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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ELIEZER JOSE VASQUEZ-MEDINA,

Petitioner,

v.

CHRISTOPHER LaROSE, Warden, Otay Mesa Detention Center;

Markwayne MULLIN, Secretary, U.S. Department of Homeland Security;

David J. VENTURELLA, Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement;

Todd BLANCHE, Acting Attorney General of the United States, U.S. Department of Justice.

Respondents

Case No.: '26CV4277 AGS BJW

[redacted]

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Petitioner, Eliezer Jose Vasquez-Medina, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging the legality of Respondents' revocation of his previously granted liberty and his resulting immigration detention, and alleges as follows:

INTRODUCTION

2. Petitioner, Eliezer Jose Vasquez-Medina, is a native and citizen of Nicaragua currently detained at the Otay Mesa Detention Center in San Diego, California.

3. Petitioner brings this action under 28 U.S.C. § 2241 to challenge the legality of his current immigration detention following Respondents' revocation of his previously granted liberty after a prolonged period of authorized residence in the United States.

4. On or about April 28, 2022, Petitioner entered the United States near Del Rio, Texas. Shortly thereafter, the Department of Homeland Security exercised its discretionary authority under INA § 212(d)(5)(A) to grant Petitioner parole into the United States and issued him documentation bearing a "PAROLED" stamp reflecting that grant of parole. Following that grant of parole, Petitioner was permitted to reside at liberty in the United States.

5. Petitioner remained at liberty in the community for approximately three years. During that period, Respondents permitted him to reside at liberty in the United States, did not re-detain him, and did not identify him as a danger to the community or a risk of flight.

6. During that same period, the government continued to recognize Petitioner's presence in the United States, including by issuing him an Employment Authorization Document valid through October 31, 2028.

7. Despite previously granting Petitioner parole, permitting him to reside at liberty in the community for approximately three years, and authorizing him to work in the United States, Respondents re-detained Petitioner on or about June 30, 2026, during a scheduled ICE check-in at the Miramar ICE Office in Miramar, Florida, and revoked his liberty without first providing him constitutionally adequate process.

8. At no point before revoking Petitioner's liberty and re-detaining him did Respondents provide Petitioner with notice, an individualized custody determination before a neutral decisionmaker, or any other constitutionally adequate process.

9. Respondents' continued detention of Petitioner is unlawful. By granting Petitioner parole, permitting him to reside at liberty in the United States for approximately three years, and authorizing him to work, the government created substantial liberty interests protected by the Due Process Clause of the Fifth Amendment.

10. Although the government may seek to detain Petitioner based on subsequent events, it may not revoke previously granted liberty without the procedural safeguards required by the Constitution. The Constitution does not permit the government to detain first and justify later.

11. By revoking Petitioner's previously granted liberty and continuing to detain him without constitutionally adequate process, Respondents have violated Petitioner's rights under the Due Process Clause of the Fifth Amendment.

12. Absent intervention by this Court, no neutral adjudicator will determine whether Respondents lawfully revoked Petitioner's previously granted liberty before re-detaining him. Petitioner therefore respectfully requests that this Court declare his detention unlawful and order his immediate release or, in the alternative, order Respondents to provide a constitutionally adequate custody hearing.

CUSTODY

13. Petitioner is currently in the legal and physical custody of Respondents and is detained at the Otay Mesa Detention Center in San Diego, California, within the jurisdiction of this Court.

JURISDICTION AND VENUE

14. This action arises under the United States Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., INA § 101 et seq., to challenge Petitioner's detention under the INA and any inherent or plenary powers the government may claim to continue holding him.

15. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United States Constitution; and 28 U.S.C. § 1331, as Petitioner is presently in Respondents' custody under the United States' color of authority, and such custody violates the Constitution, laws, or treaties of the United States. This Court's jurisdiction is not limited by a petitioner's nationality, status as an immigrant, or any other classification. See *Boumediene v. Bush*, 553 U.S. 723, 747 (2008). This Court may grant relief under U.S. CONST. art. I, § 9, cl. 2; U.S. CONST. amends. V and VIII; 28 U.S.C. §§ 1361 (mandamus), 1651 (All Writs Act), and 2241 (habeas corpus).

16. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Petitioner's detention. Federal district courts possess broad authority to issue writs of habeas corpus when a person is held "in custody in violation of the Constitution or laws or treaties of the United States" (28 U.S.C. § 2241(c)(3)), and this authority extends to immigration detention challenges that survived the REAL ID Act's jurisdictional restrictions.

17. Because Petitioner seeks the traditional habeas remedy of release from allegedly unlawful detention rather than additional administrative review of his underlying claims, his petition presents precisely the type of threshold legality-of-detention question that § 2241 was designed to address. See *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); see also *Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh*, 638 F.3d at 1211–12).

18. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because a substantial part of the events or omissions giving rise to this claim have occurred here, Petitioner is detained here, and his custodian resides here. Venue is also proper under 28 U.S.C. § 2243 because Petitioner's immediate custodian resides in this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 451–52 (2004) (Kennedy, J., concurring).

19. Sections 8 U.S.C. §§ 1252(b)(9) and 1252(g) do not bar this Court's jurisdiction because Petitioner challenges only the legality of his detention, not the validity of removal proceedings or any removal order. Federal courts have consistently recognized that habeas corpus remains available to review the statutory and constitutional basis of immigration

detention. Petitioner's claims therefore fall squarely within this Court's habeas jurisdiction under 28 U.S.C. § 2241.

PARTIES

20. Petitioner, Eliezer Jose Vasquez-Medina, is a native and citizen of Nicaragua currently detained at the Otay Mesa Detention Center in San Diego, California.

21. Respondent Christopher LaRose is the Warden of the Otay Mesa Detention Center in San Diego, California, is Petitioner's immediate custodian, and is responsible for Petitioner's confinement.

22. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security (DHS).

23. Respondent David J. Venturella is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement (ICE).

24. Respondent Todd Blanche is the Acting Attorney General of the United States and the head of the U.S. Department of Justice (DOJ).

25. All Respondents are named in their official capacities.

STATEMENT OF FACTS

26. Petitioner is currently detained at the Otay Mesa Detention Center in San Diego, California. Petitioner is a native and citizen of Nicaragua who entered the United States near Del Rio, Texas, on or about April 28, 2022.

27. On April 29, 2022, the Department of Homeland Security exercised its discretionary authority under INA § 212(d)(5)(A) to grant Petitioner parole into the United States and issued documentation reflecting that grant of parole. (*Ex.* 1.) Following that grant of parole, Petitioner was permitted to reside at liberty in the United States. DHS subsequently issued Petitioner a Notice to Appear commencing removal proceedings. (*Ex.* 2.)

28. Petitioner thereafter resided at liberty in the United States for approximately three years while living in the community.

29. During that period, the government continued to recognize Petitioner's presence in the United States, including by issuing him an Employment Authorization Document authorizing him to work, valid through October 31, 2028. (*Ex.* 3.)

30. During Petitioner's prolonged period of liberty, Respondents permitted him to reside at liberty in the United States, did not re-detain him, and did not identify him as a danger to the community or a risk of flight.

31. On or about June 30, 2026, Respondents re-detained Petitioner during a scheduled ICE check-in at the Miramar ICE Office in Miramar, Florida. Respondents subsequently transferred Petitioner to the Otay Mesa Detention Center in San Diego, California, where he remains detained.

32. At no point before revoking Petitioner's liberty and re-detaining him did DHS provide Petitioner with notice, an individualized custody determination before a neutral decisionmaker, or any other constitutionally adequate process.

33. Respondents continue to detain Petitioner notwithstanding their prior decision to grant him parole, permit him to reside at liberty in the United States for approximately three years, and authorize him to work in the United States.

REQUIREMENTS OF 28 U.S.C. § 2243

34. Under 28 U.S.C. § 2243, the Court "must" grant the petition for a writ of habeas corpus or issue an order to show cause ("OSC") "forthwith," unless the petitioner is not entitled to relief. If an OSC is issued, the statute requires that Respondents file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

35. Federal courts have long emphasized the importance of habeas corpus as a protection against unlawful restraint. The Supreme Court has described the Great Writ as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

36. Congress and the courts have repeatedly reaffirmed that habeas corpus must remain a prompt and expeditious remedy. As the Ninth Circuit has explained, "The statute itself directs courts to give petitions for habeas corpus 'special, preferential consideration to insure expeditious hearing and determination.'" *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted). The court cautioned that delays in habeas proceedings risk creating the impression "that courts are more concerned with efficient trial management than with the vindication of constitutional rights." *Id.*

EXHAUSTION OF ADMINISTRATIVE REMEDIES

37. In habeas corpus proceedings, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive prudential exhaustion where "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). Here, exhaustion should be excused because administrative remedies are (1) futile and (2) Petitioner's continued detention results in irreparable harm.

38. Exhaustion would be futile because, to the extent DHS treats Petitioner as subject to detention under 8 U.S.C. § 1225(b), Immigration Judges lack jurisdiction to conduct custody redetermination hearings for individuals DHS classifies as subject to § 235(b) or otherwise treats as applicants for admission under that provision. See 8 C.F.R. § 1003.19(h)(2)(i)(B). In this District, Immigration Judges routinely state on the record that they lack authority to review custody where DHS invokes § 235(b). If Petitioner were to request a bond hearing, DHS would rely on that statutory classification to block review, and the Immigration Judge would be required to decline jurisdiction. Because no administrative mechanism exists to obtain custody review under DHS's asserted detention authority, any attempt to exhaust administrative remedies would be futile.

39. Moreover, no statutory exhaustion requirement applies to Petitioner's claim that his detention violates the Constitution and the INA. Constitutional claims and pure questions of law

—such as whether DHS has statutory authority to detain Petitioner and whether detention under § 1225(b) is lawful in these circumstances—fall outside the agency's adjudicatory competence. See *Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) (exhaustion excused where the agency "does not have jurisdiction to review" constitutional claims); In re Indefinite Detention Cases, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same). There is no administrative forum that can determine whether DHS may lawfully invoke § 1225(b)(2) to detain Petitioner under these circumstances.

40. Petitioner suffers irreparable harm for each additional day he remains unlawfully detained. Even brief periods of unlawful civil detention inflict significant deprivation of liberty and emotional distress. Petitioner's continued detention following a prolonged period of authorized liberty in the community further magnifies these ongoing harms. Courts routinely excuse exhaustion where unlawful detention results in irreparable injury. Petitioner's ongoing detention therefore warrants waiver of prudential exhaustion.

LEGAL FRAMEWORK

41. The Immigration and Nationality Act distinguishes between detention at the time of entry and detention following arrest in the interior of the United States. See 8 U.S.C. §§ 1225, 1226.

42. Section 235 governs inspection-stage detention of individuals encountered at or near the time of entry while their admissibility is being determined. By contrast, Section 236(a) governs the arrest and detention of noncitizens who have already entered the United States and are later taken into custody pending removal proceedings.

43. Once the Department of Homeland Security grants parole to a noncitizen pursuant to INA § 212(d)(5)(A) and permits that individual to reside at liberty in the United States for a prolonged period of time, any subsequent re-detention following a later interior arrest must comply with the constitutional requirements governing civil immigration detention. At a minimum, due process requires constitutionally adequate process, including an individualized custody determination before a neutral decisionmaker.

44. Federal courts have repeatedly recognized that individuals who were released from custody and later re-detained in the interior of the United States are not subject to mandatory detention under § 1225(b), but are instead entitled to custody review under § 1226(a).

45. The Due Process Clause protects all persons within the United States from arbitrary detention. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Freedom from physical restraint lies at the core of the liberty protected by the Constitution.

46. Immigration detention is civil in nature and is permissible only when justified by legitimate governmental interests, such as ensuring appearance at proceedings or protecting the community. *Id.* at 690–91.

47. Where the government has previously released a noncitizen from custody and permitted him to reside at liberty in the community, that release reflects a determination that detention was not necessary to serve the purposes of civil immigration detention. Once that liberty has been granted, continued detention must comport with the requirements of due process. The existence of any subsequent arrest does not relieve Respondents of their constitutional obligation to provide constitutionally adequate process and an individualized custody determination before a neutral decisionmaker. Continued detention without any individualized determination and without constitutionally adequate process violates the Due Process Clause.

48. The Administrative Procedure Act prohibits agency action that is arbitrary, capricious, or not in accordance with law. 5 U.S.C. § 706(2)(A). An agency must provide a reasoned explanation for its actions based on the relevant facts and circumstances.

49. Re-detaining a noncitizen after a prolonged period of liberty—without providing an individualized justification, without constitutionally adequate process, and without applying the proper statutory framework—constitutes arbitrary, capricious, and unlawful agency action.

CLAIM FOR RELIEF

COUNT 1

Violation of Due Process U.S. Constitution Amendment V

50. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, all preceding paragraphs.

51. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. CONST. amend. V. This protection applies to all persons within the United States, including noncitizens, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

52. Shortly after entering the United States on or about April 28, 2022, the Department of Homeland Security exercised its discretionary authority under INA § 212(d)(5)(A) to grant Petitioner parole into the United States and issued documentation reflecting that grant of parole. Following that grant of parole, Petitioner was permitted to reside at liberty in the United States. During the ensuing approximately three years, the government continued to recognize Petitioner's presence in the United States, including by issuing him an Employment Authorization Document authorizing him to work. Following Petitioner's later re-detention, Respondents took him into immigration custody without first providing an individualized custody determination or any constitutionally adequate process.

53. Having previously been granted parole into the United States, permitted to reside at liberty in the community for approximately three years, and authorized to work in the United States, Petitioner acquired substantial liberty interests protected by the Due Process Clause of the Fifth Amendment. Revoking that liberty and continuing to detain Petitioner without constitutionally adequate process constitutes an arbitrary deprivation of liberty in violation of the Fifth Amendment.

54. Here, Respondents re-detained Petitioner during a scheduled ICE check-in after previously granting him parole into the United States, permitting him to reside at liberty in the community for approximately three years, and authorizing him to work in the United States. Before revoking Petitioner's liberty, Respondents provided neither notice nor any individualized custody determination before a neutral decisionmaker, and they have not otherwise afforded

Petitioner constitutionally adequate process. As a result, Petitioner's continued detention violates the Due Process Clause.

55. Respondents have further failed to articulate any reasoned basis for continuing to detain Petitioner after previously granting him parole into the United States, permitting him to reside at liberty in the community for approximately three years, and authorizing him to work in the United States. Continued detention under these circumstances, without an individualized custody determination or constitutionally adequate process, is arbitrary, capricious, and contrary to law.

COUNT 2

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) (Agency Action Not in Accordance with Law and in Excess of Statutory Authority)

56. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, the allegations in the paragraphs above.

57. Under the Administrative Procedure Act, a court shall "hold unlawful and set aside agency action" that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A).

58. Agency action is arbitrary and capricious where the agency fails to consider relevant factors, offers an explanation that runs counter to the evidence, or fails to articulate a rational connection between the facts found and the decision made. *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983).

59. An agency must provide a reasoned explanation for its actions based on the facts and circumstances of the individual case. *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019).

60. Here, Respondents re-detained Petitioner during a scheduled ICE check-in after previously granting him parole into the United States, permitting him to reside at liberty in the community for approximately three years, and authorizing him to work in the United States. Respondents have provided no reasoned explanation for Petitioner's continued detention and

have failed to provide any individualized custody determination or constitutionally adequate custody review.

61. Respondents have further failed to articulate any reasoned basis for continuing to detain Petitioner after previously granting him parole into the United States, permitting him to reside at liberty in the community for approximately three years, and authorizing him to work in the United States. Continued detention under these circumstances, without an individualized custody determination or constitutionally adequate process, is arbitrary, capricious, and contrary to law.

62. By continuing to detain Petitioner without a reasoned explanation, without individualized custody review, and without applying the proper constitutional and statutory framework, Respondents have acted arbitrarily, capriciously, and contrary to law.

63. Accordingly, Respondents' decision to detain Petitioner must be set aside under 5 U.S.C. § 706(2)(A).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A) Assume jurisdiction over this matter;

B) Issue the writ of habeas corpus or, in the alternative, an order to show cause directing Respondents to show cause, within three days of the filing of this Petition, why the relief requested should not be granted, and set a hearing within five days of Respondents' return, consistent with 28 U.S.C. § 2243;

C) Declare that Petitioner's continued detention without an individualized custody determination or constitutionally adequate custody review violates the Due Process Clause of the Fifth Amendment;

D) Declare that Respondents' continued detention of Petitioner without individualized custody review is unlawful under the Constitution and governing immigration detention framework;

E) Declare that Respondents' actions detaining Petitioner without a reasoned explanation, without an individualized justification, and without providing constitutionally adequate process

were arbitrary, capricious, an abuse of discretion, and not in accordance with law, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2);

F) Set aside Respondents' unlawful action under the Administrative Procedure Act, pursuant to 5 U.S.C. § 706(2)(A);

G) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody;

H) Order Respondents to return Petitioner's personal property and identity documents, including his driver's license, employment authorization document, and any other personal belongings confiscated in connection with his detention.

I) In the alternative, order a constitutionally adequate custody hearing at which DHS bears the burden of justifying Petitioner's continued detention by clear and convincing evidence, and the neutral adjudicator must consider alternatives to detention and Petitioner's ability to pay any bond imposed;

J) Enjoin Respondents from transferring Petitioner outside this District without prior approval of this Court;

K) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other basis authorized by law; and

L) Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

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Dated: July 27, 2026

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I submit this verification as counsel for Petitioner in this action. The factual allegations contained in this Petition are based on information provided to me by Petitioner's relatives, as well as my review of available immigration records and supporting documents. Those records include documentation issued by the Department of Homeland Security, including Petitioner's Notice to Appear, documentation reflecting Petitioner's grant of parole into the United States, his Employment Authorization Document, and related immigration records.

Based on my review of this information, and to the best of my knowledge, information, and belief, I declare that the factual statements contained in this Petition are true and correct and accurately reflect Petitioner's circumstances and the procedural history of his detention.

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Dated: July 27, 2026