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

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9 **SIVERLINC POINT DUJOUR,**

Case No.: 26-cv-02207-JES-MSB

10
11
12 Petitioner

13 v.

Judge: Hon. James E. Simmons Jr

PETITIONER'S TRAVERSE

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15 **CHRISTOPHER LAROSE, et al.,**

16 Respondents
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18 Petitioner respectfully submits this Traverse pursuant to the Court's Order directing
19 Respondents to file a Return addressing the Petition for Writ of Habeas Corpus.

20 **I. Procedural Posture and Scope of the Traverse**

21 Petitioner submits this Traverse in response to Respondents' Return to the Petition for
22 Writ of Habeas Corpus. The Petition presents a narrow threshold issue: whether Respondents
23 may lawfully detain a parolee where humanitarian parole has not been terminated in accordance
24 with 8 C.F.R. § 212.5(e) and the requirements of due process.

25 The Return does not meaningfully dispute that issue. Respondents do not contend that
26 Petitioner's parole was terminated pursuant to 8 C.F.R. § 212.5(e), do not identify any written
27 notice of termination, and do not assert that any individualized determination was made to
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1 revoke parole. To the contrary, Respondents acknowledge that they lack information regarding
2 whether parole was ever terminated and concede that courts in this District have rejected their
3 position under materially indistinguishable facts. Respondents further state that they do not
4 oppose the Petition and instead suggest a bond hearing as a potential remedy.

5 Accordingly, the issue before the Court is straightforward: whether Respondents may
6 continue to detain Petitioner in the absence of lawful termination of parole and compliance with
7 governing regulatory and constitutional requirements. Petitioner addresses these points below
8 and otherwise incorporates and preserves the arguments set forth in the Petition.

9 **II. Petitioner's Parole Was Never Lawfully Terminated Under 8 C.F.R. § 212.5(e)**

10 Petitioner was granted humanitarian parole pursuant to INA § 212(d)(5)(A), as evidenced
11 by the issuance of a valid Form I-94. That grant of parole remained legally operative at the time
12 of Petitioner's re-detention.

13 Under 8 C.F.R. § 212.5(e), parole may be terminated only upon an individualized
14 determination that the purpose of parole has been accomplished or that neither humanitarian
15 reasons nor public benefit warrants the noncitizen's continued presence in the United States. The
16 regulation further requires that such termination occur upon written notice to the parolee.

17 Respondents do not contend that these requirements were satisfied. The Return does not
18 identify any written notice terminating Petitioner's parole, does not assert that any individualized
19 determination was made pursuant to 8 C.F.R. § 212.5(e), and does not describe any action taken
20 by the Department of Homeland Security to lawfully revoke parole. To the contrary,
21 Respondents acknowledge that they lack information regarding whether parole was ever
22 terminated.

23 Absent compliance with the regulatory framework governing termination of parole,
24 Petitioner's grant of parole remains in effect. Because Respondents do not contend that parole
25 was lawfully terminated in accordance with 8 C.F.R. § 212.5(e), they have not established a
26 lawful basis to re-detain Petitioner following his release on parole.

1 Courts in this District have consistently rejected the argument that a bond hearing can
2 cure unlawful re-detention where the Government failed to comply with the regulatory and
3 constitutional requirements governing termination of parole. Where parole has not been lawfully
4 terminated, the Government lacks authority to re-detain the parolee in the first instance. A bond
5 hearing presupposes lawful custody; it does not supply it.

6 In materially indistinguishable cases, courts have held that the Government's failure to
7 provide written notice of termination, an individualized determination, and the required
8 procedural protections renders the re-detention unlawful and requires release. The suggestion
9 that a post hoc bond hearing may be provided does not cure the underlying violation or
10 retroactively legitimize detention that was unlawful from its inception.

11 Here, Respondents do not contend that Petitioner's parole was terminated in compliance
12 with 8 C.F.R. § 212.5(e), do not identify any written notice, and do not assert that any procedural
13 safeguards were provided prior to re-detention. Because the Government failed to comply with
14 the mandatory framework governing termination of parole, Petitioner's detention is unlawful ab
15 initio.

16 Accordingly, a bond hearing is not a lawful substitute for compliance with the regulatory
17 and constitutional requirements governing revocation of parole. The appropriate remedy is
18 immediate release, not the provision of additional procedures to justify continued detention.

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

20 **A. Respondents Bear the Burden Under 28 U.S.C. § 2243**

21 In a habeas proceeding, Respondents bear the burden of demonstrating lawful authority
22 for Petitioner's continued detention. The Court ordered Respondents to show cause why the writ
23 should not issue. That burden requires Respondents to identify both the factual and legal basis
24 for custody.

25 Respondents have not met that burden. The Return does not contend that Petitioner's
26 parole was terminated in accordance with 8 C.F.R. § 212.5(e), does not identify any written
27 notice of termination, and does not assert that any individualized determination was made prior
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1 to re-detention. Respondents further acknowledge that they lack information regarding whether
2 parole was ever terminated.

3 Absent a showing that parole was lawfully terminated and that the regulatory and
4 procedural requirements governing revocation were satisfied, Respondents have not established
5 any lawful basis for Petitioner's detention. Accordingly, they have failed to carry their burden
6 under 28 U.S.C. § 2243.

7 **B. Respondents Do Not Oppose the Petition**

8 Respondents further concede that they do not oppose the Petition. The Return
9 acknowledges that courts in this District have rejected Respondents' position under materially
10 indistinguishable facts and defers to the Court regarding the appropriate remedy.

11 This lack of opposition underscores that there is no genuine dispute regarding the
12 dispositive issue presented in the Petition. Respondents do not contend that parole was lawfully
13 terminated, do not dispute that no written notice was provided, and do not assert that any
14 procedural safeguards were afforded prior to re-detention.

15 Where Respondents neither justify custody nor oppose relief, and where the record
16 demonstrates that detention was imposed without compliance with governing regulations and
17 due process, the writ must issue.

18 **VI. Consistent Authority Requires Immediate Release**

19 Courts across the Southern, Central, and Eastern Districts of California have consistently
20 held that where the Government re-detains a parolee without complying with 8 C.F.R. § 212.5(e)
21 and without providing the required procedural safeguards, detention is unlawful and the
22 appropriate remedy is immediate release.

23 This Court has already recognized the same due process principle in a closely analogous
24 release-revocation context. In *Phan v. LaRose*, No. 3:26-cv-01386-JES-MSB (S.D. Cal. Mar. 12,
25 2026), the Court held that the Government violated due process by re-detaining a noncitizen after
26 a prior release without providing constitutionally adequate notice and an opportunity to be heard,
27 and ordered immediate release from custody

1 Courts in this District have applied that same principle specifically in the context of
2 humanitarian parole. In the Southern District of California, courts have repeatedly granted
3 habeas relief under materially indistinguishable circumstances involving the re-detention of
4 parolees without compliance with 8 C.F.R. § 212.5(e). In *Hernandez v. LaRose*, No. 3:26-cv-
5 00903-DMS-VET (S.D. Cal. Mar. 18, 2026), the court ordered release where petitioners were re-
6 detained without prior notice or written termination of parole, holding that such re-detention
7 violated due process

8 Similarly, in *Ayala Perez v. Noem*, No. 3:25-cv-03777-CAB-JLB (S.D. Cal. Jan. 14,
9 2026), the court held that detention of a parolee without written notice terminating parole
10 violated 8 C.F.R. § 212.5(e) and due process, and ordered immediate release.

11 In *Alves Santana v. Casey*, No. 3:26-cv-00964-RBM-MSB (S.D. Cal. Feb. 24, 2026), the
12 court held that a parolee possesses a protected liberty interest in remaining out of custody and
13 that re-detention without notice or an opportunity to be heard violates due process, ordering
14 immediate release.

15 In *Agelvis-Cuberos v. Casey*, No. 3:26-cv-00710-BJC-DDL (S.D. Cal. Feb. 26, 2026), the
16 court likewise held that the Government's failure to provide written notice, an individualized
17 determination, and an opportunity to be heard prior to re-detention violated both 8 C.F.R. §
18 212.5(e) and due process, and ordered immediate release.

19 Courts in the Central District of California have reached the same conclusion. In *Espejo*
20 *Castillo v. Facility Administrator, Desert View Annex*, No. EDCV 26-1129-MWF (MARx) (C.D.
21 Cal. Mar. 23, 2026), the court held that the Government's failure to provide notice, an
22 individualized determination, and procedural safeguards rendered re-detention unlawful and that
23 the proper remedy was immediate release to restore the petitioner to the status quo.

24 Courts in the Eastern District of California have likewise confirmed that failure to
25 provide the required process before re-detention violates due process and warrants immediate
26 release. In *Nath v. Chestnut*, No. 1:26-cv-01800-DC-CKD (E.D. Cal. Mar. 16, 2026), the court
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1 granted both a temporary restraining order and habeas relief and ordered immediate release
2 where the Government failed to provide a constitutionally compliant pre-deprivation process.

3 These decisions reflect a consistent and controlling principle: once the Government
4 releases a noncitizen on parole, it may not revoke that liberty without complying with the
5 regulatory requirements of 8 C.F.R. § 212.5(e) and the procedural protections required by due
6 process. Where those requirements are not satisfied, re-detention is unlawful, and the proper
7 remedy is immediate release—not a post hoc bond hearing.

8 Because Respondents do not contend that Petitioner’s parole was lawfully terminated, do
9 not assert that any procedural safeguards were provided, and do not oppose the Petition, this case
10 is materially indistinguishable from those in which courts across these districts have ordered
11 immediate release. Accordingly, consistent authority requires that the writ be granted and that
12 Petitioner be released from custody.

13 VII. Conclusion

14 For the reasons set forth above, Respondents have not established lawful authority for
15 Petitioner’s continued detention. Respondents do not contend that Petitioner’s parole was
16 terminated in accordance with 8 C.F.R. § 212.5(e), do not identify any written notice of
17 termination, and do not assert that any procedural safeguards were provided prior to re-detention.
18 To the contrary, Respondents acknowledge that they lack information regarding whether parole
19 was ever terminated and do not oppose the Petition.

20 Because Petitioner’s parole was never lawfully terminated and his re-detention occurred
21 without notice or process, his continued detention violates both the governing regulatory
22 framework and due process. Under these circumstances, and consistent with controlling
23 authority, the appropriate remedy is immediate release.

24 Accordingly, Petitioner respectfully requests that the Court grant the Petition for Writ of
25 Habeas Corpus and order his immediate release from custody.

26 Respectfully submitted,

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