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

CARLOS JESUS MORAO QUERO,

Case No.: 1:26-cv-03478-RBM-AHG

Petitioner

v.

CHRISTOPHER LaROSE, et al.,

**PETITIONER'S TRAVERSE TO
RESPONDENTS' RETURN**

I. Introduction

Petitioner challenges the legality of his continued detention following his re-detention after an extended period of government-authorized liberty in the United States. The question presented is narrow: whether the Department of Homeland Security may abruptly revoke a noncitizen's previously granted liberty and re-detain him without constitutionally adequate process and without any individualized determination demonstrating that detention has become necessary. It may not.

The relevant facts are largely undisputed. DHS granted Petitioner humanitarian parole into the United States and thereafter permitted him to reside openly in the community while his immigration proceedings remained pending. During that period, Petitioner established substantial ties in the United States, remained available to immigration authorities, and continued pursuing

1 available immigration relief. Respondents do not identify any individualized determination made
2 prior to re-detention explaining why detention had suddenly become necessary after this
3 extended period of government-authorized liberty.

4 Instead, Respondents principally rely upon the proposition that Petitioner remains an
5 applicant for admission subject to detention under INA § 235(b). But that argument fails to
6 address the constitutional question actually presented by this case. Petitioner does not challenge
7 his immigration proceedings, nor does he seek review of any discretionary immigration
8 determination. Rather, he challenges the government's abrupt revocation of liberty after an
9 extended period of government-authorized release without constitutionally adequate procedures
10 and without any individualized determination supporting detention.

11 Although Respondents devote substantial attention to Petitioner's immigration
12 classification and the alleged termination of parole, they do not meaningfully address the due
13 process injury arising from the government's decision to revoke previously granted liberty after
14 allowing Petitioner to live openly in the community for an extended period of time. Nor do
15 Respondents explain why the asserted statutory authority to detain applicants for admission
16 permits the government to dispense with constitutionally adequate procedures before depriving
17 Petitioner of his physical liberty.

18 Because Respondents have failed to establish that constitutionally adequate procedures
19 were provided before revoking Petitioner's previously granted liberty, and because they have
20 failed to identify any individualized determination justifying that deprivation of liberty,
21 Petitioner's continued detention is unlawful. The appropriate remedy is immediate release.

22 **II. Respondents Failed to Justify Petitioner's Re-Detention**

23 Respondents have failed to establish a lawful basis for revoking Petitioner's previously
24 granted liberty and returning him to physical custody.

25 Most significantly, Respondents do not identify any individualized determination made
26 prior to Petitioner's re-detention concluding that detention had become necessary. Respondents
27 do not identify any pre-deprivation hearing, any meaningful opportunity to be heard, or any
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1 individualized finding that Petitioner posed a danger to the community or a risk of flight
2 sufficient to justify the abrupt deprivation of liberty that occurred here.

3 Instead, Respondents principally rely upon the proposition that Petitioner's parole was
4 terminated and that he remains an applicant for admission subject to detention under INA §
5 235(b). But those arguments do not answer the question presented by the Petition. The issue is
6 not whether Respondents may generally place applicants for admission in removal proceedings.
7 Nor is the issue whether Petitioner remains an applicant for admission for purposes of the
8 Immigration and Nationality Act. Rather, the issue is whether Respondents may revoke
9 Petitioner's previously granted liberty and return him to physical custody without constitutionally
10 adequate procedures and without any individualized determination demonstrating that detention
11 has become necessary.

12 Respondents' reliance upon a purported parole termination notice is similarly unavailing.
13 Respondents identify no individualized determination supporting termination, no opportunity for
14 Petitioner to contest the deprivation of liberty, and no pre-deprivation hearing before a neutral
15 decisionmaker. A generalized termination notice does not answer the constitutional question
16 presented here. Even assuming DHS possessed authority to terminate parole, the government
17 could not revoke Petitioner's previously granted liberty and return him to physical custody
18 without constitutionally adequate procedures. Respondents therefore conflate the question of
19 parole termination with the separate question of whether Petitioner's liberty could lawfully be
20 revoked without due process.

21 Nor do Respondents identify any changed circumstance arising after Petitioner's release
22 that explains why detention suddenly became necessary after an extended period of government-
23 authorized liberty. Respondents do not identify any violation of release conditions, any failure to
24 appear, any danger to the community, or any other individualized fact demonstrating that
25 detention became necessary after DHS previously determined that Petitioner could remain at
26 liberty in the community.

1 Respondents' Return largely conflates two distinct questions: whether Petitioner remains
2 an applicant for admission for purposes of the Immigration and Nationality Act, and whether the
3 government may constitutionally revoke Petitioner's previously granted liberty without adequate
4 process. Those are not the same question.

5 Even assuming Petitioner remains an applicant for admission and even assuming
6 Respondents possess statutory authority to place him in removal proceedings, those propositions
7 do not answer whether the Due Process Clause permits the government to revoke previously
8 granted liberty without prior notice, without a meaningful opportunity to be heard, and without
9 an individualized determination supporting detention.

10 The liberty interest at issue here arises not from Petitioner's immigration status, but from
11 the government's own decision to release him from custody and permit him to live at liberty in
12 the United States. Once that liberty was granted, Respondents could not revoke it through abrupt
13 re-detention unaccompanied by constitutionally adequate procedures.

14 Because Petitioner possessed a protected liberty interest in remaining free from physical
15 detention, Respondents were required to provide constitutionally adequate procedures before
16 revoking that liberty. Their failure to do so renders Petitioner's continued detention unlawful.

17 **IV. Re-Detention Without a Pre-Deprivation Hearing Violates Due Process**

18 The Due Process Clause does not permit the government to revoke previously granted
19 liberty through abrupt physical detention without constitutionally adequate procedures.

20 Here, Respondents re-detained Petitioner after an extended period of government-
21 authorized liberty without prior notice, without a meaningful opportunity to be heard, and
22 without any pre-deprivation determination by a neutral decisionmaker regarding whether
23 detention was necessary. Respondents do not contend otherwise.

24 The constitutional defect is particularly apparent because Respondents do not identify
25 any procedure that preceded Petitioner's re-detention. The Return does not identify any hearing,
26 any opportunity for Petitioner to contest the deprivation of liberty, or any individualized
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1 determination concluding that detention was necessary to address danger to the community or
2 risk of flight.

3 Instead, Respondents principally rely upon the proposition that Petitioner's parole was
4 terminated and that he remains subject to detention under INA § 235(b). But even assuming
5 those assertions are correct, they do not answer the constitutional question presented by this case.
6 The issue is not merely whether Respondents possess statutory detention authority. The issue is
7 whether Respondents may revoke previously granted liberty without constitutionally adequate
8 procedures.

9 The constitutional injury arises from the manner in which Petitioner's liberty was
10 revoked. After permitting Petitioner to reside at liberty in the community for an extended period
11 of time, Respondents abruptly returned him to physical custody without any meaningful
12 procedural safeguard preceding that deprivation of liberty. The Return does not explain why such
13 procedures were unnecessary, nor does it identify any circumstance requiring immediate
14 detention without prior process.

15 Indeed, Respondents' position would permit the government to release a noncitizen into
16 the community, allow that individual to remain at liberty for years, and then revoke that liberty
17 without prior notice, without a hearing, and without any individualized determination supporting
18 detention. The Due Process Clause does not permit such a result.

19 Courts addressing materially similar re-detention claims have repeatedly recognized that
20 the government may not revoke previously granted liberty without constitutionally adequate
21 procedures. The government's asserted statutory authority to detain applicants for admission does
22 not eliminate the constitutional protections that attach when previously granted liberty is
23 withdrawn.

24 Because Respondents revoked Petitioner's liberty without constitutionally adequate
25 procedures, Petitioner's continued detention violates the Due Process Clause of the Fifth
26 Amendment and habeas relief is warranted.

**V. Courts in This District Have Consistently Granted Relief in
Materially Similar Re-Detention Cases**

The constitutional principles implicated by this case are not novel. Courts throughout the Southern District of California have repeatedly granted habeas relief where the government sought to revoke previously granted liberty through abrupt re-detention without constitutionally adequate procedures.

Most significantly, courts in this District—including this Court—have recognized that once the government releases a noncitizen from physical custody and permits that individual to reside at liberty in the community, the government may not later revoke that liberty without adequate procedural safeguards. In *Alves Santana v. Casey*, No. 3:26-cv-00964-RBM-MSB (S.D. Cal.), this Court granted habeas relief and ordered the petitioner's release after concluding that re-detention following a prior grant of liberty violated due process. Likewise, in *Dadhwai v. Wofford*, No. 3:26-cv-01808-RBM-BLM (S.D. Cal.), this Court ordered Petitioner's release under the same conditions of his prior release and required constitutionally adequate procedures before any future re-detention. Courts throughout this District have reached the same conclusion. See, e.g., *Hernandez v. Noem*, No. 3:26-cv-00903-DMS-VET (S.D. Cal. Mar. 18, 2026); *Ayala Perez v. Noem*, No. 3:25-cv-03777-CAB-JLB (S.D. Cal. Jan. 14, 2026); *Fuenmayor Angulo v. LaRose*, No. 3:26-cv-02191-JO-BLM (S.D. Cal. Apr. 22, 2026).

These decisions reflect a common principle: the question is not merely whether DHS possesses statutory detention authority under the Immigration and Nationality Act. Rather, the relevant inquiry is whether the government may revoke previously granted liberty without constitutionally adequate procedures and without an individualized determination justifying detention.

Respondents identify no meaningful distinction warranting a different outcome here. Like the petitioners in those cases, Petitioner was previously released into the community, remained at liberty for an extended period of time, and was later re-detained without any pre-deprivation process. Respondents' reliance upon generalized statutory detention authority does not materially

1 distinguish this case from the growing body of decisions granting habeas relief under similar
2 circumstances.

3 Respondents never explain why Petitioner's case should be treated differently from the
4 parole and re-detention cases in which courts throughout this District—including this Court—
5 have already granted habeas relief.

6 The consistent approach adopted by courts throughout this District strongly supports the
7 issuance of the writ and Petitioner's immediate release.

8 **VI. Immediate Release Is the Appropriate Remedy**

9 Where detention violates the Constitution, the traditional function of habeas corpus is to
10 secure release from unlawful custody. Immediate release is therefore the appropriate remedy.

11 As demonstrated above, Respondents have failed to establish that Petitioner received
12 constitutionally adequate process before the government revoked his previously granted liberty.
13 Respondents do not identify any pre-deprivation hearing, any meaningful opportunity to be
14 heard, or any individualized determination supporting detention. Instead, Respondents rely
15 primarily upon generalized statutory arguments that do not address the constitutional injury
16 presented by this case.

17 Immediate release is particularly appropriate because the deprivation of liberty has
18 already occurred. A post-deprivation custody hearing cannot retroactively cure the government's
19 failure to provide constitutionally adequate procedures before re-detaining Petitioner. Once the
20 government has unlawfully deprived an individual of liberty, the appropriate remedy is
21 restoration of the status quo ante, not continuation of the unlawful detention while additional
22 procedures are provided after the fact.

23 Nor have Respondents identified any individualized basis demonstrating that Petitioner's
24 continued detention is necessary. Respondents do not establish that Petitioner poses a danger to
25 the community, presents a meaningful risk of flight, or otherwise requires physical detention.
26 Instead, Respondents rely upon generalized legal theories that would apply equally to every
27 similarly situated parolee regardless of individual circumstances.

Courts throughout this District have repeatedly concluded that immediate release is the appropriate remedy where the government revokes previously granted liberty without constitutionally adequate process. See *Alves Santana v. Casey*, No. 3:26-cv-00964-RBM-MSB (S.D. Cal.); *Dadhwal v. Wofford*, No. 3:26-cv-01808-RBM-BLM (S.D. Cal.); *Hernandez v. Noem*, No. 3:26-cv-00903-DMS-VET (S.D. Cal. Mar. 18, 2026); *Ayala Perez v. Noem*, No. 3:25-cv-03777-CAB-JLB (S.D. Cal. Jan. 14, 2026); *Fuenmayor Angulo v. LaRose*, No. 3:26-cv-02191-JO-BLM (S.D. Cal. Apr. 22, 2026). Those decisions recognize that habeas corpus exists to remedy unlawful custody and restore liberty where detention cannot be sustained consistent with constitutional requirements.

Accordingly, because Respondents revoked Petitioner's previously granted liberty without constitutionally adequate procedures and have failed to establish a lawful basis for his continued detention, the Court should grant the Petition and order Petitioner's immediate release under the same conditions that existed immediately prior to his re-detention.

In the alternative, should the Court decline to order immediate release, Petitioner respectfully requests that the Court order a prompt constitutionally adequate custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear and convincing evidence, that continued detention is necessary to prevent flight or danger to the community.

VII. Conclusion

For the foregoing reasons, Respondents have failed to establish a lawful basis for Petitioner's continued detention. Although Respondents devote substantial attention to Petitioner's immigration classification and the asserted termination of parole, they do not answer the constitutional question presented by this case. Respondents do not explain why a noncitizen whom DHS previously authorized to reside at liberty in the United States may be abruptly returned to physical custody without constitutionally adequate procedures and without any individualized determination demonstrating that detention has become necessary.

1 Most significantly, Respondents do not identify any pre-deprivation hearing, any
2 meaningful opportunity to be heard, or any individualized determination supporting the
3 revocation of Petitioner's previously granted liberty. Nor do Respondents identify any
4 meaningful distinction between this case and the numerous re-detention decisions in which
5 courts throughout this District have granted habeas relief.

6 The Due Process Clause does not permit the government to revoke previously granted
7 liberty through abrupt re-detention unsupported by constitutionally adequate procedures.
8 Because Respondents deprived Petitioner of that liberty without the process required by the
9 Constitution, Petitioner's continued detention is unlawful.

10 Accordingly, Petitioner respectfully requests that the Court grant the Petition for Writ of
11 Habeas Corpus and order his immediate release under the same conditions that existed
12 immediately prior to his re-detention.

13 In the alternative, should the Court decline to order immediate release, Petitioner
14 respectfully requests that the Court order a prompt constitutionally adequate custody hearing
15 before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear
16 and convincing evidence, that continued detention is necessary to prevent flight or danger to the
17 community.

18 Respectfully submitted,

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