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

8
9 **SIVERLINC POINT DUJOUR,**

10 Petitioner,

11 v.

12 **Christopher LAROSE**, Senior Warden, Otay

13 Mesa Detention Center;

14 **Markwayne MULLIN**, Secretary, U.S.

15 Department of Homeland Security;

16 **Todd LYONS**, Acting Director, U.S.

17 Immigration and Customs Enforcement;

18 **Todd BLANCHE**, Acting Attorney General of the

19 United States, U.S. Department of Justice.

20 Respondents
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Case No.: '26CV2207 JES MSB



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

1 a parolee as a matter of law because DHS had never lawfully terminated his parole in accordance
2 with 8 C.F.R. § 212.5(e).

3 8. Because DHS has never terminated Petitioner's parole in accordance with 8 C.F.R. §
4 212.5(e), his parole remains legally operative. Petitioner therefore remains a parolee as a matter
5 of law, and DHS lacks statutory authority to detain him under 8 U.S.C. § 1225(b).

6 9. Federal courts in this District have repeatedly granted habeas relief and ordered the
7 immediate release of parolees detained under materially indistinguishable circumstances. In
8 *Ayala Perez v. Noem*, No. 3:25-cv-03777-CAB-JLB (S.D. Cal. Jan. 14, 2026), the court granted
9 habeas relief where DHS detained a parolee without providing written notice terminating parole.
10 In *Rodriguez Fernandez v. Noem*, No. 25-cv-03399-DMS-KSC (S.D. Cal. Dec. 22, 2025), the
11 court ordered release within 48 hours and held that re-detention requires a pre-deprivation
12 hearing. Most recently, in *Hernandez v. LaRose*, Case No. 26cv0903 (S.D. Cal. Mar. 18, 2026),
13 the court granted habeas relief under materially identical facts and ordered release within 48
14 hours, holding that re-detention of parolees without notice or an opportunity to be heard violates
15 due process.

16 10. Absent intervention by this Court, no neutral adjudicator will review the legality of
17 Petitioner's detention. Immigration Judges lack jurisdiction to review custody determinations
18 where DHS classifies a parolee as subject to § 235(b). Without habeas relief, Respondents will
19 continue to detain Petitioner despite the absence of any lawful termination of parole. Petitioner
20 therefore respectfully requests that this Court declare his detention unlawful and order his
21 immediate release.

22 **CUSTODY**

23 11. Petitioner is currently in the legal and physical custody of Respondents and is
24 detained at the Otay Mesa Detention Center in San Diego, California, within the jurisdiction of
25 this Court.

1 **JURISDICTION AND VENUE**

2 12. This action arises under the United States Constitution and the Immigration and
3 Nationality Act, 8 U.S.C. § 1101 et seq., INA § 101 et seq., to challenge Petitioner’s detention
4 under the INA and any inherent or plenary powers the government may claim to continue
5 holding him.

6 13. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United
7 States Constitution; and 28 U.S.C. § 1331, as Petitioner is presently in Respondents’ custody
8 under the United States’ color of authority, and such custody violates the Constitution, laws, or
9 treaties of the United States. This Court’s jurisdiction is not limited by a petitioner’s nationality,
10 status as an immigrant, or any other classification. See *Boumediene v. Bush*, 553 U.S. 723, 747
11 (2008). This Court may grant relief under U.S. CONST. art. I, § 9, cl. 2; U.S. CONST. amends.
12 V and VIII; 28 U.S.C. §§ 1361 (mandamus), 1651 (All Writs Act), and 2241 (habeas corpus).

13 14. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Petitioner’s
14 detention. Federal district courts possess broad authority to issue writs of habeas corpus when a
15 person is held “in custody in violation of the Constitution or laws or treaties of the United States”
16 (28 U.S.C. § 2241(c)(3)), and this authority extends to immigration detention challenges that
17 survived the REAL ID Act’s jurisdictional restrictions.

18 15. Because Petitioner seeks the traditional habeas remedy of release from allegedly
19 unlawful detention rather than additional administrative review of his underlying claims, his
20 petition presents precisely the type of threshold legality-of-detention question that § 2241 was
21 designed to address. See *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); see also *Lopez-Marroquin v.*
22 *Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh*, 638 F.3d at 1211–12). No court has ruled
23 on the legality of Petitioner’s detention.

24 16. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because a
25 substantial part of the events or omissions giving rise to this claim have occurred here, Petitioner
26 is detained here, and his custodian resides here. Venue is also proper under 28 U.S.C. § 2243
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1 because Petitioner's immediate custodian resides in this District. See *Rumsfeld v. Padilla*, 542
2 U.S. 426, 451–52 (2004) (Kennedy, J., concurring).

3 17. Sections 8 U.S.C. §§ 1252(b)(9) and 1252(g) do not bar this Court's jurisdiction
4 because Petitioner challenges only the legality of his detention, not the validity of removal
5 proceedings or any removal order. Federal courts have consistently recognized that habeas
6 corpus remains available to review the statutory and constitutional basis of immigration
7 detention. Petitioner's claims therefore fall squarely within this Court's habeas jurisdiction under
8 28 U.S.C. § 2241.

9 PARTIES

10 18. Petitioner, Siverlince Point Dujour, is a citizen of Haiti currently detained at the Otay
11 Mesa Detention Center in San Diego, California, within the jurisdiction of this Court.

12 19. Respondent Christopher LaRose is the Senior Warden of the Otay Mesa Detention
13 Center.

14 20. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland
15 Security (DHS).

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

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

20 23. All Respondents are named in their official capacities.

21 STATEMENT OF FACTS

22 24. Petitioner Siverlince Point Dujour is currently detained at the Otay Mesa Detention
23 Center in San Diego, California.

24 25. Petitioner is a citizen of Haiti who presented himself for inspection at a port of entry
25 after securing an appointment through the CBP One mobile application.

1 26. On or about July 26, 2024, the Department of Homeland Security exercised its
2 statutory authority under INA § 212(d)(5)(A) to parole Petitioner into the United States and
3 issued Petitioner a Form I-94 reflecting that grant of parole. (*Exh. 1*).

4 27. After being paroled into the United States, Petitioner complied with all conditions of
5 his release and remained at liberty in the United States.

6 28. DHS never issued Petitioner any written notice terminating his parole pursuant to 8
7 C.F.R. § 212.5(e), nor did it make any individualized determination that the purposes of parole
8 had been served.

9 29. Instead, DHS relied on a mass, categorical communication sent to parolees purporting
10 to terminate parole without individualized review. That communication did not provide any case-
11 specific justification and did not comply with the procedural requirements governing termination
12 of parole.

13 30. On March 1, 2026, Petitioner was arrested at a U.S. Border Patrol checkpoint in the
14 interior of the United States near Jamul, California.

15 31. At the time of his arrest, Petitioner remained a parolee as a matter of law because
16 DHS had never lawfully terminated his parole in accordance with 8 C.F.R. § 212.5(e).

17 32. Following his arrest, Petitioner was transferred into ICE custody and transported to
18 the Otay Mesa Detention Center in San Diego, California, where he remains detained.

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

20 33. Under 28 U.S.C. § 2243, the Court “must” grant the petition for a writ of habeas
21 corpus or issue an order to show cause (“OSC”) “forthwith,” unless the petitioner is not entitled
22 to relief. If an OSC is issued, the statute requires that Respondents file a return “within three
23 days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
24 (emphasis added).

25 34. Federal courts have long emphasized the importance of habeas corpus as a
26 protection against unlawful restraint. The Supreme Court has described the Great Writ as
27 “perhaps the most important writ known to the constitutional law of England, affording as it

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

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

10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

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

18 37. Exhaustion would be futile because DHS has asserted that Petitioner is subject to
19 detention under 8 U.S.C. § 1225(b), and Immigration Judges lack jurisdiction to conduct custody
20 redetermination hearings for individuals DHS classifies as subject to § 235(b) or designates as
21 Arriving Aliens. See 8 C.F.R. § 1003.19(h)(2)(i)(B). In this District, Immigration Judges
22 routinely state on the record that they lack authority to review custody where DHS invokes §
23 235(b). If Petitioner were to request a bond hearing, DHS would rely on its asserted statutory
24 classification to block review, and the Immigration Judge would be required to decline
25 jurisdiction. Because no administrative mechanism exists to obtain custody review under DHS’s
26 asserted detention authority, any attempt to exhaust administrative remedies would be futile.

1 (i). The regulation requires an individualized determination and written notice; DHS must
2 identify the purpose of parole and show that it has been accomplished or that the reasons
3 supporting parole no longer exist.

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

9 44. Federal courts have recognized that immigration parole may be terminated only in
10 strict compliance with the procedures set forth in 8 C.F.R. § 212.5(e). For example, in *Arias v.*
11 *LaRose*, No. 3:25-cv-02595-BTM-MMP (S.D. Cal. Nov. 25, 2025), the court held that DHS
12 acted unlawfully when it attempted to terminate humanitarian parole through a mass form notice
13 without providing an individualized explanation or demonstrating that the purpose of parole had
14 been served or that humanitarian reasons no longer justified continued presence in the United
15 States. Likewise, in *Gonzalez Salazar v. Casey*, No. 25-cv-2784-JLS (S.D. Cal. Nov. 3, 2025),
16 the court granted habeas relief and ordered release where DHS revoked parole without providing
17 notice, a reasoned explanation, or an opportunity to be heard. These decisions confirm that once
18 DHS releases a noncitizen on parole, the government must comply with the procedures required
19 by 8 C.F.R. § 212.5(e) and the Due Process Clause before depriving that individual of liberty.
20 Here, as in those cases, DHS never issued an individualized determination or complied with the
21 regulatory procedures governing termination of parole before detaining Petitioner.

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

26 46. Immigration detention is civil, not punitive. It is constitutionally permissible only
27 when justified by legitimate governmental interests—namely, ensuring appearance at

1 proceedings and protecting the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

2 Detention must always comport with due process.

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

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

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

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

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

25 **CLAIM FOR RELIEF**

26 **COUNT 1**

27 **Violation of Due Process U.S. Constitution Amendment V**

- 1 D) Declare that Petitioner's parole was never lawfully terminated, remains in effect, and that his
2 continued detention under 8 U.S.C. § 1225(b) is unlawful;
- 3 E) Declare that Respondents lack statutory authority to detain Petitioner under 8 U.S.C. §
4 1225(b);
- 5 F) Declare that Respondents' actions treating Petitioner's parole as terminated and detaining him
6 under 8 U.S.C. § 1225(b)(2) without lawfully terminating parole were arbitrary, capricious, an
7 abuse of discretion, and not in accordance with law, in violation of the Administrative Procedure
8 Act, 5 U.S.C. § 706(2);
- 9 G) Set aside Respondents' unlawful action under the Administrative Procedure Act, pursuant to
10 5 U.S.C. § 706(2)(A);
- 11 H) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from
12 custody under the same or similar conditions previously imposed pursuant to his grant of parole;
- 13 I) In the alternative, order a constitutionally adequate custody hearing before a neutral
14 adjudicator at which DHS bears the burden of justifying Petitioner's continued detention by clear
15 and convincing evidence, including consideration of less restrictive alternatives and Petitioner's
16 ability to pay any bond imposed;
- 17 J) Enjoin Respondents from re-detaining Petitioner absent a lawful termination of parole in
18 compliance with 8 C.F.R. § 212.5(e) or a constitutionally adequate custody determination based
19 on materially changed circumstances;
- 20 K) Enjoin Respondents from transferring Petitioner outside this District without prior approval of
21 this Court;
- 22 L) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. §
23 2412, and any other basis authorized by law; and
- 24 M) Grant such other and further relief as the Court deems just and proper.

25 Respectfully submitted,

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