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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SEMIH KABATAS,

Petitioners,

vs.

CHRISTOPHER LAROSE, warden of Otay Mesa Detention Center;
PATRICK DIVVER, San Diego Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO");
TODD LYONS, Acting Director of Immigration Customs Enforcement ("ICE");
MARKWAYNE MULLIN, Secretary of the Department of Homeland Security ("DHS");
ACTING Attorney General of the United States,
U.S. DEPARTMENT OF HOMELAND SECURITY;
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT;

Respondents.

Case No.: '26CV2933 JAO MMP

Agency Number: [redacted]

PETITION FOR WRIT OF HABEUS CORPUS

INTRODUCTION

1. Semih KABATAS ("Mr. Kabatas" or "Petitioner") is a 27-year-old man from Turkey. President Erdogan has been leading a more and more conservative religious movement in Turkey. Sexual Minorities are regularly harassed and persecuted by society and by the government. Mr. Kabatas' involvement with gay pride and fighting for the rights of sexual minorities in Turkey finally made him an object of the government forces. Fearing for his life he had to flee Turkey and came to the United States to seek asylum and live his life free and without fear.

2. He entered the United States on January 27, 2023. He was immediately apprehended and processed. He was held for approximately 4 days. Once it was determined he was not a flight risk or a danger to the community, he was granted conditional parole in the United States by release on his own recognizance and welcomed into the United States by Respondents. Respondents commenced removal proceedings against him in immigration court on February 15, 2023. He filed his asylum case and was attending all ICE check-ins and court hearings associated with his removal proceedings. Mr. Kabatas was granted work authorization. For more than 3 years Mr. Kabatas developed ties to the community, had steady work, and patiently waited for his opportunity to defend his case with the immigration court.

3. On May 2, 2026, Mr. Kabatas was working for Lyft and took a passenger that asked to be dropped on Camp Pendleton. Petitioner did not believe this would be a problem so he drove the customer to the entrance gate. Once at the gate the guard asked Petitioner for his ID. He was asked if he had a green card and he said no. He was told that he must wait for ICE to arrive. Mr. Kabatas was handcuffed. He was then transported to a processing center and ultimately incarcerated at Otay Mesa Detention Center. Respondents did not conduct a pre-detention hearing. Respondents did not make an individualized determination that the petitioner was a flight risk or a danger to the community. Respondents continue to detain him based not on his personal circumstances or individualized facts, but because of Respondents' interpretation of President Trump's whim and categorical determination that, the Fifth Amendment notwithstanding, noncitizens are not entitled to due process.

4. But Respondents cannot evade the law so easily. The law which they purport to detain the petitioners does not authorize their actions and the U.S. Constitution requires the Respondents provide at least the rights available to him

when he was paroled into the United States and he filed his application for asylum[1].

5. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. The petitioner asks this Court to find that Respondents' attempts to detain him are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing his transfer out of this district.

JURISDICTION

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

7. 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).

8. 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.,

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[1] *See, e.g.*, NBC News, Meet the Press interview of President Donald Trump (May 4, 2025), https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-interviewed-meet-press-mod-rcna203514 (in response to a question whether noncitizens deserve due process under the Fifth Amendment, President Trump replied "I don't know. It seems—it might say that, but if you're talking about that, then we'd have to have a million or 2 million or 2 million trials.").

the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

9. Venue is proper because Petitioner is in Respondents' custody in San Diego County, California. 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).

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

10. 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.*

11. 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).

12. Petitioner is "in custody" for the purpose of § 2241 because he was arrested and detained by Respondents.

PARTIES

13. Semih Kabatas is a 27-year-old citizen of Turkey. He is currently detained at Otay Mesa Detention Center and is present within the state of California as of the time of the filing of this petition.

14. Respondent Christopher LaRose is the warden of the Otay Mesa Detention Center and is the legal custodian of Petitioner.

15. Respondent, Patrick Divver, is the San Diego Field Office Director, Immigration and Customs Enforcement and Removal Operations. The San Diego 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 non- citizens. The San Diego Field Office area of responsibility includes the Otay Mesa Detention Center. Respondent Patrick Divver is a legal custodian of Petitioners.

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

17. Respondent Markwayne Mullin 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 Mullin is a

legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

18. Respondent Acting Attorney General of the United States has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

19. 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.

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

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

LEGAL FRAMEWORK

22. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings conducted pursuant to $8 U.S.C. § 1229a or they can be released on Parole.

23. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in § 1229a removal proceedings before an IJ. Individuals covered by § 1226(a)

detention are generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while certain noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention. See 8 USC§ 1226(a).

24. Second, the INA provides for mandatory detention of noncitizens subject to an Expedited Removal order imposed pursuant to 8 U.S.C. § 1225(b)(1) and for other noncitizen applicants for admission to the U.S. who are deemed not clearly entitled to be admitted. See 8 U.S.C. § 1225(b)(2).

25. Last, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. See 8 USC § 1231. (a)— (b).

26. Alternatively, noncitizens can be granted parole rather than be detained. 8 U.S.C. § 1226(a)(2)(B). The regulations for granting parole and revocation of parole are found at 8 CFR § 212.5,

27. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and1225(b)(2) and the revocation of parole.

28. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-—208, Div. C, §§ 302—03, 110 Stat, 3009- 546, 3009-582 to 3009-583, 3009-585. Section 1226(a) was most recently

amended in early 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

29. Following the enactment of the IIRIRA, EOIR drafted new regulations applicable to proceedings before immigration judges explaining that, in general people who entered the country without inspection — also referred to as being "present without admission" - were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg, 10312, 10323 (Mar_6, 1997).

30. Thus, in the decades that followed, most people who entered without inspection and were placed in standard § 1229a removal proceedings received bond hearings before IJs, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

31. This practice both pre- and post-enactment of IIRIRA is consistent with the fact that noncitizens present within the United States — as opposed to noncitizens present at a border and seeking admission - have constitutional rights.

"{T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

32. On July 8, 2025, ICE, "in coordination with" the Department of Justice, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice.

33. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission, claims that all noncitizens present within the United States who entered without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

34. In a May 22, 2025 unpublished decision by the Board of Immigration Appeals (BIA), EOIR adopted this same position. That decision holds that all noncitizens who entered the United States without admission or parole and who are present within the United States are considered applicants for admission and ineligible for IJ bond hearings. That was further affirmed by the BIA in *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). There the BIA held that Immigration Judges do not have jurisdiction in these cases. This makes it impossible for

noncitizens who have entered at a port of entry or entered without inspection to apply for a bond and are all subject to mandatory detention.

35. ICE and EOIR have adopted this position even though federal courts have rejected this exact conclusion. For example, after an IJ in the Tacoma, Washington immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court for the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d ---, 2025 WL_1193850 (W.D. Wash. Apr_24, 2025); see also *Gomes v. Hyde,* No. 1:25-CV-11571-JEK, 1208256 9WL 299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion). Courts in the Central District have reached the same conclusion. See *Maldonado Bautista et al. v. Santacruz, et al.,* No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025), Order Granting Temporary Restraining Order, Dkt. 14 at 9 (TRO issued after DHS adopted "Interim Guidance Regarding Detention Authority for Applicants for Admission."); *Ceja Gonzalez, et al. v. Noem, et al.*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. August 13, 2025), Order Granting Ex Parte Application for TRO and OSC, Dkt,1 2 (Same).

36. DHS's and EOIR's interpretation defy the INA. As the *Rodriguez Vazquez* court explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." *Rodriguez Vazquez*, 2025 WL.1193850 at *12. *See also Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM (C.D. Calif July 28, 2025) Order Granting Temporary Restraining Order, Dkt14 .at 9 ("[T]he Court finds that the potential for Petitioners' continued detention without an initial bond hearing would cause immediate and irreparable injury, as this violates statutory rights afforded under § 1226(a)."); *Ceja Gonzalez*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. August 13, 2025), Order Granting Ex Parte Application for TRO and OSC, Dkt. 12 at 7 (§ 1226 applies to aliens present in the United States.)

37. Other portions of the text of § 1226 also explicitly apply to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to inadmissible individuals makes clear that, by default, inadmissible individuals not subject to subparagraph (E)(11) are afforded a bond hearing under subsection (a). As the Rodriguez Vazquez court explained, "[w]hen Congress creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies. *Rodriguez Vazquez*, W20L25 1193850, at *12 (citing

Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co., 559 U.S. 393, 400 (2010)).

38. Section 1226 therefore leaves no doubt that it applies to noncitizens who are present without admission and who face charges in removal proceedings of being inadmissible to the United States.

39. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States and are encountered at or near the border. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "'at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

40. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who have already entered, were released and were residing in the United States at the time they were apprehended.

41. 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).

42. Once a determination has been made that a noncitizen should not be detained, they may be released on conditional parole or humanitarian parole. The regulations for revocation of that parole are set out in 8 CFR § 212.5(e). Specifically, this revocation must be

> ***On notice.*** In cases not covered by paragraph (e)(1) of this section, upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in paragraph (a) of this section, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States, parole shall be terminated upon written notice to the alien and he or she shall be restored to the status that he or she had at the time of parole. 8 CFR § 212.5(e)(2)(i)

FACTUAL BACKGROUND

43. Petitioner is a citizen of Turkey. Petitioner was repeatedly threatened in Turkey and believed his only option was to leave the country and seek a safe haven in the United States. He made his way to Mexico and finally to the border with the United States.

44. He entered the United States on January 27, 2023. He was immediately apprehended and processed. He was held for approximately 4 days. Once it was determined he was not a flight risk or a danger to the community, he was granted conditional parole in the United States by release on his own recognizance and welcomed into the United States by Respondents. Respondents commenced removal proceedings against him in immigration court on February 15, 2023. He filed his asylum case and was attending all ICE check-ins and court

hearings associated with his removal proceedings. Mr. Kabatas was granted work authorization. For more than 3 years Mr. Kabatas developed ties to the community, had steady work, and patiently waited for his opportunity to defend his case with the immigration court.

45. On or about February 15, 2023, Respondents commenced removal proceedings against Petitioner under 8 U.S.C. § 1229a.

46. Petitioner filed his asylum application within the one-year requirement.

47. On information and belief, Petitioner regularly complied with and appeared for ICE check-ins whether in person or electronic check-in.

48. Petitioner has his asylum biometrics taken on September 13, 2023. He was vetted by Respondents at that time and was not found to be a danger to the community or a flight risk.

49. Respondents issued work authorization to petitioner as well.

50. On May 2, 2026, Mr. Kabatas was working for Lyft and took a passenger that asked to be dropped on Camp Pendleton. Petitioner did not believe this would be a problem so he drove the customer to the entrance gate. Once at the gate the guard asked Petitioner for his ID. He was asked if he had a green card and he said no. He was told that he must wait for ICE to arrive. Mr. Kabatas was

handcuffed. He was then transported to a processing center and ultimately incarcerated at Otay Mesa Detention Center.

51. He was not presented with a judicial warrant when he was detained. He was not trying to flee or to cause harm when he was detained. He was not charged with any crime that might lead the officers to have probable cause to detain him. He was not given notice that his parole was being revoked. He was not given a pre-detention hearing to determine if the facts of his release had changed such that he was now a flight risk or that he was a danger to the community. He was deprived of his liberty for no other reason than that the President of the United States had decided that he and millions of others like him should no longer be free.

52. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

53. The January 2025 Designation does not state that it applies to noncitizens who were in the United States before its effective date.

54. On information and belief, Respondents are using the immigration detention system, including extra-territorial transfer and detention, as a means to punish individuals for asserting rights under the Refugee Act.

55. On information and belief, Petitioner has no criminal history.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

Procedural Due Process

56. Petitioner restates and realleges all paragraphs as if fully set forth here.

57. The government's effective revocation of parole violated procedural due process. The Fifth Amendment guarantees that "[n]o person shall be ... deprived of life, liberty, or property, without due process of law." U.S. Const. Amend. V. To determine a violation of procedural due process, courts weigh the traditional factors of (1) the private interest at issue, (2) the risk of erroneous deprivation of that interest through the procedures used, and (3) the government's interest. *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976). Here, these factors easily weigh in Mr. Kabatas' favor.

58. First, the private interest at issue is the Petitioner's deprivation of liberty—i.e., remaining on parole, rather than being detained. *See Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects."). Not only is Petitioner's general liberty interest substantial, he has an added interest in remaining out of custody so he can work with his attorney to prepare his asylum case. What's more, Petitioner's work authorization is contingent on his parole status, and revocation of parole will directly impact the ability to provide for himself. Thus, the first factor weighs heavily in Petitioner's favor.

59. Second, the procedures the agency used to determine whether to revoke Petitioner's parole presented a high risk of erroneous deprivation of liberty. To date, the agency's actions surrounding Petitioner's parole have completely failed to comply with the statute, the regulations, and even the agency's own decision. After granting Petitioner parole in 2023, the agency inexplicably revoked this parole upon his arrest. It did so even though Petitioner had attended all his check-in appointments, had no criminal history, and had timely filed his asylum application. The agency did not claim that "the purposes of such parole . . . have been served," 8 U.S.C. § 1182(d)(5)(A), nor that the "humanitarian reasons" for their parole no longer existed, 8 C.F.R. § 212.5(e)(2)(i). Because consideration of any of these factors should have led to a different result, the risk of erroneous deprivation of Petitioner's parole without these procedures was high, and this factor weighs heavily in his favor.

60. Finally, any government interest in revoking Petitioners' parole is minimal. The Petitioners have complied with all their check-in requirements, have

no criminal history, have timely applied for asylum, and do not represent a danger or a flight risk. All the government need do is comply with its *own decision* to grant him parole. Thus, the *Mathews v. Eldrige* factors weigh heavily in Petitioners favor, and this revocation of parole violates procedural due process.

COUNT TWO

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

Not in Accordance with Law and in Excess of Statutory Authority

Unlawful Detention

61. Petitioners restate and reallege all paragraphs as if fully set forth here.

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

63. An action is an abuse of discretion if 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*, 551U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

64. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

65. By categorically revoking Petitioner's parole and transferring them to a Detention Center without consideration of his individualized facts and circumstances, Respondents have violated the APA.

66. Respondents have made no finding that Petitioner is a danger to the community.

67. Respondents have made no finding that Petitioner is a flight risk.

68. By detaining the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial determination to parole him into the United States that support detention.

69. Respondents have already considered Petitioner's facts and circumstances and determined that he was not a flight risk or danger to the community. There have been no changes to the facts that justify this revocation of their parole.

ORDERING A BOND HEARING IS NOT THE APPROPRIATE RELIEF

70. Many courts recently have been ordering a bond hearing as an alternative avenue for relief. If Mr. Kabatas' detention was unlawful, *ab initio*, he should not be required to post a bond and, in effect, pay a ransom to be released from this illegal detention. Nothing indicates that Mr. Kabatas has somehow become a flight risk or a danger to the community. He was not detained at the checkpoint because he was suddenly a flight risk or a danger to the community. When ICE put him in handcuffs, they did not assert that they had suddenly determined he was a flight risk or a danger to the community. He was simply swept up in this administrations scheme to lock up all immigrants without green cards.

71. Ordering a bond hearing because he is no longer deemed subject to mandatory detention rewards the government's unlawful behavior. First, it legitimizes his detention. Second, it allows the government to detain without a prior determination of a change in individual circumstances regarding flight risk and danger. Third, it requires the petitioner to prove that he is not a flight risk or a danger to the community, something the government already determined when they released him. Fourth, it requires the petitioner to pay a fee to the parties that unlawfully detained him in order to be released from his unlawful detention.

72. Upon release from Otay Mesa it is the custom of ICE to immediately place detainees in Alternative to Detention Programs and affix an ankle monitor to

them. As the name of the program indicates, this is just another form of detention that is made without any determination that there has been a change in circumstances such that Mr. Kabatas' movements must now be restricted to a 75-mile radius and monitored with an ankle monitor. Mr. Kabatas should be returned to his predetention status. This should also include the return to him of any and all documents and/or identification cards and work authorization cards in his possession when he was detained. This court has authority to order more than just release in a habeas action. See *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). Barring Alternative to Detention and return of documents seized are part and parcel of returning Petitioner to the state he was in when he was detained.

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 Petitioners' re-detention without an individualized determination violates the Due Process Clause of the Fifth Amendment and the Administrative Procedures Act;

(4) Declare that Petitioners' arrest and detention was unlawful as a violation of their rights against unreasonable search and seizure as guaranteed in the Fourt Amendment;

(5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody and all his property seized at his arrest be returned to him;

(6) Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;

(7) Order that the Petitioners may not be re-detained without further order of this court;

(8) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(8) Grant any further relief this Court deems just and proper.

Dated: May 9, 2026

/s/ Brian J. McGoldrick

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