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

8
9 **ROSSANA CHIQUINQUIRA**
10 **FUENMAYOR ANGULO**

11 Petitioner

12 v.

13 **Christopher LAROSE**, Senior Warden, Otay
14 Mesa Detention Center;

15 **Markwayne MULLIN**, Secretary, U.S.
16 Department of Homeland Security;

17 **Todd LYONS**, Acting Director, U.S.
18 Immigration and Customs Enforcement;

19 **Todd BLANCHE**, Acting Attorney General of the
United States

20 Respondents
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Case No.: '26CV2191 JO BLM

Agency File No: 

**PETITION FOR WRIT OF
HABEAS CORPUS AND
REQUEST FOR ORDER TO
SHOW CAUSE WITHIN THREE
DAYS**

1 **INTRODUCTION**

2 1. Petitioner Rossana Chiquinquirá Fuenmayor Angulo respectfully submits this Petition
3 for a Writ of Habeas Corpus challenging her unlawful detention by the Department of Homeland
4 Security (“DHS”). Petitioner is a native and citizen of Venezuela who was encountered by U.S.
5 Border Patrol near Brownsville, Texas, on or about May 9, 2023, after entering the United States
6 without inspection. Following that encounter, DHS exercised its discretionary authority to parole
7 Petitioner into the United States pursuant to INA § 212(d)(5)(A). Petitioner was released from
8 custody and subsequently resided in the United States, where she applied for asylum, obtained
9 employment authorization, and lived at liberty for an extended period of time.

10 2. After her release, Petitioner remained in the United States. She filed an Application for
11 Asylum (Form I-589), which remains pending, and was granted employment authorization.
12 Petitioner resided in Florida during this period.

13 3. On or about February 13, 2026—nearly three years after her parole and release—
14 Petitioner was arrested by local law enforcement during a traffic stop in Florida for driving
15 without a license. Following that arrest, Immigration and Customs Enforcement (“ICE”) lodged
16 a detainer and took Petitioner into custody. She was subsequently transferred to the Otay Mesa
17 Detention Center, where she remains detained.

18 4. At the time of her arrest, Petitioner was already in removal proceedings under INA §
19 240 based on a Notice to Appear issued on August 27, 2025, which expressly alleges that she
20 had been paroled into the United States (*Exh. 1*). Despite this procedural posture—and
21 notwithstanding her prior parole and extended period of liberty—Petitioner has been treated as
22 subject to detention under INA § 235(b), thereby denying her access to a custody
23 redetermination hearing before an Immigration Judge. Because DHS has never lawfully
24 terminated that parole pursuant to 8 C.F.R. § 212.5(e), her parole remains legally operative.

25 5. On March 13, 2026, the Immigration Judge denied Petitioner’s request for a custody
26 redetermination solely on the ground that the Court lacked jurisdiction, concluding that
27 Petitioner was subject to mandatory detention under INA § 235 as an applicant for admission. As

1 a result, Petitioner has been denied access to an individualized, constitutionally adequate bond
2 hearing before a neutral decisionmaker.

3 6. The detention authority set forth in INA § 235(b) governs the inspection and admission
4 process at or near the border. That authority is event-based and applies only in connection with
5 the initial inspection of individuals seeking entry into the United States. Here, DHS exercised
6 that authority in 2023, when it encountered Petitioner at the border and elected to parole her into
7 the country. Once Petitioner was paroled and released from custody, the statutory predicate for
8 detention under INA § 235 ceased to exist. Any subsequent detention—particularly following a
9 warrantless interior arrest years later—must therefore proceed, if at all, under INA § 236(a),
10 which provides eligibility for an individualized bond hearing consistent with due process.

11 7. DHS’s attempt to reclassify Petitioner’s detention under INA § 235(b) nearly three
12 years after her parole, and following her placement in INA § 240 proceedings, is contrary to the
13 statutory framework, longstanding regulatory practice, and fundamental principles of due
14 process. Petitioner does not challenge the initiation of removal proceedings or the merits of
15 removability.

16 8. This petition challenges only the legal basis of her detention—specifically, DHS’s
17 unlawful classification of her custody under INA § 235(b) rather than INA § 236(a).
18 Because Petitioner has been denied access to an individualized custody determination before a
19 neutral decisionmaker, judicial intervention is necessary. Petitioner therefore seeks a writ of
20 habeas corpus ordering her release or, in the alternative, an order directing DHS to provide a
21 prompt, constitutionally adequate bond hearing consistent with the Due Process Clause, at which
22 the Department of Homeland Security bears the burden of proving, by clear and convincing
23 evidence, that Petitioner’s continued detention is necessary.

24 **CUSTODY**

25 9. Petitioner is currently in the legal and physical custody of Respondents and is detained
26 at the Otay Mesa Detention Center in San Diego, California.

1 **JURISDICTION AND VENUE**

2 10. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in the
3 custody of the Department of Homeland Security within this District and she challenges the
4 legality of that custody.

5 11. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises
6 under the Constitution and laws of the United States, including the Immigration and Nationality
7 Act and the Due Process Clause of the Fifth Amendment.

8 12. Neither 8 U.S.C. § 1252(g) nor § 1252(b)(9) strips this Court of jurisdiction. Section
9 1252(g) bars only challenges to the Attorney General’s discretionary decisions to “commence
10 proceedings, adjudicate cases, or execute removal orders,” not independent challenges to
11 unlawful detention. Likewise, § 1252(b)(9) consolidates review of removal orders in the courts
12 of appeals, but does not foreclose habeas review of detention claims, which are collateral to the
13 removal proceedings.

14 13. Venue is proper in this District under 28 U.S.C. § 1391(e) because Petitioner is
15 detained at the Otay Mesa Detention Center, which lies within the jurisdiction of this Court.

16 **PARTIES**

17 14. Petitioner, Rossana Fuenmayor, is a native and citizen of Venezuela currently
18 detained at the Otay Mesa Detention Center in San Diego, California.

19 15. Respondent Christopher LaRose is the Senior Warden of the Otay Mesa Detention
20 Center.

21 16. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland
22 Security (DHS).

23 17. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs
24 Enforcement (ICE).

25 18. Respondent Todd Blanche is the Acting Attorney General of the United States and
26 the head of the U.S. Department of Justice (DOJ).

27 19. All Respondents are named in their official capacities.

LEGAL FRAMEWORK

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2 20. The Immigration and Nationality Act (“INA”), codified at 8 U.S.C. § 1101 et seq.,
3 provides multiple detention authorities. For decades, courts, Congress, and agencies have
4 consistently distinguished between two distinct statutory frameworks: INA § 235 (8 U.S.C. §
5 1225), which governs applicants for admission encountered at or near the border, and INA § 236
6 (8 U.S.C. § 1226), which governs the arrest and detention of individuals already present in the
7 United States and placed in removal proceedings. The Supreme Court analyzed the interplay
8 between these provisions in *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

9 21. Section 1225 provides that, for purposes of initial inspection at the border, “an alien
10 who arrives in the United States or is present in this country but has not been admitted, is treated
11 as an applicant for admission.” *Jennings*, 583 U.S. at 287 (quoting 8 U.S.C. § 1225(a)(1)). The
12 Court explained that decisions concerning who may enter or remain in the United States
13 “generally begin at the Nation’s borders and ports of entry, where the Government must
14 determine whether an alien seeking to enter the country is admissible.” *Id.* Section 1225(b)
15 governs this inspection and admission process, applying primarily to individuals encountered at
16 or near the border, subjecting them either to expedited removal under § 1225(b)(1)—which
17 includes a credible-fear process for those expressing an intent to seek asylum—or to detention
18 pending a decision on admission under § 1225(b)(2). *Id.* at 297; see also *Dep’t of Homeland Sec.*
19 *v. Thuraissigiam*, 591 U.S. 103 (2020).

20 22. By contrast, § 1226(a) governs the detention of individuals who entered years ago and
21 were later apprehended in the interior, “pending a decision on whether [they are] to be removed
22 from the United States.” *Jennings*, 583 U.S. at 303. Unlike § 1225, which applies at the border, §
23 1226(a) authorizes the Attorney General to detain or release such individuals on bond or
24 conditional parole, except as provided in subsection (c), which applies only to a narrow category
25 of noncitizens with specified criminal or security-related grounds. *Id.* at 303, 306. Arrests made
26 pursuant to § 1226(a) are ordinarily executed on administrative warrants, and longstanding
27 regulations confirm that such individuals are eligible for Immigration Judge bond hearings. See 8

1 C.F.R. §§ 236.1(c)(8), 236.1(d)(1), 1236.1(d)(1); 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
2 Congress further described § 1226(a) as merely a “restatement” of prior detention authority
3 under former INA § 242(a), confirming its application to interior arrests pending removal. H.R.
4 Rep. No. 104-469, pt. 1, at 229 (1996).

5 23. For decades, detention under INA § 235(b) has been understood to apply in
6 connection with the inspection and admission process at or near the border, not to individuals
7 apprehended in the interior of the United States who were never subjected to that process.

8 24. Only in 2025 did DHS and the BIA begin advancing, in certain proceedings, a
9 contrary interpretation—asserting that noncitizens who entered without inspection must be
10 treated as subject to detention under § 1225(b)(2). This interpretation represented a departure
11 from decades of agency practice and contradicted settled expectations regarding custody
12 jurisdiction.

13 25. On July 8, 2025, U.S. Immigration and Customs Enforcement (“ICE”), in
14 coordination with the Department of Justice, issued Interim Guidance Regarding Detention
15 Authority for Applicants for Admission. The guidance asserted that noncitizens who entered
16 without inspection were subject to mandatory detention under INA § 235(b)(2)(A), regardless of
17 when or where they were apprehended, including individuals who had resided in the United
18 States for many years.

19 26. The Board of Immigration Appeals later adopted a similar statutory interpretation in
20 *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

21 27. INA § 235(b) authorizes detention only in connection with the inspection and
22 admission process. That authority is event-based, not status-based. Where a noncitizen is not
23 apprehended at or near the border and is not placed in the inspection process, the statutory
24 predicate for § 235 custody does not exist.

25 **FACTS**

26 28. On or about May 9, 2023, Petitioner was encountered by U.S. Border Patrol in the
27 Rio Grande Valley, Texas, after entering the United States without inspection.

1 29. Following that encounter, Petitioner was released from custody on parole pursuant to
2 INA § 212(d)(5)(A).

3 30. Petitioner thereafter resided in the United States at liberty, complied with applicable
4 requirements, and was issued employment authorization.

5 31. On August 27, 2025, DHS issued a Notice to Appear placing Petitioner in removal
6 proceedings under INA § 240.

7 32. Petitioner filed an Application for Asylum (Form I-589), which remains pending.

8 33. On February 13, 2026, Petitioner was arrested in Sarasota, Florida, following a traffic
9 stop and subsequently taken into ICE custody.

10 34. Following her arrest, Petitioner was transferred to the Otay Mesa Detention Center in
11 San Diego, California, where she remains detained.

12 35. On March 13, 2026, the Immigration Judge denied Petitioner's request for a custody
13 redetermination solely on the ground that the Court lacked jurisdiction, concluding that
14 Petitioner was subject to detention under INA § 235(b) (*Exh. 2*).

15 36. As a result of DHS's classification of her detention under INA § 235(b), Petitioner
16 has been denied access to an individualized, constitutionally adequate bond hearing before a
17 neutral decisionmaker.

18 37. Petitioner remains detained at the Otay Mesa Detention Center without having
19 received a constitutionally adequate bond hearing.

20 38. Absent relief from this Court, Petitioner will remain detained without a meaningful
21 opportunity to obtain a constitutionally adequate bond hearing at which the government bears the
22 burden of justifying continued detention.

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

24 39. Under 28 U.S.C. § 2243, the Court "must" grant the petition for a writ of habeas
25 corpus or issue an order to show cause ("OSC") "forthwith," unless the petitioner is not entitled
26 to relief. If an OSC is issued, the statute requires that Respondents file a return "within three
27

1 days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
2 (emphasis added).

3 40. Federal courts have long emphasized the importance of habeas corpus as a
4 protection against unlawful restraint. The Supreme Court has described the Great Writ as
5 “perhaps the most important writ known to the constitutional law of England, affording as it
6 does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v.*
7 *Noia*, 372 U.S. 391, 400 (1963).

8 41. Congress and the courts have repeatedly reaffirmed that habeas corpus must remain
9 a prompt and expeditious remedy. As the Ninth Circuit has explained, “The statute itself directs
10 courts to give petitions for habeas corpus ‘special, preferential consideration to insure
11 expeditious hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000)
12 (citation omitted). The court cautioned that delays in habeas proceedings risk creating the
13 impression “that courts are more concerned with efficient trial management than with the
14 vindication of constitutional rights.” *Id.*

15 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

16 42. In habeas corpus proceedings, exhaustion of administrative remedies is prudential,
17 not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive
18 prudential exhaustion where “administrative remedies are inadequate or not efficacious, pursuit
19 of administrative remedies would be a futile gesture, irreparable injury will result, or the
20 administrative proceedings would be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000
21 (9th Cir. 2004)). Here, exhaustion should be excused because administrative remedies are (1)
22 futile and (2) Petitioner’s continued detention results in irreparable harm.

23 43. Exhaustion would be futile because Respondents have classified Petitioner as subject
24 to mandatory detention under INA § 235(b). As a result, the Immigration Judge has already
25 determined that the Court lacks jurisdiction to conduct a custody redetermination hearing. Where
26 DHS asserts that § 235(b) applies, Immigration Judges routinely conclude that they lack
27 authority to review custody. Because no administrative mechanism exists to obtain custody

1 review under DHS’s asserted classification, any attempt to exhaust administrative remedies
2 would be entirely futile.

3 44. Moreover, no statutory exhaustion requirement applies to Petitioner’s claim that her
4 detention violates the Constitution and the INA. Constitutional claims and pure questions of law
5 —such as whether DHS has statutory authority to detain Petitioner under INA § 235(b)
6 following her release on parole—fall outside the agency’s adjudicatory competence. See *Am.-*
7 *Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995); *In re Indefinite*
8 *Detention Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000). There is no administrative forum
9 that can decide whether DHS may lawfully subject Petitioner to detention under INA § 235(b)
10 under these circumstances.

11 45. Finally, Petitioner suffers irreparable harm for each additional day she remains
12 unlawfully detained. Her detention has caused significant emotional distress and deterioration of
13 her mental and physical well-being. Courts routinely excuse exhaustion where prolonged or
14 unlawful detention inflicts irreparable injury. See *De Paz Sales v. Barr*, No. 19-cv-07221-KAW,
15 2020 WL 353465, at *4 (N.D. Cal. Jan. 21, 2020).

16 **LEGAL FRAMEWORK**

17 46. When a noncitizen is encountered by immigration authorities at or near the border
18 and expresses a fear of return, the Department of Homeland Security may either detain the
19 individual or release them into the United States on parole while their case proceeds.

20 47. The Immigration and Nationality Act provides that DHS “may ... in [the Secretary’s]
21 discretion parole” a noncitizen into the United States “on a case-by-case basis for urgent
22 humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A).

23 48. Once DHS grants parole under § 1182(d)(5)(A), that parole may only be terminated
24 before its expiration when “the purposes of such parole shall ... have been served,” or when
25 “neither humanitarian reasons nor public benefit warrants the continued presence of the alien.” 8
26 C.F.R. § 212.5(e)(2)(i). The regulation requires an individualized determination; DHS must
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1 identify the purpose of parole and show that it has been accomplished or that the reasons
2 supporting parole no longer exist.

3 49. Release on parole is an express statutory exception to detention. *Jennings v.*
4 *Rodriguez*, 583 U.S. 281, 300 (2018). The statute requires that parole decisions—including
5 termination—be made “only on a case-by-case basis” and tied to the individual circumstances of
6 the person. 8 U.S.C. § 1182(d)(5)(A). The individualized nature of parole is a central statutory
7 requirement, and parole may not be terminated through blanket or categorical actions.

8 50. Recent decisions in this District confirm that parole may be terminated only in strict
9 compliance with the grounds and procedures established in 8 C.F.R. § 212.5(e). In *Arias v.*
10 *LaRose*, No. 3:25-cv-02595-BTM-MMP (S.D. Cal. Nov. 25, 2025), the court held that DHS
11 acted unlawfully when it attempted to terminate humanitarian parole through a “mass form
12 email,” provided no individualized explanation, and failed to demonstrate that the purpose of
13 parole had been served or that humanitarian reasons no longer justified parole. The court
14 emphasized that parole termination requires a case-by-case, individualized determination tied to
15 the parolee’s specific circumstances, and that categorical or boilerplate notices do not satisfy §
16 212.5(e). Here, as in *Arias*, DHS never issued an individualized determination or complied with
17 the regulatory procedures for terminating parole before re-detaining Petitioner and subjecting her
18 to custody under INA § 235(b).

19 51. Under the Administrative Procedure Act, agency action must not be “arbitrary” or
20 “capricious.” 5 U.S.C. § 706(2)(A). DHS must provide a rational explanation for its action, based
21 on consideration of relevant factors. *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019).
22 Terminating parole without individualized findings violates both the statute and the APA.

23 52. Immigration detention is civil, not punitive. It is constitutionally permissible only
24 when justified by legitimate governmental interests—namely, ensuring appearance at
25 proceedings and protecting the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
26 Detention must always comport with due process.

1 53. “Freedom from imprisonment—from government custody, detention, or other forms
2 of physical restraint—lies at the heart of the liberty that the Due Process Clause protects.”
3 *Zadvydas*, 533 U.S. at 690. Due Process protections apply to “all persons” in the United States,
4 regardless of their immigration status. *Id.* at 693.

5 54. Parolees have a substantial liberty interest. As the Supreme Court explained, a parolee
6 —though subject to certain conditions—“can be gainfully employed and is free to be with family
7 and friends and to form the other enduring attachments of normal life.” *Morrissey v. Brewer*, 408
8 U.S. 471, 482 (1972). The termination of that liberty interest “inflicts a grievous loss” and
9 therefore requires Due Process. *Id.*

10 55. The Supreme Court further held that individuals granted parole rely on the implicit
11 governmental assurance that their parole will not be revoked arbitrarily or without cause.
12 Termination requires procedural safeguards proportionate to the importance of the liberty interest
13 at stake. *Id.* at 483–84.

14 56. “Adequate, or due, process depends upon the nature of the interest affected.”
15 *Haygood v. Younger*, 769 F.2d 1350, 1355–56 (9th Cir. 1985) (en banc). Because the liberty
16 interest in remaining on parole is substantial, the government must provide meaningful
17 procedural protections before revocation.

18 57. The Constitution requires immigration agencies to “turn square corners” when acting
19 in ways that affect individuals’ rights and lawful presence. *Dep’t of Homeland Sec. v. Regents of*
20 *the Univ. of Cal.*, 591 U.S. 1, 24 (2020). Where the government confers a lawful status—such as
21 parole—it must comply with both statutory and constitutional Due Process requirements before
22 revoking it.

23 **CLAIM FOR RELIEF**

24 **COUNT 1**

25 **Violation of the Due Process Clause of the Fifth Amendment**

26 58. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, all
27 preceding paragraphs.

1 59. The Due Process Clause of the Fifth Amendment prohibits the federal government
2 from depriving any person of “life, liberty, or property, without due process of law.” U.S.
3 CONST. amend. V. This protection applies to all persons within the United States, including
4 noncitizens, “whether their presence here is lawful, unlawful, temporary, or permanent.”
5 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

6 60. Neither Petitioner nor her counsel received any notice that DHS intended to detain
7 her, terminate her parole, or assert that she was subject to detention under 8 U.S.C. § 1225(b).
8 Petitioner was taken into ICE custody following her arrest in Florida without prior notice or any
9 meaningful opportunity to be heard, despite having been previously released on parole and
10 having complied with the conditions of that release. Nothing in the record indicates that
11 Petitioner poses any danger to the community or any risk of flight.

12 61. Because Petitioner is a parolee with a recognized liberty interest—one that cannot be
13 revoked absent individualized process—her sudden detention without notice or any opportunity
14 to be heard violates the Due Process Clause. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)
15 (requiring notice and an opportunity to be heard prior to deprivation of a protected liberty
16 interest); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (parole revocation inflicts a “grievous
17 loss” and requires minimum due process protections).

18 **COUNT 2**

19 **Violation of the Administrative Procedure Act**

20 62. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, the
21 allegations in the paragraphs above.

22 63. Under the APA, a court shall “hold unlawful and set aside agency action” that is an
23 abuse of discretion. 5 U.S.C. § 706(2)(A).

24 64. An action is an abuse of discretion if the agency “entirely failed to consider an
25 important aspect of the problem, offered an explanation for its decision that runs counter to the
26 evidence before the agency, or is so implausible that it could not be ascribed to a difference in
27 view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551

1 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto.*
2 *Ins. Co.*, 463 U.S. 29, 43 (1983)).

3 65. To survive an APA challenge, the agency must articulate “a satisfactory explanation”
4 for its action, “including a rational connection between the facts found and the choice made.”
5 *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019).

6 66. Recent decisions in this District likewise confirm that DHS must provide a coherent,
7 individualized explanation before terminating parole. In *Rodriguez Fernandez v. Noem*, No. 25-
8 cv-03399-DMS-KSC (S.D. Cal. Dec. 22, 2025), the court held that DHS violated due process
9 where it detained a parolee without providing written notice or an individualized determination
10 terminating parole, and ordered release within 48 hours. Likewise, in *Ayala Perez v. Noem*, No.
11 3:25-cv-03777-CAB-JLB (S.D. Cal. Jan. 14, 2026), the court held that detention violated 8
12 C.F.R. § 212.5(e) where DHS failed to provide written notice revoking parole and ordered
13 immediate release under the same conditions that existed prior to re-detention. See also *Arias v.*
14 *LaRose*, No. 3:25-cv-02595-BTM-MMP (S.D. Cal. Nov. 25, 2025).

15 67. By revoking Petitioner’s parole without providing any explanation or individualized
16 determination, and without complying with the requirements of 8 C.F.R. § 212.5(e), Respondents
17 have violated the Administrative Procedure Act.

18 68. Respondents further acted arbitrarily and capriciously by detaining Petitioner without
19 providing any lawful or reasoned explanation for the asserted basis of detention, and without
20 identifying why detention—rather than continued parole—was justified.

21 69. Respondents have made no individualized finding that Petitioner poses a danger to
22 the community or a risk of flight.

23 70. Petitioner was taken into ICE custody following her arrest in Florida, despite having
24 previously been released on parole and having complied with the conditions of that release. Her
25 conduct reflects compliance with the immigration process, not any attempt to flee or evade
26 lawful supervision.

1 71. By detaining Petitioner without any individualized assessment, Respondents have
2 further abused their discretion because there have been no material changes to her circumstances
3 since the agency initially determined that parole was appropriate.

4 72. DHS previously exercised its discretionary parole authority under 8 U.S.C. § 1182(d)
5 (5)(A) on a case-by-case basis when it paroled Petitioner into the United States. Petitioner
6 thereafter complied with all conditions of release. There have been no materially changed
7 circumstances identified by DHS that would justify terminating parole or imposing detention.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Petitioner respectfully requests that this Court:

- 10 A) Assume jurisdiction over this matter;
- 11 B) Direct Respondents to refrain from transferring Petitioner outside the jurisdiction of this
12 District while these proceedings are pending;
- 13 C) Issue an Order to Show Cause within three (3) days pursuant to 28 U.S.C. § 2243, requiring
14 Respondents to explain the legal basis for Petitioner's continued detention;
- 15 D) Declare that Petitioner is not lawfully detained under INA § 235(b), and that, because
16 Petitioner was previously encountered at the border, processed, and released on parole, any
17 continued detention must proceed under INA § 236(a);
- 18 E) Declare that, by depriving Petitioner of any meaningful opportunity to seek release, her
19 continued detention violates the Immigration and Nationality Act and the Due Process Clause of
20 the Fifth Amendment;
- 21 F) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately from
22 custody, or, in the alternative, order a constitutionally adequate bond hearing consistent with due
23 process, at which the Department of Homeland Security bears the burden of proving, by clear
24 and convincing evidence, that Petitioner's continued detention is necessary to prevent flight or
25 danger to the community;

1 G) Order that Respondents may not re-detain Petitioner without first providing a pre-deprivation
2 custody hearing before a neutral decisionmaker at which Respondents must demonstrate that
3 there are material changed circumstances justifying detention;

4 H) Grant such other and further relief as the Court deems just and proper.

5 Respectfully submitted,

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

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12 Counsel for Petitioner

13 Dated: April 6, 2026

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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I submit this verification as counsel for Petitioner in this action. The factual allegations contained in the Petition are based on information provided to me by Petitioner during a personal interview at the Otay Mesa Detention Center, as well as my review of available immigration records, including the Notice to Appear, and the Immigration Judge’s custody redetermination order.

Based on my review of those records and communications, and to the best of my knowledge, information, and belief, the factual statements in the Petition accurately reflect Petitioner’s circumstances and the procedural history of her detention.

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

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Counsel for Petitioner

Dated: April 6, 2026