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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

M.D.

Petitioner

V.

CHRISTOPHER LAROSE,
Warden, Otay Mesa Detention
Center; PAMELA BONDI,
Attorney General of the United
States; TODD M. LYONS,
Acting Director, U.S. Immigration
and Customs Enforcement;
GREGORY ARCHAMBEAULT,
Field Office Director, U.S.
Immigration and Customs
Enforcement; KRISTI NOEM,
Secretary of U.S. Department of
Homeland Security,

Respondents.

Case No. '26CV1792 TWR SBC

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

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3 1. Petitioner, M.D.¹, by and through undersigned counsel, petitions this Court for a
4 writ of habeas corpus under 28 U.S.C. § 2241 to remedy his unlawful re-
5 detention by Respondents.

6 **INTRODUCTION**

- 7 2. Petitioner, M.D., hereby files this petition for writ of habeas corpus to compel
8 his immediate release from the immigration jail where he is being held by the
9 U.S. Department of Homeland Security (DHS) since being re-detained, without
10 first being provided a hearing to determine whether his incarceration is
11 justified.
- 12 3. Respondents paroled Petitioner into the United States for humanitarian reasons
13 on August 11, 2023, and issued an I-94. Exh. 1, I-94 under “DT” category.
- 14 4. After being granted parole and released, Petitioner established a life in
15 California. He timely applied for asylum, and U.S. Citizenship and Immigration
16 Services (USCIS) granted him a five-year Employment Authorization
17 Document. He obtained employment as a truck driver. Petitioner has no
18 criminal record.
- 19 5. On or about March 1, 2026, without any notice, process or opportunity to
20 respond, Respondents re-detained Petitioner at a truck stop while he was
21 lawfully working.
- 22 6. Petitioner is currently detained at the Otay Mesa City Detention Center.
- 23 7. Every day that Petitioner spends in detention subjects him to further irreparable
24 harm. Immediate relief is necessary to ensure that he is no longer subjected to
25 continued violations of his procedural rights.
- 26 8. Petitioner respectfully requests that this Court hold that his detention is
27 unlawful and order his immediate release from custody.

28 ¹ A separate motion to proceed with pseudonym is filed concurrently with this petition.

JURISDICTION

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

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

11. 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

12. Venue is proper because Petitioner is in Respondents' custody in the Otay Mesa Detention Center which is located in San Diego County, which is within the jurisdiction of the Southern District of California. Respondents are employees, officers or agents of the United States, acting in their official capacity. There is no real property involved in this action. For these reasons, venue is proper before this court. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

13. The court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

14. 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).

15. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is an immigration facility detained by Respondents.

PARTIES

16. Petitioner M.D. is a 43-year-old citizen of Kyrgyzstan who came to the U.S. seeking asylum. He is currently detained at the Otay Mesa Detention Center.

17. Respondent Christopher LaRose is the Warden of the Otay Mesa Detention Facility. Respondent LaRose oversees the day-to-day operations of the facility and acts at the direction of Respondents Noem, Bondi, and Lyons. LaRose is the custodian of Petitioner and is sued in his official capacity.

18. Respondent Pamela Bondi is the Attorney General of the United States and is sued in her official capacity as the head of the Department of Justice. The Attorney General is responsible for the fair administration of the laws of the United States.

19. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE) and is sued in his official capacity. ICE is responsible for the detention of Petitioner.

20. Respondent Gregory Archambeault is the Field Office Director for ICE Enforcement and Removal Operations in San Diego, California, which covers the Otay Mesa Detention Center, and is sued in his official capacity. In his official capacity, he is a legal custodian of Petitioner.

21. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and is sued in her official capacity. The Secretary of Homeland Security is charged with the administration and enforcement of immigration laws. 8 U.S.C. § 1103(a).

STATEMENT OF FACTS

22. Petitioner is a 43-year-old native and citizen of Kyrgyzstan. He was politically active in his country. The Kyrgyzstan authorities brutally persecuted him on account of his political beliefs and activities.

23. Petitioner presented himself for inspection at the United States border on August 11, 2023. Respondents granted Petitioner humanitarian parole so that he could pursue his asylum claim. Petitioner followed all conditions of his parole. Petitioner timely filed an I-589 Application for Asylum and Withholding of Removal. His asylum application is still pending.

24. Upon release from detention, Petitioner built a life in California. Respondents issued Petitioner a work permit valid for five years, and Petitioner worked as a truck driver.

25. On or about March 1, 2026, Petitioner was lawfully working as a truck driver when Respondents abruptly re-detained him at a truck stop.

26. Petitioner was not provided any notice or opportunity to be heard regarding any revocation of his parole or his re-detention. He has not been provided with any explanation as to why ICE removed him from his community and put him in a prison. He has not been deemed to be a threat to the community or a flight risk.

27. Petitioner cannot receive relief from a neutral arbiter without intervention of this Court. He brings this action for judicial intervention to compel his release from unlawful detention.

LEGAL FRAMEWORK

PETITIONER'S RE-DETENTION VIOLATES PROCEDURAL DUE PROCESS

28. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of life, liberty, or property, without due process of law. Due process protects "all 'persons' within

1 the United States, including [non-citizens], whether their presence here is
2 lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678,
3 693 (2001).

4 29. “Freedom from imprisonment—from government custody, detention, or other
5 forms of physical restraint—lies at the heart of the liberty that [the Due Process]
6 Clause protects.” *Zadvydas*, 533 U.S. at 690.

7 30. Although the initial decision to detain or release an individual from custody
8 may, in some circumstances, be within the government's discretion, the
9 government's decision to release an individual from custody creates “an implicit
10 promise,” upon which that individual may rely, that their liberty “will be
11 revoked only if they fail to live up to the . . . conditions of release.” *Pinchi v.*
12 *Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. July 24, 2025) (citing *Morrissey*
13 *v. Brewer*, 408 U.S. 471, 482 (1972)(cleaned up). This Court as well as other
14 courts have confirmed that “noncitizens released from immigration custody ...
15 have a liberty interest in their freedom that implicates protections under
16 principles of procedural due process.” *Bekler v. Noem*, 1:25-cv-01974-CDB at
17 *13 (E.D. Cal. Jan. 29, 2026).

18 31. The government may not unilaterally take that liberty away, as it is “well-
19 settled that due process requires adequate procedural protections to ensure that
20 the government’s asserted justification for physical confinement outweighs the
21 individual's constitutionally protected interest in avoiding physical restraint.”
22 *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017); *Zinerman v. Burch*,
23 494 U.S. 113, 127 (1990) (Generally, “the Constitution requires some kind of a
24 hearing *before* the State deprives a person of liberty or property.”) (emphasis in
25 original). In the immigration context, due process requires a hearing before a
26 neutral adjudicator at which the government bears the burden to demonstrate,
27 by clear and convincing evidence, that the noncitizen poses a flight risk or
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danger to the community. See *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); see also *Martinez v. Clark*, 124 F. 4th 775, 785-786 (9th Cir. 2024).

32. Petitioner's re-detention without a pre-deprivation hearing violated his rights under the United States Constitution to procedural due process. Over 2 ½ years after releasing Petitioner on humanitarian parole, Respondents re-detained Petitioner with no notice, no explanation for his re-detention, and without a hearing to determine whether Petitioner was a flight risk, a danger to the public, or that some other change in his circumstances warranted a deprivation of his continued liberty.

RE-DETENTION WITHOUT PROPER PROCESS VIOLATES THE STATUTE AND THE REGULATIONS

33. Upon Petitioner's initial encounter with DHS, Petitioner was paroled into the United States under 8 U.S.C. § 1182(d)(5), which provides that a noncitizen can be paroled on a case-by-case basis for "urgent humanitarian reasons or significant public benefit." The statute's promulgating regulations provide that parole under 8 C.F.R. § 212.5(a) may be terminated upon notice to the alien and "upon accomplishment of the purpose for which the parole was authorized. No such showing has been made here. The humanitarian purpose for which parole was authorized, i.e. to file an asylum claim, has not been accomplished because his asylum application remains pending and has not been adjudicated.

34. In reviewing similar cases, several courts have determined that just as a grant of parole requires an individualized review, revocation of parole also requires a case-by-case assessment to comply with the requirements of the INA. See *Bekler*, at *8 (E.D. Cal. Jan. 29, 2026); *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1138 (D. Ore. July 9, 2025); *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 146 (W.D.N.Y. July 16, 2025) ("both common sense and the words of the statute require parole revocation to be analyzed on a case-by-case basis and

1 that a decision to revoke parole ‘must attend to the reasons an individual
2 [noncitizen] received parole’.”)

3 35. As a result, Respondents’ revocation of Petitioner’s parole violates the terms of
4 the INA and its promulgating regulations.

5 **PETITIONER’S RE-DETENTION PURSUANT TO THE**
6 **RESPONDENT’S REDETENTION POLICY IS ARBITRARY AND**
7 **CAPRICIOUS UNDER THE APA**

8 36. The Administrative Procedure Act (APA) requires a reviewing court to “hold
9 unlawful and set aside” any agency action that is “arbitrary, capricious, an
10 abuse of discretion, or otherwise not in accordance with law,” 5 U.S.C §
11 706(2)(A).

12 37. In *Y-Z-L-H*, the court explained that “[A]n agency’s action can only survive
13 arbitrary or capricious review where it has articulated a satisfactory explanation
14 for its action including a rational connection between the facts found and the
15 choice made ... an administrative agency is not allowed to change direction
16 without some explanation of what it is doing and why.” *Y-Z-L-H*, 792 F. Supp.
17 at *1144 (citing *All. for the Wild Rockies v. Petrick*, 68 F.4th 475, 493 (9th Cir.
18 2023) and *Int’l Union, UAW v. NLRB*, 802 F.2d 969, 973-74 (7th Cir. 1986)).

19 38. In August 2023, Respondents determined that Petitioner was suitable for parole.
20 There were no changed circumstances between then and their re-detention of
21 Petitioner that would justify the revocation of parole; in fact, the only changes
22 weighed in even greater favor of parole. During his time on parole, Petitioner
23 has built a life in the U.S., developing community ties and lawfully working.
24 He complied with all laws and requirements of his parole.

25 39. On information and belief, Respondents revoked Petitioner’s prior grant of
26 parole and re-detained him pursuant to a policy enacted by unidentified
27 government officials in Washington, D.C. to arrest and re-detain noncitizens
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1 previously released on bond or parole without consideration of their individual
 2 circumstances. This constitutes a significant shift from the previous DHS
 3 practice of re-detaining noncitizens only after a material change in their
 4 individual circumstances. See, e.g., *Pinchi v. Noem*, 25-cv-05632-PCP at 4-5
 5 (Dec. 19, 2025)(discussing prior DHS detention practices and new DHS re-
 6 detention practices in the context of noncitizens subject to 8 U.S.C. § 1226(a)).
 7 See also *Bekler*, 1:25-cv-01974-CDB at *4 (“Where the release decision was
 8 made by a DHS officer ... the Government's practice has been to require a
 9 showing of changed circumstances before re-arrest (citing *Saravia v.*
 10 *Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017)).

11 40. Respondents have not provided a rational explanation for their decision to
 12 terminate Petitioner’s parole. Such decision is inconsistent with both their
 13 earlier decision to grant the parole as well as the Respondents’ own
 14 longstanding practice of only re-detaining noncitizens after a material change in
 15 their individual circumstances.

16 41. Respondents’ termination of Petitioner’s parole, and his subsequent arrest and
 17 re-detention, were arbitrary and capricious and a violation of the APA.

18 **CLAIMS FOR RELIEF**

19 **COUNT ONE**

20 **Violation of the Fifth Amendment Right to Due Process**

21
 22 42. Petitioner repeats and re-alleges the allegations contained in all preceding
 23 paragraphs of this Petition as if fully set forth herein.

24 43. The Due Process Clause of the Fifth Amendment to the U.S. Constitution
 25 prohibits the federal government from depriving any person of life, liberty, or
 26 property, without due process of law.
 27
 28

1 44. Due process requires adequate procedural protections to ensure that the
2 government's asserted justification for physical confinement outweighs the
3 individual's constitutionally protected liberty interest. In the immigration
4 context, due process requires a hearing before a neutral adjudicator at which the
5 government bears the burden to demonstrate, by clear and convincing evidence,
6 that the noncitizen poses a flight risk or danger to the community.

7 45. Here, Respondents failed to provide such a hearing or even any individualized
8 determination. Petitioner did not receive any notice or explanation as to why
9 Respondents chose to arrest and confine him in prison conditions. Instead, he
10 was abruptly re-detained without any notice or process while lawfully working.

11 46. Further, Respondents failed to make any showing that Petitioner posed a flight
12 risk or danger to the community.

13 47. Petitioner's re-detention without an individualized determination or pre-
14 deprivation hearing and without clear and convincing evidence that he posed a
15 flight risk or danger to the community violates his rights under the Constitution
16 to procedural due process.

17 **COUNT TWO**

18 **Violation of the INA, its Regulations and the APA**

19 **8 U.S.C. § 1182(d)(5)(A), 8 C.F.R. § 212.5(e)(2)(i), 5 U.S.C. § 706(2)(A)**

20
21 48. Petitioner repeats and re-alleges the allegations contained in all preceding
22 paragraphs of this Petition as if fully set forth herein.

23 49. The INA, with its implementing regulations, requires that humanitarian parole
24 be revoked only on a case-by-case basis after an individualized assessment and
25 determination that one of the following conditions exist: a) accomplishment of
26 the purpose for which parole was originally authorized or b) that neither
27
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humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States.

50. By revoking Petitioner's parole and re-detaining him without an individual assessment or legal justification, Respondents violated the INA, its implementing regulations, and also the APA as "ICE, like any agency, 'has the duty to follow its own federal regulations.'" *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017) (quoting *Haoud v. Ashcroft*, 350 F.3d 201, 205 (1st Cir. 2003)).

COUNT THREE

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

51. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

52. The APA requires a reviewing court to "hold unlawful and set aside" any agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," 5 U.S.C § 706(2)(A).

53. Respondents' re-detention policy is in violation of the APA as it is arbitrary and capricious because Respondents provided no explanation for it when implementing it, any subsequent rationalizations they have provided rest on legal error, their subsequent rationalizations ignore an "important aspect of the problem" and violate noncitizens' reliance interests and liberty interests. *Garro Pinchi v. Noem*, No. 25-cv-05632-PCP, 2025 WL 3691938 at 67 (N.D. Cal. Dec. 19, 2025).

54. Respondents' termination of Petitioner's parole, and his subsequent arrest and re-detention, were arbitrary and capricious and a violation of the APA.

PRAYER FOR RELIEF

Petitioner requests that this court:

- (1) Accept jurisdiction over this action;
- (2) Issue the writ of habeas corpus and order Respondents to show cause, within three days of Petitioner filing this petition, why the relief he seeks should not be granted; and set a hearing on this matter within five days of Respondents' return on the order to show cause (see 28 U.S.C. § 2243);
- (3) Order Petitioner's immediate release;
- (4) Alternatively, order a bond hearing before a neutral arbiter within 3 days of the Order at which Respondents have the burden of showing by clear and convincing evidence that Petitioner presents either a flight risk or a danger and at which Petitioner shall have the right to have an attorney present. If such a hearing is not held, order Petitioner's release.
- (5) Enjoin the Respondents from re-detaining Petitioner without providing at least ten (10) days' notice and a pre-deprivation bond hearing before this Court or, alternatively, another neutral arbiter, where the government shall have the burden of establishing by clear and convincing evidence that Petitioner has become a flight risk or a danger to the community, and Petitioner shall have the right to have an attorney present.
- (6) Order that Respondents return to Petitioner the property he had in his possession on the date of his arrest, including his work permit.
- (7) Award reasonable attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law;
- (8) Grant any other relief that the court may deem just and proper.

1 Date: March 21, 2026

Respectfully submitted,

3 /s/ Cara Jobson

4 Cara Jobson

Wiley & Jobson, LLP

Attorney for Petitioner

6 /s/ Joye Wiley

7 Joye Wiley

Wiley and Jobson, LLP

Attorney for Petitioner

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

11
12 I am submitting this verification on behalf of the Petitioner because I am
13 Petitioner's attorney. As the Petitioner's attorney, I hereby verify that the factual
14 statements made in the Petition for Writ of Habeas Corpus are true and correct to
the best of my knowledge.

15 Date: March 21, 2026

16 /s/ Cara Jobson