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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ALEJANDRO MAURICIO VALERIO-REYES,

Case No.: 1:26-CV-05083-DAD-AC

Petitioner

v.

Warden, Central Valley Annex, *et al.*,

**PETITIONER'S REPLY TO
RESPONDENTS' OPPOSITION
TO MOTION FOR
TEMPORARY RESTRAINING
ORDER**

I. Introduction

Petitioner challenges the legality of his continued detention following his abrupt re-detention after having previously been released from immigration custody and permitted to reside at liberty in the United States for approximately twenty months before being re-detained during a routine ICE reporting appointment.

The question presented is narrow: whether the Department of Homeland Security may revoke a previously granted liberty interest through abrupt re-detention in the interior of the United States without prior notice, without any individualized determination justifying detention, and without constitutionally adequate process.

1 In its Minute Order, this Court specifically directed Respondents to identify whether any
2 factual or legal issue meaningfully distinguishes this case from *Ayala Cajina v. Wofford*, *Perez v.*
3 *Albarran*, *Chavarria v. Chestnut*, *Yang v. Kaiser*, *Quichimbo-Jimenez v. Warden, California*
4 *City Correctional Center*, *Cardenas v. Chestnut*, *J.P.C. v. Chestnut*, and other similar re-
5 detention cases previously decided by this Court. The Court further stated that it would construe
6 any failure to distinguish those decisions as a concession that the cases are not substantively
7 distinguishable.

8 Respondents identify only one asserted distinction: that Petitioner was initially processed
9 under the expedited removal provisions of INA § 235(b)(1) before receiving a positive credible
10 fear determination, being placed into removal proceedings under INA § 240, and later released
11 from custody. Respondents do not explain why that initial procedural history materially
12 distinguishes this case from the numerous re-detention cases previously decided by this Court.
13 Nor do they explain why Petitioner's subsequent release from immigration custody,
14 approximately twenty months of liberty in the community, continued liberty under an Order of
15 Recognizance, and eventual re-detention during a routine ICE reporting appointment do not
16 implicate the same constitutional concerns that governed this Court's prior decisions.

17 Nor do Respondents dispute the material facts. Respondents do not dispute that Petitioner
18 received a positive credible fear determination, was issued a Notice to Appear commencing
19 removal proceedings, was released from immigration custody on September 21, 2023, remained
20 at liberty in the community for approximately twenty months while complying with immigration
21 reporting requirements, and was then abruptly re-detained on May 15, 2026, during a routine
22 ICE reporting appointment without prior notice and without any hearing before a neutral
23 decisionmaker.

24 Although Respondents emphasize Petitioner's initial expedited removal processing, the
25 constitutional violation challenged here is not Petitioner's initial placement into removal
26 proceedings, nor does Petitioner seek review of any discretionary enforcement decision. Rather,
27 Petitioner challenges the government's revocation of a previously granted liberty interest after an
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1 extended period of release in the community without notice, without a meaningful opportunity to
2 be heard, and without constitutionally adequate process. Respondents identify no authority
3 explaining why the existence of an initial expedited removal proceeding eliminates the due
4 process protections this Court has repeatedly recognized in materially similar re-detention cases.

5 Because Respondents identify no meaningful basis for departing from this Court's prior
6 re-detention decisions, identify no individualized justification for Petitioner's re-detention after
7 nearly twenty months of liberty, and fail to establish that constitutionally adequate process was
8 provided before revoking Petitioner's liberty, the Petition should be granted and Petitioner should
9 be immediately released.

10 **II. Respondents Identify No Meaningful Basis for Departing from This**
11 **Court's Prior Re-Detention Decisions**

12 In its July 2, 2026 Minute Order, this Court expressly directed Respondents to address
13 whether any factual or legal issue meaningfully distinguishes this case from *Ayala Cajina v.*
14 *Wofford, Perez v. Albarran, Chavarria v. Chestnut, Yang v. Kaiser, Quichimbo-Jimenez v.*
15 *Warden, California City Correctional Center, Cardenas v. Chestnut, J.P.C. v. Chestnut*, and
16 other similar re-detention cases previously decided by this Court. The Court further advised that
17 it would construe any failure to distinguish those decisions as a concession that the cases are not
18 substantively distinguishable.

19 Respondents identify only one asserted distinction: that Petitioner was initially processed
20 under the expedited removal provisions of INA § 235(b)(1) before receiving a positive credible
21 fear determination and being placed into removal proceedings under INA § 240. According to
22 Respondents, that initial processing history alone renders this case materially different from the
23 Court's prior re-detention decisions.

24 That argument does not meaningfully distinguish this case from the constitutional
25 question presented here. Respondents do not meaningfully explain why Petitioner's initial
26 expedited removal processing alters the significance of the undisputed events that followed.
27 After receiving a positive credible fear determination, Petitioner was issued a Notice to Appear
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1 commencing removal proceedings, released from immigration custody, later placed on an Order
2 of Recognizance, permitted to reside openly in the United States for approximately twenty
3 months while complying with immigration reporting requirements, and then abruptly re-detained
4 during a routine ICE reporting appointment. Respondents identify no authority explaining why
5 those subsequent discretionary custody decisions do not implicate the same due process concerns
6 repeatedly addressed in this Court's prior re-detention decisions.

7 Nor do Respondents meaningfully discuss *Ayala Cajina*, *Perez*, *Chavarria*, *Yang*,
8 *Quichimbo-Jimenez*, *Cardenas*, or *J.P.C.* Instead, Respondents largely repeat their position that
9 Petitioner remains subject to detention under INA § 235(b)(1) because he was initially processed
10 under the expedited removal provisions. But merely advancing a legal theory previously rejected
11 by this Court does not explain why this case should be resolved differently from the numerous
12 re-detention cases identified in the Court's Minute Order.

13 This Court has recently followed the same analytical framework in materially similar
14 cases. In *Valecillos-Gonzalez v. Warden*, No. 1:26-cv-03963-DAD-AC (E.D. Cal. June 5, 2026),
15 the Court concluded that Respondents failed to meaningfully distinguish the prior re-detention
16 decisions identified by the Court, rejected Respondents' reliance upon INA § 235(b), and granted
17 the petition. Likewise, in *Colorado v. Warden Golden State Annex*, No. 1:26-cv-04574-DAD-
18 JDP (E.D. Cal. June 17, 2026), the Court concluded that Respondents had not attempted to
19 distinguish the cited cases, construed that omission as a concession that the cases were not
20 substantively distinguishable, and granted habeas relief. In *Rojas-Castro v. Warden*, No. 1:26-cv-
21 04271-DAD-JDP (E.D. Cal. June 9, 2026), the Court rejected Respondents' attempt to
22 distinguish the case based upon the statutory mechanism of the petitioner's prior release,
23 concluded that Respondents' distinction was unpersuasive, and again ordered immediate release.

24 The same result is warranted here. Respondents' reliance on Petitioner's initial expedited
25 removal processing does not explain why the government's later decision to release Petitioner,
26 permit him to remain at liberty for approximately twenty months, later place him on an Order of
27 Recognizance, and ultimately revoke that liberty without prior notice or constitutionally adequate
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1 process falls outside the reasoning repeatedly adopted by this Court. Accordingly, Respondents
2 have identified no meaningful basis for departing from this Court's prior re-detention decisions,
3 and the Petition should be granted.

4 **III. Petitioner's Prior Release Created a Protected Liberty Interest That**
5 **Cannot Be Revoked Without Constitutionally Adequate Process**

6 The material facts giving rise to Petitioner's constitutional claim are not disputed.
7 Respondents acknowledge that Petitioner was initially encountered by immigration authorities in
8 August 2023, subsequently received a positive credible fear determination, was issued a Notice
9 to Appear commencing removal proceedings, and was released from immigration custody on
10 September 21, 2023. Respondents further acknowledge that Petitioner remained at liberty, was
11 later placed on an Order of Recognizance on October 22, 2024, and was not re-detained until
12 May 15, 2026, when he voluntarily appeared for a scheduled ICE reporting appointment.
13 Respondents identify no violation of Petitioner's release conditions, no failure to comply with
14 reporting requirements, and no changed circumstance arising during Petitioner's approximately
15 twenty months of liberty that suddenly rendered detention necessary.

16 Instead, Respondents rely almost exclusively upon the proposition that Petitioner remains
17 subject to detention under INA § 235(b)(1) because of his initial expedited removal processing.
18 That argument does not answer the constitutional question presented here. The issue is not
19 whether Petitioner was initially processed under the expedited removal provisions of the
20 Immigration and Nationality Act. Nor is Petitioner challenging the initiation of removal
21 proceedings or seeking review of any discretionary enforcement decision. Rather, Petitioner
22 challenges the government's revocation of a previously granted liberty interest after an extended
23 period of release in the community without prior notice, without any individualized
24 determination justifying detention, and without constitutionally adequate process.

25 Respondents' own evidence reflects that, following Petitioner's positive credible fear
26 determination, DHS exercised a series of discretionary custody decisions. DHS issued a Notice
27 to Appear placing Petitioner into removal proceedings, released him from custody on interim
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1 parole, later placed him on an Order of Recognizance while he remained at liberty, and permitted
2 him to reside openly in the community for approximately twenty months before abruptly
3 revoking that liberty during a routine ICE reporting appointment. Respondents do not explain
4 why those subsequent discretionary custody determinations do not implicate the same due
5 process principles repeatedly recognized in this Court's prior re-detention decisions.

6 Nor do Respondents identify any individualized justification supporting Petitioner's re-
7 detention. They do not contend that Petitioner violated the conditions of his release, failed to
8 appear for immigration proceedings or reporting requirements, or engaged in conduct
9 demonstrating that he posed either a danger to the community or a risk of flight. Most
10 importantly, Respondents do not contend that Petitioner received prior notice or any meaningful
11 opportunity to challenge the revocation of his liberty before a neutral decisionmaker.

12 This Court has repeatedly concluded that where DHS affirmatively releases a noncitizen
13 from immigration custody and permits that individual to reside at liberty in the community, due
14 process prohibits the government from later revoking that liberty without constitutionally
15 adequate procedures. Respondents identify no authority demonstrating that Petitioner's initial
16 expedited removal processing eliminates those constitutional protections after DHS subsequently
17 released him from custody and permitted him to remain at liberty for approximately twenty
18 months.

19 Accordingly, because Respondents have failed to establish that Petitioner received
20 constitutionally adequate process before his previously granted liberty was revoked, his
21 continued detention violates the Due Process Clause, and the Petition should be granted.

22 **IV. Immediate Release Is the Appropriate Remedy**

23 Where detention violates the Constitution, the traditional remedy in habeas corpus is
24 immediate release. Habeas corpus exists to secure release from unlawful custody, not to permit
25 continued detention while the government attempts to justify an unconstitutional deprivation of
26 liberty after the fact.

1 As set forth above, Respondents identify only one asserted distinction from this Court's
2 prior re-detention decisions: that Petitioner was initially processed under the expedited removal
3 provisions of INA § 235(b)(1). Respondents do not explain why that initial procedural history
4 materially distinguishes this case after Petitioner received a positive credible fear determination,
5 was placed into removal proceedings under INA § 240, was released from immigration custody,
6 remained at liberty in the community for approximately twenty months, and was later re-detained
7 during a routine ICE reporting appointment without prior notice or constitutionally adequate
8 process.

9 Nor do Respondents identify any individualized basis justifying Petitioner's continued
10 detention. Respondents do not identify any violation of Petitioner's release conditions, any
11 failure to comply with immigration reporting requirements, or any changed circumstance arising
12 during Petitioner's approximately twenty months of liberty that suddenly rendered detention
13 necessary. Most importantly, Respondents do not contend that Petitioner received
14 constitutionally adequate process before his previously granted liberty was revoked.

15 The constitutional violation at issue is the revocation of Petitioner's previously granted
16 liberty without constitutionally adequate process. That violation has already occurred. After
17 finding that Petitioner established a credible fear of persecution, placing him into removal
18 proceedings, releasing him from custody, and permitting him to reside at liberty for
19 approximately twenty months, Respondents abruptly revoked that liberty during a routine ICE
20 reporting appointment without prior notice, without a hearing, and without any meaningful
21 opportunity to challenge the basis for his detention. Under this Court's prior re-detention
22 decisions, such action violates due process.

23 This Court has repeatedly granted habeas relief and ordered immediate release where
24 Respondents failed to establish a meaningful basis for departing from the Court's prior re-
25 detention decisions. Most recently, in *Valecillos-Gonzalez v. Warden*, No. 1:26-cv-03963-DAD-
26 AC (E.D. Cal. June 5, 2026), *Rojas-Castro v. Warden*, No. 1:26-cv-04271-DAD-JDP (E.D. Cal.
27 June 9, 2026), and *Colorado v. Warden Golden State Annex*, No. 1:26-cv-04574-DAD-JDP

1 (E.D. Cal. June 17, 2026), the Court granted the petitions and ordered the petitioners' immediate
2 release after concluding that Respondents had not demonstrated a meaningful basis for reaching
3 a different result.

4 Respondents alternatively request that, if relief is granted, the Court order only a bond
5 hearing before an Immigration Judge. That request is inconsistent with this Court's recent re-
6 detention decisions. In those cases, the Court did not merely order custody hearings. Rather, it
7 granted habeas relief and ordered petitioners released because the constitutional violation arose
8 from the government's revocation of a previously granted liberty interest without constitutionally
9 adequate process. Respondents identify no persuasive basis for departing from the remedies this
10 Court has repeatedly ordered under materially similar circumstances.

11 Accordingly, the Court should grant the Petition for Writ of Habeas Corpus and order
12 Petitioner's immediate release from custody.

13 In the alternative, should the Court decline to order immediate release, Petitioner
14 respectfully requests that the Court order a constitutionally adequate custody hearing before a
15 neutral adjudicator at which Respondents bear the burden of establishing by clear and convincing
16 evidence that continued detention is warranted.

17 **V. Conclusion**

18 For the foregoing reasons, Respondents have identified no meaningful basis for departing
19 from this Court's prior re-detention decisions and have failed to establish that constitutionally
20 adequate process was provided before revoking Petitioner's previously granted liberty.

21 Although Respondents contend that this case is distinguishable because Petitioner was
22 initially processed under the expedited removal provisions of INA § 235(b)(1), they do not
23 explain why that initial procedural history materially distinguishes this case after Petitioner
24 received a positive credible fear determination, was placed into removal proceedings under INA
25 § 240, was released from immigration custody, remained at liberty in the community for
26 approximately twenty months, and was later re-detained during a routine ICE reporting
27 appointment without prior notice, without a hearing, and without constitutionally adequate
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1 process. Nor do Respondents meaningfully distinguish this case from *Ayala Cajina, Perez,*
2 *Chavarria, Yang, Quichimbo-Jimenez, Cardenas, J.P.C.*, and the numerous other re-detention
3 cases identified in this Court's Minute Order.

4 Nor have Respondents identified any authority demonstrating that Petitioner's initial
5 expedited removal processing alters the due process analysis repeatedly adopted by this Court in
6 materially similar re-detention cases. Even accepting Respondents' factual allegations as true,
7 Respondents have failed to justify the revocation of Petitioner's previously granted liberty
8 without notice and a meaningful opportunity to be heard.

9 Accordingly, Petitioner respectfully requests that the Court grant the Petition for Writ of
10 Habeas Corpus and order his immediate release from custody.

11 Petitioner further respectfully submits that the Court may rule directly on the merits of
12 the Petition based upon the existing record. As contemplated by the Court's July 2, 2026 Minute
13 Order, Respondents expressly advised that they do not oppose resolution of the underlying
14 Petition on the present record and have identified no material factual dispute requiring an
15 evidentiary hearing. Because no further proceedings are necessary, Petitioner respectfully
16 requests that the Court grant the Petition, order Petitioner's immediate release, and enter final
17 judgment.

18 Respectfully Submitted.

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