

Alejandro Monsalve
CA SBN 324958
Alex Monsalve Law Firm, PC
240 Woodlawn Ave., Suite 9
Chula Vista, CA 91910
(619) 777-6796
Counsel for Petitioner

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

NELSON REVELORIO-OSORIO,

Case No.: 26-cv-03440-JAO-GC

Petitioner

v.

Jeremy CASEY, et al.,

Respondents

**PETITIONER'S TRAVERSE
AND REQUEST FOR RELEASE
OR, IN THE ALTERNATIVE, A
CONSTITUTIONALLY
ADEQUATE BOND HEARING**

**I. RESPONDENTS FAIL TO ADDRESS THE CENTRAL CONSTITUTIONAL CLAIM
PRESENTED IN THE PETITION**

The Petition does not merely challenge whether Petitioner's detention falls under 8 U.S.C. § 1225(b) or § 1226(a). Rather, the Petition principally challenges Respondents' re-detention of Petitioner without constitutionally adequate pre-deprivation process after DHS had previously released him into the United States and permitted him to remain at liberty in the community for nearly a decade.

1 Respondents maintain their position that Petitioner is subject to detention under 8 U.S.C.
2 § 1225(b)(2). At the same time, however, Respondents acknowledge that courts in this District—
3 including this Court—have repeatedly rejected that position under materially indistinguishable
4 facts and further acknowledge that the facts of this case are not materially distinguishable from
5 those prior decisions. Respondents therefore defer to the Court regarding the appropriate relief.

6 But Respondents do not address the Petition’s separate constitutional claim. The Return
7 does not identify any changed circumstances justifying Petitioner’s re-detention, does not
8 identify any notice provided before Petitioner’s liberty was revoked, does not identify any
9 opportunity to be heard before a neutral decisionmaker, and does not explain why a previously
10 granted liberty interest could be revoked without constitutionally adequate procedural
11 safeguards.

12 Petitioner entered the United States as an unaccompanied minor and was subsequently
13 released from federal custody by the Office of Refugee Resettlement to an approved sponsor.
14 Petitioner thereafter remained at liberty in the United States for nearly a decade, filed an
15 application for asylum, received employment authorization, and openly resided in the
16 community.

17 On or about April 27, 2026, Petitioner was arrested by Immigration and Customs
18 Enforcement officers and returned to immigration detention, where he remains confined.

19 The Petition challenges Respondents’ re-detention of Petitioner after years of
20 government-authorized liberty without constitutionally adequate pre-deprivation process. The
21 remaining issue before this Court is whether the government may revoke that previously granted
22 liberty without constitutionally adequate procedural safeguards and, if not, the appropriate
23 remedy for that completed constitutional deprivation.

24 **II. RESPONDENTS' POSITION REGARDING DETENTION AUTHORITY DOES NOT**
25 **RESOLVE THE CONSTITUTIONAL VIOLATION**

26 Respondents maintain their position that Petitioner is subject to detention under 8 U.S.C.
27 § 1225(b)(2). At the same time, Respondents acknowledge that courts in this District have
28

1 repeatedly rejected that position under materially indistinguishable facts and further
2 acknowledge that the facts presented here are not materially distinguishable from those prior
3 decisions. Respondents therefore defer to the Court regarding the appropriate relief.

4 But Respondents' position regarding the statutory basis for detention does not resolve the
5 constitutional injury presented in this case.

6 Petitioner was previously released from federal custody and permitted to reside at liberty
7 in the United States for nearly a decade. He was later re-detained without any pre-deprivation
8 hearing, without any individualized determination that he posed a danger to the community or a
9 flight risk, and without any constitutionally adequate process before his liberty was revoked.

10 The constitutional injury therefore occurred when Petitioner was taken back into custody
11 without the procedural safeguards required before revoking a previously granted liberty interest.
12 Respondents do not address that constitutional deprivation and do not identify any changed
13 circumstances, notice, hearing, or individualized determination that preceded Petitioner's re-
14 detention.

15 The remaining issue before this Court is therefore the appropriate remedy for that
16 completed deprivation of liberty.

17 **III. PETITIONER ACQUIRED A PROTECTED LIBERTY INTEREST AFTER**
18 **DHS RELEASED HIM**

19 This case involves an additional and important feature: Petitioner had previously been
20 released from federal custody.

21 Shortly after entering the United States as an unaccompanied minor, Petitioner was
22 released from the custody of the Office of Refugee Resettlement and permitted to reside at
23 liberty in the United States with an approved sponsor. Petitioner thereafter lived openly in the
24 United States for nearly a decade. During that period, Petitioner filed an application for asylum,
25 received employment authorization, and remained known to federal immigration authorities.

26 That release reflects the government's determination that detention was not necessary.
27 Courts have repeatedly recognized that such release constitutes an affirmative governmental
28

1 judgment that detention is unnecessary and creates a protected liberty interest in remaining free
2 from physical custody absent appropriate procedural safeguards.

3 Freedom from physical detention lies at the core of the liberty protected by the Due
4 Process Clause. The Supreme Court has emphasized that “[f]reedom from imprisonment—from
5 government custody, detention, or other forms of physical restraint—lies at the heart of the
6 liberty” protected by the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

7 Once the government releases an individual from custody and permits him to reside at
8 liberty in the community for years, that release creates an implicit assurance that liberty will not
9 later be revoked absent constitutionally adequate procedures. The subsequent revocation of that
10 liberty without notice, an opportunity to be heard, or any individualized determination implicates
11 core protections of the Due Process Clause.

12 Petitioner’s liberty was not temporary or fleeting. The government permitted Petitioner to
13 remain at liberty in the United States for nearly a decade before abruptly returning him to
14 detention. Under these circumstances, the liberty interest at stake is substantial and entitled to
15 constitutional protection.

16 **IV. RE-DETENTION WITHOUT PROCEDURAL SAFEGUARDS**

17 **VIOLATES DUE PROCESS**

18 The Due Process Clause prohibits the government from depriving individuals of liberty
19 without constitutionally adequate procedures.

20 Courts addressing immigration re-detention after prior release have repeatedly applied the
21 balancing framework established in *Mathews v. Eldridge*, 424 U.S. 319 (1976), to evaluate
22 whether the government may revoke a previously granted liberty interest without notice or an
23 opportunity to be heard. Under that framework, courts consider: (1) the private interest affected
24 by the government action; (2) the risk of erroneous deprivation of that interest through the
25 procedures used, and the probable value of additional safeguards; and (3) the government’s
26 interest, including the fiscal and administrative burdens associated with additional procedural
27 requirements. Each of these factors weighs heavily in Petitioner’s favor here.

1 **A. Petitioner's liberty interest is substantial**

2 Petitioner's interest in remaining free from detention is profound. Civil immigration
3 detention represents a significant deprivation of liberty.

4 Petitioner lived freely in the community for nearly a decade after the government
5 released him from federal custody. During that time, he filed an application for asylum, received
6 employment authorization, openly resided in the United States, and remained known to federal
7 immigration authorities.

8 The liberty interest at stake therefore is not hypothetical; it is the continuation of a
9 freedom that the government itself previously granted and permitted Petitioner to exercise for
10 nearly ten years.

11 **B. The risk of erroneous deprivation is high without a hearing**

12 The risk of erroneous deprivation is particularly high where detention occurs without any
13 meaningful opportunity to challenge the government's decision before liberty is revoked.

14 Here, Petitioner was taken back into custody without any individualized determination
15 that he had become a flight risk or danger to the community.

16 Civil immigration detention is constitutionally permissible only when it serves a
17 legitimate governmental purpose, such as ensuring appearance at proceedings or protecting the
18 community.

19 Where detention occurs without notice, an opportunity to be heard, or any meaningful
20 opportunity to contest the government's decision before re-detention, the risk of erroneous
21 deprivation of liberty is substantial.

22 **C. The government's interest in detention without process is minimal**

23 The government's interest in detaining Petitioner without procedural safeguards is
24 minimal.

25 The government previously determined that Petitioner could safely remain at liberty in
26 the community and thereafter permitted him to remain free for nearly a decade. Respondents
27
28

1 identify no violation of any release condition, no changed circumstances, and no individualized
2 basis justifying revocation of that liberty.

3 Because the government previously determined that detention was unnecessary and has
4 identified no changed circumstances warranting a different conclusion, its interest in re-detaining
5 Petitioner without constitutionally adequate procedures is comparatively weak.

6 **V. A POST-DETENTION BOND HEARING DOES NOT FULLY REMEDY THE**
7 **CONSTITUTIONAL VIOLATION**

8 To the extent the Court considers whether a later custody hearing would provide an
9 adequate remedy, courts have repeatedly recognized that a post-detention bond hearing cannot
10 fully cure the constitutional injury where a person has already been deprived of liberty without
11 constitutionally adequate pre-deprivation process.

12 The constitutional injury occurs at the moment an individual is taken back into custody
13 without the procedural safeguards required before revoking a previously granted liberty interest.

14 Here, Petitioner lived at liberty in the United States for nearly a decade after being
15 released from federal custody. That liberty was revoked without notice, without an opportunity
16 to be heard, and without any identified changed circumstances justifying re-detention.

17 Even if a later bond hearing results in release, Petitioner has already suffered the very
18 deprivation of liberty that due process is intended to prevent. A post-deprivation hearing
19 therefore cannot fully remedy the completed constitutional violation.

20 The constitutional question presented by this case is not merely whether Petitioner may
21 ultimately be entitled to release following a future custody hearing. Rather, the question is
22 whether the government may first revoke a previously granted liberty interest and only later
23 provide process after the deprivation has already occurred.

24 For this reason, courts throughout this District have repeatedly concluded that where
25 DHS re-detains a previously released noncitizen without constitutionally adequate pre-
26 deprivation procedures, the appropriate remedy is immediate release rather than merely a later
27 bond hearing.

VI. IMMEDIATE RELEASE IS THE APPROPRIATE REMEDY

Under these circumstances, the appropriate remedy is immediate release.

Petitioner lived freely in the community for nearly a decade after the government released him from federal custody. Respondents have not identified any changed circumstances that would justify revoking that liberty without constitutionally adequate process.

Although Respondents preserve their statutory position, they acknowledge that courts in this District have repeatedly rejected their contention that Petitioner is subject to detention under 8 U.S.C. § 1225(b) under materially indistinguishable circumstances. Respondents do not, however, address Petitioner's separate constitutional claim that the government revoked a previously granted liberty interest without constitutionally adequate pre-deprivation process.

Because Petitioner has already been deprived of liberty without the procedures required by due process, habeas relief is warranted.

Courts throughout this District have repeatedly concluded that where DHS re-detains a previously released noncitizen without constitutionally adequate pre-deprivation safeguards, immediate release—rather than merely a later bond hearing—is the appropriate remedy. See, e.g., *Raymundo Chel v. LaRose*, No. 26cv1114-LL-BLM (S.D. Cal. Apr. 6, 2026); *Ayala Perez v. Noem*, No. 25-cv-03777-CAB-JLB (S.D. Cal. Jan. 14, 2026); *Hernandez v. LaRose*, No. 26cv0903-DMS-VET (S.D. Cal. Mar. 18, 2026); *Rameau v. LaRose*, No. 26-cv-1439-CAB-SBC (S.D. Cal. Mar. 19, 2026). These courts ordered immediate release under the same conditions that existed prior to re-detention rather than merely directing a future custody hearing.

Immediate release should restore Petitioner to the status quo existing before detention, including the same conditions that existed immediately prior to his re-detention. Respondents should not impose any materially more restrictive conditions of supervision—including electronic monitoring or similar restraints on liberty—unless such restrictions are determined to be necessary at a future constitutionally adequate pre-deprivation hearing. Respondents should further be ordered to return all of Petitioner’s documents and personal belongings upon release.

1 **VII. ALTERNATIVELY, THE COURT SHOULD ORDER A PROMPT**
2 **CONSTITUTIONALLY ADEQUATE CUSTODY HEARING**

3 If the Court determines that immediate release is not warranted, Petitioner respectfully
4 requests an order directing Respondents to provide a prompt constitutionally adequate custody
5 hearing before an Immigration Judge.

6 At such hearing, the government should bear the burden of establishing, by clear and
7 convincing evidence, that continued detention is necessary to prevent flight or danger to the
8 community. The Immigration Judge should consider Petitioner's ability to pay, alternatives to
9 detention, and whether less restrictive conditions would reasonably address any legitimate
10 governmental interests.

11 **VIII. CONCLUSION**

12 Respondents acknowledge that courts in this District have repeatedly rejected their
13 position that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b) under
14 materially indistinguishable circumstances. Respondents further acknowledge that the facts
15 presented here are not materially distinguishable from those prior decisions. Yet Respondents do
16 not address Petitioner's independent constitutional claim that the government revoked a
17 previously granted liberty interest without constitutionally adequate pre-deprivation process.

18 Petitioner was previously released from federal custody and lived freely in the United
19 States for nearly a decade. Respondents have identified no changed circumstances justifying
20 revocation of that liberty and no constitutionally adequate procedures preceding Petitioner's re-
21 detention.

22 For these reasons, Petitioner respectfully requests that the Court grant the Petition for
23 Writ of Habeas Corpus and order Petitioner's immediate release. In the alternative, Petitioner
24 respectfully requests that the Court order a prompt constitutionally adequate custody hearing
25 before an Immigration Judge at which the government bears the burden of establishing, by clear
26 and convincing evidence, that continued detention is necessary to prevent flight or danger to the
27 community.

1 Respectfully submitted,

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

3 Alex Monsalve Law Firm, PC

4 240 Woodlawn Ave, Suite 9

5 Chula Vista, CA 91910

6 Phone: (619) 777-6796

7 Email: info@alexmonsalvelawfirm.com

8 Counsel for Petitioner

9 Dated: June 15, 2026