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9
10 **UNITED STATES DISTRICT COURT**
11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

12
13 Hector Andres RODRIGUEZ HORTA,

14 Petitioner,

15 v.

16 Christopher J. LAROSE, Warden of
17 Otay Mesa Detention Center; Joseph E.
18 FREDEN, Director of San Diego Field
19 Office of Detention and Removal U.S.
Immigration and Customs Enforcement;
20 Todd LYONS, Acting Director of
Immigration and Customs Enforcement;
21 Daren MARGOLIN, Director of
22 Executive Office of Immigration
Review, U.S. Department of Justice;
23 Markwayne MULLIN, Secretary, U.S.
24 Department of Homeland Security; Todd
25 BLANCHE, U.S. Attorney General, in
their official capacities,

26 Respondents.
27

Case No. '26CV3038 JO JAC

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

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2 1. Petitioner Hector Andres Rodriguez Horta is in the physical custody of
3 Respondents at the Otay Mesa Detention Center in San Diego, California. He now
4 faces unlawful detention because the Department of Homeland Security (DHS) and
5 the Executive Office of Immigration Review (EOIR) have re-detained him without
6 just cause or process.
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8
9 2. Petitioner was previously paroled into the country by Respondents.
10 Now, Respondents have re-detained Petitioner without affording the due process
11 required and without affording an opportunity to challenge such detention, wrongly
12 asserting that he is under mandatory detention.
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14 3. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he
15 be released from custody immediately—or, alternatively, that Respondents provide
16 a bond hearing within five days.
17

JURISDICTION

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19 4. Petitioner is in the physical custody of Respondents. Petitioner is
20 detained at the Otay Mesa Detention Center in San Diego, California.
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22 5. This Court has jurisdiction under 28 U.S.C. § 2241(c)(1), (3) (habeas
23 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of
24 the United States Constitution (the Suspension Clause). This Court may grant relief
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1 pursuant to 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. §
2 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

3 VENUE

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5 6. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
6 484, 493- 500 (1973), venue lies in the United States District Court for the Southern
7 District of California, the judicial district in which Petitioner currently is detained.

8
9 7. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
10 because Respondents are employees, officers, and agencies of the United States,
11 and because a substantial part of the events or omissions giving rise to the claims
12 occurred in the Southern District of California.

14 REQUIREMENTS OF 28 U.S.C. § 2243

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16 8. The Court must grant the petition for writ of habeas corpus or order
17 Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief.
18 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return
19 “within three days unless for good cause additional time, not exceeding twenty days,
20 is allowed.” *Id.*

21
22 9. Habeas corpus is “perhaps the most important writ known to the
23 constitutional law . . . affording as it does a swift and imperative remedy in all cases
24 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)
25 (emphasis added). “The application for the writ usurps the attention and displaces
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1 the calendar of the judge or justice who entertains it and receives prompt action
2 from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116,
3 1120 (9th Cir. 2000) (citation omitted).
4

5 **PARTIES**

6 10. Petitioner Hector Andres Rodriguez Horta is an alleged citizen of
7 Columbia who has been in immigration detention since April 30, 2026. After taking
8 custody of Petitioner in Florida, U.S. Immigration and Customs Enforcement (ICE)
9 did not set bond. Petitioner did not apply for a bond with the Immigration Court due
10 to the binding decision of the BIA in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216
11 (BIA 2025).
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13

14 11. Respondent Christopher J. LaRose is employed by Otay Mesa
15 Detention Center as Warden of the facility where Petitioner is detained. He has
16 immediate physical custody of Petitioner. He is sued in his official capacity.
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18 12. Respondent Joseph E. Freden is the Director of the San Diego Field
19 Office of ICE’s Enforcement and Removal Operations division. As such,
20 Archambeault is Petitioner’s immediate custodian and is responsible for
21 Petitioner’s detention and removal. He is named in his official capacity.
22

23 13. Respondent Todd Lyons is the Acting Director of ICE. As such, Lyons
24 is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and
25 removal. He is named in his official capacity.
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1 unlawful executive detention. Habeas relief is equitable and may include an order
2 directing release or requiring constitutionally adequate procedures. The Supreme
3 Court has explained that “[h]abeas is at its core a remedy for unlawful executive
4 detention,” and that “[t]he typical remedy for such detention is, of course, release.”
5 *Munaf v. Geren*, 553 U.S. 674, 693 (2008); *see also Hamdi v. Rumsfeld*, 542 U.S.
6 507, 536 (2004) (plurality); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

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9 *Humanitarian Parole Regulations*

10 19. Courts interpret the governing regulations to require careful,
11 individualized decision-making in choosing whether to re-detain a noncitizen who
12 was previously paroled into the country under humanitarian parole. As this Court
13 previously explained, “Under the governing regulation, humanitarian parole may
14 be terminated only if the purpose of parole is accomplished, or humanitarian reasons
15 and the public benefit no longer warrant parole. 8 C.F.R. § 212.5(e). Furthermore,
16 the noncitizen must receive written notice of the parole’s termination.” *Arias v.*
17 *LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 U.S. Dist. LEXIS 232840, at *6
18 (S.D. Cal. Nov. 25, 2025).
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22 20. This Court has rejected Respondents’ previous attempts to revoke
23 humanitarian parole for other asylum seekers. In granting habeas relief for another
24 parolee from Colombia, this Court found that “the purpose of [petitioner’s] parole
25 has not been served. [Petitioner] fled from Columbia to the United States to seek
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1 asylum. When she was arrested and detained, she was still seeking asylum. Second,
2 humanitarian reasons still justify [petitioner’s] parole instead of detention and
3 removal . . . Third, courts have found that revocation of parole requires an
4 individualized determination . . . The Respondents failed to demonstrate that their
5 revocation of [petitioner’s] parole was the product of reasoning decisionmaking.”
6
7 *Id.* at *7-9 (internal citations omitted).

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9 21. Because these failures of the Respondents “arbitrarily and capriciously
10 and violated the APA,” this Court ordered that petitioner immediately released from
11 custody. *Id.* at *9. *See also Noori v. Larose*, 807 F. Supp. 3d 1146, 1168 (S.D. Cal.
12 2025).

13
14 *Constitutional Due Process*

15
16 22. The Supreme Court has recognized that civil immigration detention
17 implicates a core liberty interest protected by the Due Process Clause and is
18 constitutionally permissible only so long as it bears a reasonable relationship to its
19 regulatory purpose. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

20
21 23. To test civil immigration detention for due process violations, the
22 balancing test of *Mathews v. Eldridge* is used. *Mathews v. Eldridge*, 424 U.S. 319
23 (1976). That test balances “(1) the private interest affected by the official action, (2)
24 the risk of erroneous deprivation of such interest through the procedures used and
25 the probable value of additional or different procedural safeguards, and (3) the
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1 government's interest, including the fiscal and administrative burdens that the
2 additional or substitute procedures would entail." *Id.* at 335.

3 24. The first *Mathews* factor weighs the private interest of the individual—
4 that is, his liberty. *Id.* "The interest in question is the Petitioner's very bodily liberty:
5 the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529
6 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("In our society
7 liberty is the norm, and detention . . . is the carefully limited exception.") (quoting
8 *United States v. Salerno*, 481 U.S. 739, 755 (1987)). "Although the initial decision
9 to detain or release an individual may be within the government's discretion, the
10 government's decision to release an individual from custody creates an implicit
11 promise, upon which that individual may rely, that their liberty will be revoked only
12 if [they] fail[] to live up to the . . . conditions [of release]. Thus, even when ICE has
13 the initial discretion to detain or release a noncitizen pending removal proceedings,
14 after that individual is released from custody [he] has a protected liberty interest in
15 remaining out of custody." *Martinez v. Larose*, No. 25-CV-3308 JLS (MSB), 2025
16 U.S. Dist. LEXIS 262039, at *9 (S.D. Cal. Dec. 18, 2025) (internal citations and
17 quotations omitted) (emphasis added). *See also Noori v. Larose*, 807 F. Supp. 3d
18 1146, 1164 (S.D. Cal. 2025).

19 25. The second *Mathews* factor is the risk of erroneous deprivation of the
20 interest in question along with the value of any other safeguards used. This Court
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1 reasoned in a similar case that “the risk of an erroneous deprivation of such interest
2 is high as Petitioner’s parole was revoked without providing him a reason for
3 revocation or giving him an opportunity to be heard. Since DHS’s initial
4 determination that Petitioner should be paroled because he posed no danger to the
5 community and was not a flight risk, there is no evidence that these findings have
6 changed.” *Martinez*, No. 25-CV-3308 JLS, at *12 (internal citation and quotations
7 omitted). This Court further explained, “Where, as here, the petitioner has not
8 received any bond or custody hearing, the risk of an erroneous deprivation of liberty
9 is high because neither the government nor [Petitioner] has had an opportunity to
10 determine whether there is any valid basis for [his] detention.” *Id.* at *13 (internal
11 citations and quotations omitted).
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15 26. Finally, the government’s interest must be considered as the third
16 *Mathews* factor. This Court has plainly found that “the Government’s interest in
17 detaining Petitioner without notice, reasoning, and a hearing is low.” *Id.* (internal
18 quotations omitted).
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21 27. Upon consideration of these *Mathews* factors, it is clear that Petitioner’s
22 liberty interest vastly outweighs the concerns of Respondents, and Petitioner must
23 be granted habeas relief accordingly.
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Proper Detention Statute

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2 28. When a noncitizen is paroled into the country, and that parole expires,
3 courts have found that the noncitizen, *if properly detained*, is detained under the
4 non-mandatory detention provision in 8 U.S.C. § 1226(a).
5

6 29. In a case where the petitioner was initially paroled at the border, but
7 was re-detained after his parole expired, the District of Colorado explained that the
8 humanitarian parole statute “§ 1182(d)(5)(A) does not require petitioner to be
9 detained under the same statutory status as his original detention. Many courts
10 analyzing this question have reached the same conclusion.” *Rafibaev v. Noem*, No.
11 26-cv-00461-PAB, 2026 U.S. Dist. LEXIS 44703, at *10 (D. Colo. Mar. 4, 2026).
12 In that case, the court concluded that “petitioner’s detention is governed by §
13 1226(a).” *Id.*
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16
17 30. In a quite similar case, the Eastern District of Virginia took the same
18 position. In *Espinoza Estrada*, the court considered the re-detention of a Nicaraguan
19 national who was paroled for two years under the Nicaraguan Parole Program but
20 was subsequently re-detained after the two years lapsed. *Espinoza Estrada v. Mullin*,
21 No. 1:26-cv-856 (AJT-WEF), at *1 (E.D. Va. Apr. 20, 2026). The court concluded
22 that the petitioner was properly detained under 8 U.S.C. § 1226, which made him
23 eligible for a bond hearing. *Id.* at *5. The court reasoned,
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26 Petitioner was paroled upon arrival to the United States,
27 which is “not regarded as an admission” to the United
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1 States, 8 U.S.C. § 1182(d)(5)(A). But at the time of
2 Petitioner’s detention, which occurred after his parole had
3 expired, he did not revert to an “applicant for admission . . .
4 seeking admission” within the meaning of Section
5 1225(b)(2). Instead, upon the termination of Petitioner’s
6 parole, Petitioner returned to the Government’s “custody”
7 under Section 1226 as an individual “already present in the
8 United States.” *See Jennings*, 583 U.S. at 303.

9 *Id.*

10 31. While *Rafibaev* and *Espinoza Estrada* are good examples, many other
11 district courts have come to the same conclusion regarding the proper detention
12 statute for a re-detained parolee. *See Aviles-Mena v. Kaiser*, 2025 U.S. Dist. LEXIS
13 173976, 2025 WL 2578215, at *4 (N.D. Cal. Sept. 5, 2025) (“because [Nicaraguan
14 petitioner] was ‘paroled into the United States,’ he cannot be subject to expedited
15 removal under section 1225(b)(1) and has a protectable liberty interest that must be
16 analyzed under *Mathews*.”); *Qasemi v. Francis*, No. 25-cv-10029 (LJL), 2025 U.S.
17 Dist. LEXIS 261199, at *35 (S.D.N.Y. Dec. 17, 2025) (“That the INA treats a
18 noncitizen like [Afghan parolee petitioner] under Section 1226(a) rather than
19 Section 1225(b)(1) avoids potentially absurd outcomes.”); *see also Walizada v.*
20 *Trump*, 2025 U.S. Dist. LEXIS 256630, 2025 WL 3551972, at *28 (D. Vt. Dec. 11,
21 2025) (Afghan parolee who was later detained was not subject to the mandatory
22 detention provisions in § 1225); *Rodriguez v. Rokosky*, 2025 U.S. Dist. LEXIS
23 250239, 2025 WL 3485628, at *6-7 (D.N.J. Dec. 3, 2025) (Nicaraguan with expired
24 parole who was later detained “can only be properly detained under § 1226 where
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1 he would be entitled to an individualized bond hearing”); *Salgado Bustos v.*
2 *Raycraft*, 2025 U.S. Dist. LEXIS 213487, 2025 WL 3022294, at *21 (E.D. Mich.
3 Oct. 29, 2025) (Mandatory detention of a Nicaraguan with expired parole “is in
4 violation of both the INA and the Due Process Clause.”); *Munoz Materano v. Arteta*,
5 2025 U.S. Dist. LEXIS 179608, 2025 WL 2630826, at *11 (S.D.N.Y. Sept. 12,
6 2025) (“Section § 1225(b) is not currently applicable to” Venezuelan parolee who
7 was later detained).
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10 32. Accordingly, former parolees who are later re-detained after parole
11 expires, *if* properly detained, are detained pursuant to the non-mandatory provision
12 of 8 U.S.C. § 1226(a).
13

14 **FACTS**

15 33. Petitioner has resided in the United States since approximately 2022
16 and lives in Miami, Florida.
17

18 34. Upon entry, Respondents granted Petitioner humanitarian parole.
19

20 35. After affording Petitioner a credible fear interview (in which he was
21 found to have a credible fear of persecution), Respondents placed Petitioner in
22 removal proceedings to pursue his asylum, via a Notice to Appear issued on October
23 21, 2025.
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1 36. On approximately April 30, 2026, without any warning, ICE took
2 custody of Petitioner in Miami, Florida. Petitioner is now detained at the Otay Mesa
3 Detention in San Diego, California.

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5 37. Petitioner has resided in the United States continuously for four years
6 and has one U.S. citizen daughter, who is merely 8 months old. He has no criminal
7 convictions. Petitioner is neither a flight risk nor a danger to society.

8
9 38. Following Petitioner's arrest and transfer to the Otay Mesa Detention
10 Center, ICE issued a custody determination to continue Petitioner's detention
11 without an opportunity to post bond or be released on other conditions.

12
13 39. Petitioner was not able to request an immigration bond given that
14 immigration judges are subject to the binding precedent that those who entered the
15 country without admission or parole are ineligible for a bond hearing. *Matter of*
16 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

17
18 40. As a result, Petitioner remains in detention. Without relief from this
19 Court, he faces the prospect of months, or even years, in immigration custody,
20 separated from his infant daughter and community.

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22 **CLAIMS FOR RELIEF**

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24 **COUNT I**
Violation of the Administrative Procedure Act

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26 41. Petitioner incorporates by reference the allegations of fact set forth in
27 the preceding paragraphs.

1 42. As this Court has found, revocation and re-detention of a parolee
2 without individualized consideration and notice is an arbitrary and capricious act
3 that violates the APA. *Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 U.S.
4 Dist. LEXIS 232840 (S.D. Cal. Nov. 25, 2025); *Noori v. Larose*, 807 F. Supp. 3d
5 1146 (S.D. Cal. 2025).
6

7 43. Because Petitioner received no proper notice of his parole revocation
8 and Respondents have failed to provide any individualized reasoning for why his
9 detention is needed now, Respondents have violated the APA.
10

11 **COUNT II**
12 **Violation of the Fifth Amendment Due Process Clause –**
13 **Unlawful Re-Detention Without Process**

14 44. Petitioner incorporates by reference the allegations of fact set forth in
15 the preceding paragraphs.
16

17 45. The Fifth Amendment’s Due Process Clause protects all persons from
18 arbitrary deprivation of liberty.
19

20 46. Freedom from physical restraint lies at the core of the liberty protected
21 by due process, including freedom from civil detention absent constitutionally
22 adequate justification reasonably related to a legitimate regulatory purpose.
23

24 47. When the government affirmatively releases a noncitizen from
25 immigration custody, whether on parole, bond, recognizance, or supervision, that
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1 release creates a constitutionally protected liberty interest in continued freedom
2 from detention.

3 48. Courts across the country have held that sudden re-detention of a
4 previously released noncitizen without notice, explanation, or an individualized
5 custody determination violates procedural due process, without requiring resolution
6 of the precise statutory detention provision invoked by the government.
7

8 49. Here, Respondents re-detained Petitioner after a period of liberty
9 previously granted by the government, without affording Petitioner any meaningful
10 opportunity to be heard in connection with the deprivation of liberty.
11

12 50. Respondents' re-detention of Petitioner without an opportunity for
13 custody review therefore constitutes an arbitrary and unconstitutional deprivation
14 of liberty in violation of the Fifth Amendment.
15

16 51. Petitioner is entitled to habeas relief ordering his release from custody
17 or, in the alternative, requiring Respondents to provide constitutionally adequate
18 process governing any continued detention.
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21 **COUNT III**
22 **Violation of the INA**

23 52. Petitioner incorporates by reference the allegations of fact set forth in
24 the preceding paragraphs.
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- 1 f. Award Petitioner attorney’s fees and costs under the Equal Access to
2 Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other
3 basis justified under law; and
4
5 g. Grant any other and further relief that this Court deems just and proper.

6 Respectfully submitted this 14th day of May, 2026.

7 /s/ Alexa S. White
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

1
2 I represent Petitioner, Hector Andres Rodriguez Horta, and submit this
3 verification on his behalf. I hereby verify that the factual statements made in the
4 foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my
5 knowledge.
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7 Dated this 14th day of May, 2026.

8
9 /s/ Elissa Stiles
10 Elissa Stiles
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