before the immigration court.
13 However, on August 5, 2024, the government itself moved to dismiss those
14 proceedings. The immigration court granted the motion and dismissed the case.
- 15
- 16 6. Following dismissal of proceedings, Petitioner continued residing in the United
17 States pursuant to his valid parole authorization.
- 18
- 19 7. On March 18, 2025, Petitioner filed an affirmative asylum application with
20 USCIS, which remains pending.
- 21
- 22 8. On February 28, 2026, while traveling within the United States, Petitioner
23 encountered an ICE checkpoint and was detained.
- 24
- 25 9. At the time of detention, Petitioner’s parole remained valid until July 5, 2026,
26 removal proceedings had already been dismissed, and his affirmative asylum
27 application was pending.
- 28
10. Because Petitioner’s parole has never been lawfully revoked, Respondents are
detaining an individual whom DHS itself authorized to remain in the United

States until July 5, 2026, as reflected on the Form I-94 issued at the port of entry.

11. Despite this posture, ICE detained Petitioner without making any individualized determination that he poses a flight risk or danger.

12. Petitioner's detention stems from a categorical policy cancelling parole for individuals who entered through the CBP One process.

JURISDICTION

13. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

14. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

15. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

16. Venue is proper because Petitioner is in Respondents' custody in Eloy, Arizona.

Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).

17. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England,

affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” Fay v. Noia, 372 U.S. 391, 400 (1963).

18. Petitioner is “in custody” for the purpose of § 2241 because Petitioner was arrested and is detained by Respondents.

PARTIES

19. Petitioner is a 36-year-old citizen of Mexico. Petitioner is present within the state of Arizona at the time of the filing of this petition.

20. Respondent Eric Rokosky is the Warden at Eloy Detention Center in Eloy, Arizona, where Mr. Razo-Gamboa is detained. LaRose is responsible for the day-to-day operations and confinement of noncitizens detained at that facility. He acts at the direction of Respondents Field Director, Lyons, and Noem. Rokosky is a custodian of Mr. Razo-Gamboa and is named in his official capacity.

21. Respondent, Field Office Director, is the Field Office Director for the Phoenix Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”). The Phoenix Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens. The Phoenix Field Office’s area of responsibility includes Eloy Detention Center. Respondent Field Director is a legal custodian of Petitioner.

22. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Field Director and ICE in general. Respondent Field Director is a legal custodian of Petitioner.

23. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

24. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

25. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

26. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

27. This action is commenced against all Respondents in their official capacities.

LEGAL FRAMEWORK

28. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

1 29. Noncitizens in immigration proceedings are entitled to Due Process under the
2 Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306
3 (1993).

4 30. The Immigration and Nationality Act (INA) sets the rules for detaining
5 noncitizens while the government decides whether they are removable. See 8
6 U.S.C. § 1226(a).

7 31. Custody determinations for individuals in 1229a removal proceedings are
8 governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he
9 does not present a danger to persons or property and is not a flight risk. *Zadvydas*
10 *v. Davis*, 533 U.S. 678, 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

11 32. Custody determinations under § 1226(a) are individualized and based on the facts
12 presented in those cases. Unlike § 1226(c), which can provide for categorical
13 determinations for detention regardless of flight risk or safety risks, § 1226(a)
14 requires a case-by-case review of the facts and circumstances.

15 33. Once a determination to release an individual from custody is made, the release
16 order may be revisited when the facts or circumstances warrant revocation or
17 reconsideration. 8 U.S.C. § 1226(b). For an individual who was once in custody,
18 the Attorney General may take that individual back into custody by revoking the
19 individual's release when the facts and circumstances warrant it.

20 34. Revocation and return to custody is authorized only based on individualized facts
21 and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are
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limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9).

FACTUAL BACKGROUND

35. Petitioner, Razo-Gamboa, entered the United States through a CBP One port-of-entry appointment.

36. DHS inspected the Petitioner and granted humanitarian parole valid through July 5, 2026.

37. DHS issued a Form I-94 confirming this authorization. (Exhibit A).

38. DHS later initiated removal proceedings.

39. On August 5, 2024, the government moved to dismiss those proceedings. The immigration judge granted that motion. (Exhibit B).

40. On March 18, 2025, Mr. Razo-Gamboa filed an affirmative asylum application with USCIS. (Exhibit C).

41. On or about February 28, 2026, ICE detained the Petitioner at a checkpoint inside the United States.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Administrative Procedure Act – Abuse of Discretion 5 U.S.C. § 706(2)(A)

42. Petitioner restates and realleges all preceding paragraphs as if fully set forth herein.

43. Under the Administrative Procedure Act (“APA”), a court shall “hold unlawful and set aside agency action” that is arbitrary, capricious, or an abuse of discretion. 5

U.S.C. § 706(2)(A).

44. An agency action constitutes an abuse of discretion where the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007), quoting *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

45. To survive review under the APA, the agency must articulate “a satisfactory explanation” for its action, including a rational connection between the facts found and the decision made. *Dep’t of Commerce v. New York*, 139 S. Ct. 2551, 2569 (2019).

46. Petitioner was inspected at a port of entry and granted humanitarian parole pursuant to 8 U.S.C. § 1182(d)(5)(A). DHS issued Petitioner a Form I-94 authorizing parole through July 5, 2026.

47. At the time of detention, Petitioner remained in valid parole status and had a pending affirmative asylum application with USCIS.

48. Respondents have never made any individualized determination revoking Petitioner’s parole.

49. Instead, Petitioner’s detention arises from a categorical policy cancelling parole for individuals who entered through the CBP One process, rather than any individualized review of Petitioner’s circumstances.

1 50. By categorically revoking Petitioner's liberty without considering his
2 individualized facts and circumstances, Respondents have failed to provide the
3 reasoned decision-making required by the APA.

4 51. Respondents have previously reviewed Petitioner's circumstances and determined
5 that he was not a flight risk or danger to the community when granting parole
6 and releasing him into the United States.

7 52. There have been no changes in Petitioner's individual circumstances that would
8 justify revocation of that determination.
9

10 53. Respondents' detention of Petitioner pursuant to a blanket policy rather than an
11 individualized determination therefore constitutes arbitrary and capricious
12 agency action in violation of the APA.
13

14
15 **COUNT TWO**

16 **Violation of the Administrative Procedure Act – Agency Action Not in**
17 **Accordance with Law and in Excess of Statutory Authority**
18 **5 U.S.C. § 706(2)(A)-(D)**

19 54. Petitioner restates and realleges all preceding paragraphs as if fully set forth
20 herein.

21 55. Under the APA, courts must set aside agency action that is "not in accordance
22 with law," "contrary to constitutional right," "in excess of statutory jurisdiction,"
23 or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D).
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25 56. Congress has authorized immigration detention only in limited circumstances
26 under the Immigration and Nationality Act.
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28 57. Those provisions include 8 U.S.C. §1225 governing detention during border

inspection, 8 U.S.C. §1226 governing detention during removal proceedings, and 8 U.S.C. §1231 governing detention following a final order of removal.

58. None of these statutory provisions authorize Petitioner's current detention.

59. Petitioner was inspected and granted humanitarian parole at a port of entry, concluding the border inspection framework governed by 8 U.S.C. §1225.

60. Removal proceedings against Petitioner were later dismissed by the immigration court on August 5, 2024, leaving no active removal proceedings.

61. Petitioner has no final order of removal.

62. Because none of the statutory detention provisions apply, Respondents lack statutory authority to detain Petitioner.

63. It is a fundamental principle of administrative law that agency action taken without lawful authority is void. *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1, 35 (D.D.C. 2020); *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016).

64. By detaining Petitioner without statutory authority and by disregarding the valid parole authorization issued by DHS, Respondents have acted in excess of statutory authority and not in accordance with law in violation of the APA

COUNT THREE

Violation of Fifth Amendment Right to Due Process Procedural Due Process

65. Petitioner restates and realleges all preceding paragraphs as if fully set forth herein.

1 66. The Due Process Clause of the Fifth Amendment prohibits the federal government
2 from depriving any person of liberty without due process of law.

3 67. The Supreme Court has made clear that due process protections apply to all
4 persons within the United States, including noncitizens. *Zadvydas v. Davis*, 533
5 U.S. 678, 693 (2001); *Reno v. Flores*, 507 U.S. 292, 306 (1993).
6

7 68. Freedom from physical restraint lies at the core of the liberty protected by the Due
8 Process Clause. *Zadvydas*, 533 U.S. at 690.
9

10 69. Petitioner was granted humanitarian parole and released into the United States
11 with authorization to remain until July 5, 2026.

12 70. That grant of parole created a significant liberty interest in remaining free from
13 detention absent lawful revocation of parole.
14

15 71. Respondents detained Petitioner without any individualized determination that
16 he poses a flight risk or danger, any lawful revocation of his parole status, or any
17 change in circumstances justifying detention.

18 72. Government action that deprives an individual of liberty must be rational and
19 non-arbitrary. *United States v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
20

21 73. Respondents' decision to detain Petitioner pursuant to a categorical policy
22 cancelling parole rather than an individualized determination violates the
23 procedural protections guaranteed by the Fifth Amendment.
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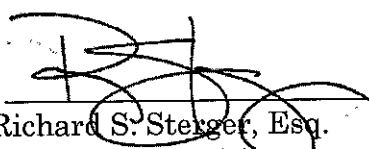
PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
3. Declare that Respondents' categorical termination of parole violates 8 U.S.C. §1182(d)(5)(A) and the Administrative Procedure Act;
4. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;
5. Enjoin Respondents from re-detaining Petitioner absent lawful revocation of parole consistent with statutory requirements;
6. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
7. Grant any further relief this Court deems just and proper.

Date: 03/10/2026

STERGER LAW GROUP, P.C.

By: 

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Jose Ernesto Razo-Gamboa