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11 UNITED STATES DISTRICT COURT
12 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

13 YULIANA TAHINA ALEMAN GONZALEZ TRAVERSE

14 Petitioner,

15 vs.

16 CHRISTOPHER LAROSE, WARDEN OF
17 OTAY MESA DETENTION CENTER;

18 PATRICK DIVVER, DIRECTOR OF SAN
19 DIEGO FIELD OFFICE, U.S. IMMIGRATION
20 AND CUSTOMS ENFORCEMENT;

21 KRISTI NOEM, SECRETARY OF THE U.S.
22 DEPARTMENT OF HOMELAND SECURITY;
23 AND

24 PAM BONDI, ATTORNEY GENERAL OF
25 THE UNITED STATES,

26 IN THEIR OFFICIAL CAPACITIES,

27 Respondents

Case No.: 3:26-cv-3449

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INTRODUCTION

1. Respondents' Return confirms the central defect in this case. Respondents do not identify any individualized finding that Petitioner poses a danger to the community. They do not identify any individualized finding that Petitioner presents a flight risk. They do not identify any violation, misconduct, or material change in circumstances that justified taking Petitioner back into custody after DHS had already paroled her into the United States and allowed her to live in the community for nearly two years.

2. Instead, Respondents defend Petitioner's detention on a categorical theory: because Petitioner's humanitarian parole expired or was terminated by service of the Notice to Appear, she reverted to applicant-for-admission status and is therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2). That is the same threshold classification theory the Immigration Judge accepted when denying custody redetermination. It is also the reason no neutral adjudicator has ever reached the ordinary custody questions of danger, flight risk, or whether detention is necessary at all.

3. That is not meaningful custody review. Respondents treat parole expiration or termination as dispositive of detention authority and due process. But the question before this Court is not merely whether parole is an admission. Petitioner has never argued that humanitarian parole made her "admitted" to the United States. The question is whether DHS may take a person it previously paroled into the United States, allowed to live freely in the community for nearly two years, and then re-detain her under a mandatory no-bond framework without any meaningful individualized custody determination. It may not.

4. Respondents' jurisdictional argument fares no better. Petitioner does not ask this Court to review the decision to commence removal proceedings, adjudicate removal proceedings, or execute a removal order. Petitioner challenges only her present civil detention, the statutory authority under which Respondents claim to detain her, and the denial of any meaningful individualized custody determination after her re-detention. Those claims are

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1 independent of the merits of removal proceedings and fall squarely within this Court's habeas
2 jurisdiction.

3 5. The Petition should be granted. Petitioner remains detained at the Otay Mesa
4 Detention Center. Respondents have not shown that § 1225(b)(2) lawfully governs her present
5 detention. Respondents have not shown that parole expiration or service of an NTA extinguished
6 Petitioner's protected liberty interest. Respondents have not shown any material change in
7 circumstances justifying re-detention. And Respondents have not shown that Petitioner ever
8 received meaningful custody review. Habeas relief is therefore warranted.

9 **I. THE COURT HAS JURISDICTION BECAUSE PETITIONER CHALLENGES**
10 **DETENTION AUTHORITY AND DUE PROCESS, NOT REMOVAL**
11 **PROCEEDINGS**

12 6. Respondents first argue that this Court lacks jurisdiction under 8 U.S.C. §§
13 1252(g) and 1252(b)(9). Return at 2–4. That argument depends on recasting this habeas petition
14 as a challenge to DHS's decision to commence removal proceedings. It is not.

15 7. Petitioner does not challenge the Notice to Appear. She does not challenge
16 removability. She does not ask this Court to adjudicate any question that must be resolved in
17 removal proceedings. She does not seek review of any final order of removal. No final order of
18 removal exists. This case concerns only whether Respondents may continue detaining Petitioner
19 under § 1225(b)(2), rather than § 1226(a), after DHS previously paroled her into the United
20 States and permitted her to live in the community for nearly two years.

21 8. Section 1252(g) does not bar such claims. The Supreme Court has repeatedly held
22 that § 1252(g) is narrow and applies only to three discrete actions: the decision or action to
23 commence proceedings, adjudicate cases, or execute removal orders. *Reno v. Am.-Arab Anti-*
24 *Discrimination Comm.*, 525 U.S. 471, 482 (1999). It does not bar habeas review of whether a
25 person is detained under the correct statutory authority or whether detention violates due process.

1 9. Respondents’ theory would stretch § 1252(g) far beyond its text. Under
2 Respondents’ view, any detention that occurs after service of an NTA would “arise from” the
3 commencement of proceedings and therefore evade habeas review. That is not the law.
4 Immigration detention does not become immune from judicial review simply because removal
5 proceedings are pending.

6 10. Courts in this District have rejected this same jurisdictional argument in similar
7 detention cases. See, e.g., *Esquivel Pacheco v. LaRose*, No. 3:25-cv-2421-JO-AHG, 2026 WL
8 242300, at *3–4 (S.D. Cal. Jan. 29, 2026); *Mohammadi v. LaRose*, No. 3:25-cv-3450-JES-BJW,
9 2025 U.S. Dist. LEXIS 266027, at *4 (S.D. Cal. Dec. 26, 2025); *Vasquez Garcia v. Noem*, No.
10 25-cv-02180-DMS-MMP, 2025 WL 2549431, at *4 (S.D. Cal. Sept. 3, 2025). Respondents cite
11 *Vasquez Garcia* only as a “but see,” but that case confirms the point: challenges to the legality of
12 immigration detention and the governing detention statute remain reviewable in habeas.

13 11. Section 1252(b)(9) likewise does not bar review. Section 1252(b)(9) channels
14 review of claims arising from removal proceedings into petitions for review of final removal
15 orders. It does not preclude district-court review of detention claims independent of removal
16 proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 292–95 (2018). In *Jennings*, the Supreme
17 Court held that § 1252(b)(9) did not bar detention claims raising questions of law about the
18 government’s authority to detain without a bond hearing. *Id.*

19 12. Respondents rely on *Jennings* for the opposite conclusion, arguing that Petitioner
20 challenges the decision to detain her “in the first place.” Return at 3–4. But Petitioner’s claim is
21 not a challenge to DHS’s charging decision or to the commencement of proceedings. Petitioner
22 challenges her continued detention under the wrong statutory framework and without meaningful
23 custody review. That is a detention-authority claim, not a removal claim.

24 13. Respondents’ reliance on out-of-circuit authority does not change the analysis.
25 The question before this Court is governed by Supreme Court and Ninth Circuit precedent, as
26 well as the growing body of decisions in this District addressing this exact detention framework.

1 Those cases recognize that § 1252 does not strip district courts of habeas jurisdiction over
2 statutory and constitutional challenges to immigration detention.

3 14. Because Petitioner challenges the legal authority for her present detention and the
4 process afforded after re-detention, this Court has jurisdiction under 28 U.S.C. § 2241.

5 **II. RESPONDENTS' § 1225 THEORY FAILS BECAUSE THIS CASE CONCERNS**
6 **POST-RELEASE RE-DETENTION, NOT INITIAL BORDER DETENTION**

7 15. Respondents next argue that Petitioner is lawfully detained under 8 U.S.C. §
8 1225(b)(2) because she was paroled under 8 U.S.C. § 1182(d)(5), parole is not admission, and
9 her parole expired or was terminated. Return at 4–5. That argument misses the point.

10 16. Petitioner does not contend that parole is an admission. Petitioner does not
11 contend that DHS lacked authority to place her in removal proceedings. Petitioner does not
12 contend that the parole statute itself transformed her into an admitted noncitizen. The question is
13 whether Respondents may continue to rely on § 1225's mandatory border-detention framework
14 after DHS paroled Petitioner into the United States, allowed her to live in the community for
15 nearly two years, and then re-detained her in the interior without meaningful individualized
16 custody review.

17 17. They may not. Section 1225 applies to threshold inspection and border-processing
18 detention. Section 1226 applies to noncitizens already present in the United States who are
19 “pending a decision on whether the alien is to be removed.” 8 U.S.C. § 1226(a). These statutes
20 operate in distinct spheres. *Jennings*, 583 U.S. at 289; *Martinez v. Clark*, 36 F.4th 1219, 1227–29
21 (9th Cir. 2022).

22 18. Petitioner's present detention is not continuous border-processing detention. DHS
23 paroled Petitioner into the United States on or about August 14, 2023. DHS allowed her to live in
24 the community for nearly two years. She was not detained at a port of entry. She was not
25 detained while seeking admission at the border. She was arrested in the interior after leaving
26 work, long after DHS had released her from physical custody.

1 19. Courts in this District have rejected Respondents' attempt to revive § 1225 after a
2 person has already been released into the community. In *Esquivel Pacheco*, the court held that
3 where DHS had released the petitioner from an initial border-processing posture and later re-
4 detained him after he had lived in the community, § 1226—not § 1225—governed the detention.
5 2026 WL 242300, at *4–6. In *Mohammadi*, the court rejected DHS's argument that a
6 humanitarian parolee re-detained after years in the United States was properly detained under §
7 1225, holding instead that he was "properly considered detained under § 1226 rather than §
8 1225." *Mohammadi v. LaRose*, No. 3:25-cv-3450-JES-BJW, 2025 U.S. Dist. LEXIS 266027, at
9 *5 (S.D. Cal. Dec. 26, 2025). The same principle applies here.

10 20. Respondents cite *Chavez v. Noem*, No. 3:25-cv-02325, 2025 WL 2730228 (S.D.
11 Cal. Sept. 24, 2025), for the proposition that an unadmitted person present in the United States
12 remains an applicant for admission under § 1225. Return at 5. But *Chavez* does not resolve this
13 case. Petitioner's claim does not turn on whether parole counts as admission. It turns on DHS's
14 later re-detention of a person it had already released into the community, and the government's
15 use of parole termination as a categorical substitute for meaningful custody review.

16 21. Respondents' reading would mean that DHS may release a humanitarian parolee
17 into the United States, permit her to live openly in the community for years, then later re-detain
18 her by default under § 1225 without any individualized assessment of danger, flight risk, or
19 changed circumstances. That approach collapses the distinction between border detention and
20 post-release detention. It also eliminates the liberty interest created when the government
21 affirmatively releases a person from physical custody.

22 22. Once DHS paroled Petitioner into the United States and allowed her to live in the
23 community for nearly two years, any later detention had to proceed under the ordinary custody
24 framework, including meaningful individualized custody review. Respondents' reliance on §
25 1225(b)(2) is unlawful.

**III. PAROLE EXPIRATION OR TERMINATION DID NOT EXTINGUISH
PETITIONER'S PROTECTED LIBERTY INTEREST**

23. Respondents place significant weight on the assertion that Petitioner's parole expired and that the Notice to Appear terminated parole under 8 C.F.R. § 212.5(e)(2)(i). Return at 4–5. But that argument answers the wrong question. Even assuming parole expired or was terminated as a status matter, that does not mean DHS could re-detain Petitioner by default without meaningful individualized custody review.

24. Once the government releases a person from physical custody and permits her to live in the community, that freedom gives rise to a protected liberty interest. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Young v. Harper*, 520 U.S. 143, 152 (1997). The Ninth Circuit has similarly recognized that once a person has been released, she cannot be returned to custody absent due process. *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982).

25. District courts in this Circuit have applied those principles to immigration re-detention following release on parole. In *Lozada v. LaRose*, this District held that “having been previously released on humanitarian parole, Petitioner had a protected liberty interest in remaining free from detention,” and that DHS violated due process by revoking that liberty without adequate process. No. 25cv3614-LL-KSC, 2026 U.S. Dist. LEXIS 12973, at *6–11 (S.D. Cal. Jan. 23, 2026). In *Ibarras Vizcaino v. Noem*, this District rejected the argument that a parolee's liberty interest disappears upon expiration or termination of parole, explaining that the “liberty interest does not expire along with [his] parole.” No. 3:26-cv-01219-RBM-MMP, 2026 WL 1238536 (S.D. Cal. Mar. 19, 2026).

26. Respondents do not meaningfully address that line of authority. Instead, they argue that because parole is not admission, and because parole expired or was terminated, Petitioner automatically reverted to applicant-for-admission status and mandatory detention. Return at 4–5. But the existence of a protected liberty interest does not depend on whether parole

1 was an admission. It arises from the government's affirmative decision to release Petitioner from
2 custody and allow her to live in the community.

3 27. Nor does 8 C.F.R. § 212.5(e) authorize automatic re-detention without due
4 process. That regulation addresses termination of parole. It does not eliminate constitutional
5 limits on re-incarceration after release. It does not authorize DHS to use service of an NTA as a
6 substitute for individualized custody review. And nothing in § 212.5(e) expressly provides that
7 termination of parole returns a previously released person to a § 1225 border-detention posture
8 after DHS has already allowed her to live in the community. Nor does the regulation allow DHS
9 to avoid showing any material change in circumstances before revoking a person's liberty.

10 28. Respondents' reliance on *Omer G. G. v. Kaiser*, No. 1:25-cv-01471-KES-SAB
11 (HC), 2025 WL 3254999 (E.D. Cal. Nov. 22, 2025), is misplaced for the same reason. *Omer*
12 addressed whether written notice was required when parole expired under the regulation.
13 Petitioner's claim is broader and more fundamental: DHS re-detained a previously released
14 parolee without identifying any changed circumstance and without any meaningful
15 individualized custody determination. Expiration of parole as a status matter does not resolve
16 whether continued detention is lawful.

17 29. Respondents' own Return confirms the relevant facts. Petitioner was paroled on
18 August 14, 2023. Her parole was authorized until June 12, 2025. She was not re-detained until
19 May 27, 2026. During the period following DHS's parole decision, Petitioner lived in the
20 community, worked, and was not alleged to have committed any crime or violated any reporting
21 or release condition. Respondents identify no post-release conduct that justified taking her back
22 into custody.

23 30. That absence matters. DHS cannot simply point to parole expiration or NTA
24 service and avoid the due-process question. Once DHS had allowed Petitioner to live freely in
25 the community, the Constitution required meaningful process before Respondents could continue
26 to deprive her of liberty.

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**IV. THE JUNE 5 CUSTODY PROCEEDING DID NOT PROVIDE MEANINGFUL
INDIVIDUALIZED REVIEW**

31. Respondents' Return does not dispute the key point: the Immigration Judge never reached danger, flight risk, or ordinary custody factors. The Immigration Judge denied bond based on the threshold conclusion that Petitioner's parole was revoked or terminated, that she reverted to applicant-for-admission status, and that she was subject to mandatory detention under INA § 235(b)(2)(A).

32. That is not meaningful custody review. A custody proceeding that ends at statutory classification and treats the person as categorically ineligible for bond does not assess whether detention is necessary. It does not test the government's claim that the person presents a danger. It does not test the government's claim that the person presents a flight risk. It does not consider less restrictive alternatives. It simply accepts Respondents' threshold detention theory as dispositive.

33. Respondents' Return repeats that same error. It does not argue that Petitioner is dangerous. It does not argue that Petitioner is a flight risk. It does not identify any changed circumstance after release. It does not explain why detention is necessary. It argues only that § 1225 applies. That confirms Petitioner's position: Respondents are defending categorical detention, not individualized custody review.

34. Under *Mathews v. Eldridge*, due process requires more. 424 U.S. 319, 335 (1976). The private interest at stake is freedom from civil incarceration. The risk of error is severe where DHS re-detains a person through internal decision-making and the later custody proceeding stops at threshold classification. The government's legitimate interests—ensuring appearance and protecting the community—are exactly the interests assessed through the ordinary custody process.

35. Petitioner's case demonstrates why meaningful review is required. Petitioner is 25 years old. She has no criminal history. She has no prior immigration detention history. She lived

1 openly in the community after DHS paroled her into the United States. Respondents identify no
2 violation, misconduct, or changed circumstance. Yet Petitioner remains incarcerated because
3 Respondents and the Immigration Judge treated parole termination and applicant-for-admission
4 status as categorically dispositive.

5 36. Due process does not permit that result. Once DHS released Petitioner and
6 allowed her to live in the community, Respondents could not re-detain her and then avoid
7 meaningful custody review by asserting mandatory detention under § 1225.

8 **V. RESPONDENTS HAVE NOT SHOWN ANY MATERIAL CHANGE IN**
9 **CIRCUMSTANCES JUSTIFYING RE-DETENTION**

10 37. Although DHS may terminate parole or revoke release in certain circumstances,
11 that authority is not unlimited. Revocation of a prior release must be supported by new facts or a
12 material change in circumstances. *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981);
13 *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd*, 905 F.3d 1137 (9th Cir.
14 2018).

15 38. Respondents identify no such change. They do not allege that Petitioner
16 committed any crime. They do not allege that Petitioner failed to comply with any release
17 condition. They do not allege that Petitioner failed to appear for any immigration obligation.
18 They do not allege that new information showed she was dangerous or likely to abscond.

19 39. Instead, Respondents rely entirely on a legal reclassification: parole expired or
20 was terminated, therefore § 1225 applies, therefore detention is mandatory. That is not a material
21 change in circumstances. It is a categorical legal theory. A change in DHS's preferred detention
22 classification cannot substitute for new facts showing that re-detention is necessary.

23 40. The absence of any material change further supports release. Respondents
24 previously determined that Petitioner could live in the community. Nothing in the Return
25 identifies any factual basis for changing that determination. Continued detention therefore lacks
26 both statutory and constitutional support.

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VI. IMMEDIATE RELEASE REMAINS THE PROPER REMEDY

41. Respondents argue there is “no basis” to order immediate release because Petitioner’s parole expired or was terminated. Return at 4. That argument again treats parole status as dispositive of custody. It is not.

42. The remedy must address the constitutional violation. Petitioner was previously released into the community and then re-detained without meaningful individualized custody review and without any identified material change in circumstances. A later proceeding that stops at threshold classification does not cure that defect. It perpetuates it.

43. Courts in this District have ordered release where DHS re-detained a previously released parolee without constitutionally adequate process. See *Lozada*, 2026 U.S. Dist. LEXIS 12973, at *10–11; *Ibarras Vizcaino*, 2026 WL 1238536. Those cases reflect the correct rule: where DHS has unlawfully revoked a protected liberty interest and cannot justify continued detention through meaningful individualized findings, release is the appropriate remedy.

44. At minimum, if the Court does not order immediate release, it should order a prompt individualized custody hearing under § 1226(a) before a neutral adjudicator, at which the government bears the burden of proving by clear and convincing evidence that Petitioner presents a danger or flight risk and that no less restrictive alternative will reasonably serve the government’s interests.

45. Respondents have not shown that dismissal is warranted. They have not defeated jurisdiction. They have not shown that § 1225 lawfully governs Petitioner’s present detention. They have not shown that parole expiration extinguished Petitioner’s protected liberty interest. They have not shown any material change in circumstances. And they have not shown that Petitioner has received meaningful individualized custody review.

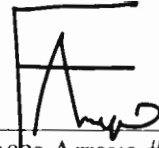
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VII. CONCLUSION

46. For the foregoing reasons, Petitioner respectfully requests that the Court reject Respondents' jurisdictional arguments, grant the Petition for Writ of Habeas Corpus, and order Petitioner's immediate release. In the alternative, Petitioner requests that the Court order a prompt individualized custody hearing under 8 U.S.C. § 1226(a), before a neutral adjudicator, at which the government bears the burden of proving by clear and convincing evidence that detention is necessary and that no less restrictive alternative will suffice.

DATED: June 18, 2026

Respectfully Submitted,



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