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7 UNITED STATES DISTRICT COURT
8
9 SOUTHERN DISTRICT OF CALIFORNIA

10 MELANY NAVARRO SANCHEZ,

11 Petitioner,

12 v.

13 CHRISTOPHER J. LAROSE, et al,

14 Respondents.

Case No.: 3:25-cv-02396-JES-MMP

**PETITIONER'S TRAVERSE
SUPPORTING PETITION FOR WRIT
OF HABEAS CORPUS**

15 Petitioner Melany Navarro Sanchez replies to Respondents' Return in
16 Opposition to Petition for Writ of Habeas Corpus, stating as follows:

17 "[T]here is something fundamentally unfair about the government's changing
18 the rules by fiat simply because it wants to. That is arbitrary by definition. And that
19 is especially troubling here, where [Petitioner] played by the first set of rules
20 without any hint of a violation and spent his time and money accepting the
21 government's invitation and coming here to play by those rules. Luring noncitizens

1 here, paroling them for a period of time, and then telling them “never mind” is just
2 plain wrong—made even worse when the noncitizens are detained while their cases
3 are heard. And a change in administration does not justify or excuse such
4 fundamental unfairness.” Mata Velasquez v. Kurzdorfer et al, 25-CV-493-LJV, p. 19
5 fn. 6 (W.D.N.Y. July 16, 2025).

6 Here, Ms. Navarro Sanchez played by the rules. She made an appointment
7 with the CBPOne application and waited her turn to enter the U.S. lawfully at a port
8 of entry. After being paroled in the country, Ms. Navarro Sanchez abided by the laws
9 of this country only to be arrested and detained attending her third court hearing –
10 again, while following the rules. Other than this administration’s agenda to fill
11 detention centers and deport as many immigrants as possible, nothing has changed
12 since Ms. Navarro Sanchez was paroled into the U.S. almost one year ago. As shown
13 in the Form I-213 arrest report, Ms. Navarro Sanchez is not a danger to the
14 community or a flight risk. As such, her detention is unlawful, and she should be
15 released.

16 **A. Ms. Navarro Sanchez’ Habeas Claim is Not Barred by 8 U.S.C. § 1252**

17 Simply put, section 1252 does not apply to bar jurisdiction because this action
18 does not request the judicial review of a removal order, nor does it concern the
19 commencement of removal proceedings – this action squarely concerns Ms. Navarro
20 Sanchez’s unlawful detention well after removal proceedings were commenced.
21

1 The alleged parole termination is Respondents' basis for her detention – the
2 Respondents claim they terminated Ms. Navarro Sanchez's parole and as such, she is
3 lawfully detained. This habeas action alleges the government violated the law in
4 exercising its discretion to terminate her parole and she is thus unlawfully detained.
5 "Although the INA precludes direct review of discretionary decisions, it does not bar
6 [courts] from reviewing predicate legal questions." Gebhardt v. Nielsen, 879 F.3d
7 980, 985 (9th Cir. 2018). Such "predicate legal questions" include claims that the
8 discretionary process itself was constitutionally or legally flawed. Hernandez v.
9 Sessions, 872 F.3d 976, 988 (9th Cir. 2017). This is precisely what Ms. Navarro
10 Sanchez alleges here, namely that her parole was terminated in violation of the
11 Constitution, the INA, the APA and the agency's own regulations.

12 A "district court may consider a purely legal question that does not challenge
13 the Attorney General's discretionary authority, even if the answer to that legal
14 question...forms the backdrop against which the Attorney General later will exercise
15 discretionary authority." United States v. Hovsepian, 359 F.3d 1144, 1155 (9th Cir.
16 2004). Here, Ms. Navarro Sanchez asks the Court to interpret the legal "backdrop"
17 against which Respondents seek to detain her – namely, to find that the detention of
18 Ms. Navarro Sanchez without written notice of the individualized termination of her
19 parole is in contravention of the agency's own regulations, the INA, the APA and her
20 Due Process rights under the Constitution.

1 In short, the issue raised in this habeas action is a question that falls squarely
2 within this Court's habeas jurisdiction. And for these reasons, section 1252 does not
3 bar this Court's hearing Ms. Navarro Sanchez's habeas petition.

4 **B. Ms. Navarro Sanchez is Not Lawfully Detained**

5 As discussed above and in the habeas petition, Ms. Navarro Sanchez is not
6 lawfully detained because her parole was not terminated in accordance with the
7 INA, the APA or the agency's own regulations. Like the other CBPOne entrants, Ms.
8 Navarro Sanchez received a mass email purporting to terminate her parole with no
9 explanation or consideration of her individualized circumstances. As such, the
10 purported termination of her parole was arbitrary and capricious, the parole was
11 not lawfully terminated, and Ms. Navarro Sanchez is unlawfully detained.

- 12 1. Ms. Navarro Sanchez is detained under 8 U.S.C. § 1226 and not 8 U.S.C. §
13 1225.

14 Setting aside the unlawful termination of her parole, Ms. Navarro Sanchez is
15 not detained under section 1225 as Respondents contend. Yet Respondents also
16 claim they served her with a warrant. Warrants, however, are only issued if the
17 noncitizen is detained under 8 U.S.C. § 1226, not 8 U.S.C. § 1225. See 8 U.S.C. §
18 1226(a). The existence of a warrant here belies Respondents' contention that Ms.
19 Navarro Sanchez is currently mandatorily detained under 8 U.S.C. § 1225.
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1 2. Ms. Navarro Sanchez is neither an applicant for admission nor an arriving
2 alien.

3 Ms. Navarro Sanchez is not subject to mandatory detention because she is
4 neither an applicant for admission nor is she arriving in the U.S. per 8 U.S.C. § 1225.
5 Rather, Ms. Navarro Sanchez is a noncitizen who was paroled into the U.S. and who
6 has been living within the United States. Ms. Navarro Sanchez was not arrested at or
7 near the border arriving in the U.S. – she was arrested at her court hearing after
8 having lived here for almost a year.

9 Respondents claim Ms. Navarro Sanchez is currently an applicant for
10 admission, yet Ms. Navarro Sanchez already applied for admission at the border,
11 was paroled in and has been living in the U.S. for nearly a year. Respondents'
12 reliance on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (2025) is unavailing. First,
13 "[c]ourts must exercise their independent judgment in deciding whether an agency
14 has acted within its statutory authority...courts need not and under the APA may not
15 defer to an agency interpretation of the law simply because a statute is ambiguous."
16 Loper Bright Enter. v. Raimando, 603 U.S. 369, 412-413 (2024). Moreover, courts
17 should not defer to an agency's interpretation of the law that conflicts with circuit
18 precedent. Melkonian v. Ashcroft, 320 F.3d 1061, 1065 (9th Cir. 2003). The BIA's
19 decision in *Matter of Yajure Hurtado* not only conflicts with the BIA's own
20 longstanding precedent, but it also conflicts with Ninth Circuit and Supreme Court
21 precedent.

1 The Supreme Court has explained that Section 1226 is the "default rule" and
2 "applies to aliens already present in the United States." Jennings v. Rodriguez, 583
3 U.S. 281, 288, 301 (2018). Moreover, section 1225(b) "applies primarily to aliens
4 seeking entry into the United States" and authorizes DHS to "detain an alien without
5 a warrant at the border." Jennings, 583 U.S. at 297, 302.

6 In *Torres v. Barr*, 976 F.3d 918, 926 (9th Cir. 2020), the en banc Court held
7 that "the phrase 'at the time of application for admission'...refers to the particular
8 point in time when a noncitizen submits an application to physically enter into the
9 United States." 976 F.3d at 924. The Ninth Circuit held that "inadmissibility must be
10 measured at the point in time that an immigrant actually submits an application for
11 entry into the United States." Torres v. Barr, 976 F.3d at 923. Under section
12 212(a)(7), a noncitizen only makes an application for admission when they seek
13 permission to physically enter the United States. *Id.* at 924.

14 In short, Torres clarified there is a temporal limitation to a classification of
15 applicant for admission. See United States v. Gambino-Ruiz, 91 F.4th 981, 989 (9th
16 Cir. 2024) (stating that "Torres merely rejected the view that an alien remains in a
17 perpetual state of applying for admission"). Someone like Ms. Navarro Sanchez —
18 who has been physically present in the United States for almost a year – is not an
19 applicant for admission. Again, an individual "detained near the border shortly after
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1 they crossed it” is an applicant for admission. Gambino-Ruiz, 91 F.4th at 990; see
2 also *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025).

3 In sum, Ms. Navarro Sanchez is not detained under Section 1225 because she
4 is not an applicant for admission per Supreme Court and Ninth Circuit precedent.

5 **C. Ms. Navarro Sanchez has due process rights which have been violated**

6 Ms. Navarro Sanchez’s liberty from immigration custody is protected by the
7 Due Process Clause. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001). Following her
8 parole into the United States, Ms. Navarro Sanchez retained a weighty liberty
9 interest under the Due Process Clause of the Fifth Amendment in not being
10 incarcerated. Morrissey v. Brewer, 408 U.S. 471, 482-483 (1972). In Morrissey, the
11 Supreme Court noted that, “subject to the conditions of his parole, [a parolee] can be
12 gainfully employed and is free to be with family and friends and to form the other
13 enduring attachments of normal life.” 408 U.S. at 482. The Court further noted that
14 “the parolee has relied on at least an implicit promise that parole will be revoked
15 only if he fails to live up to the parole conditions.” Id. The Court explained that “the
16 liberty of a parolee, although indeterminate, includes many of the core values of
17 unqualified liberty and its termination inflicts a grievous loss on the parolee and
18 often others.” Id.

19 At stake for Ms. Navarro Sanchez is one of the most profound individual
20 interests recognized by our legal system: whether ICE may unilaterally nullify a
21 prior parole decision with no consideration of her individualized circumstances and

1 subsequently take away her freedom, i.e., her “constitutionally protected interest in
2 avoiding physical restraint.” Singh v. Holder, 638 F.3d 1196, 1203 (9th Cir. 2011).

3 Under the test set forth in Mathews v. Eldridge, this Court must consider the
4 following three factors: “first, the private interest that will be affected by the official
5 action; second, the risk of an erroneous deprivation of such interest through the
6 procedures used, and the probative value, if any, of additional or substitute
7 procedural safeguards; and finally the government’s interest, including the function
8 involved and the fiscal and administrative burdens that the additional or substitute
9 procedural requirements would entail.” See Mathews v. Eldridge, 424 U.S. 319, 335
10 (1976).

11 The Mathews v. Eldridge factors all favor Ms. Navarro Sanchez. The
12 government’s interest in keeping Ms. Navarro Sanchez in detention is low, and when
13 weighed against Ms. Navarro Sanchez’ significant private interest in her liberty, the
14 scale tips sharply in favor of releasing Ms. Navarro Sanchez from custody. Moreover,
15 detention cannot have a punitive purpose. The Respondents cannot plausibly assert
16 a sudden interest in detaining Ms. Navarro Sanchez at her July 30, 2025, court
17 hearing. The Form I-213 arrest report is devoid of any mention of danger or flight
18 risk.

19 The government’s interest in detaining Ms. Navarro Sanchez is extremely low
20 at best. That ICE has a policy to make a minimum number of arrests each day under
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1 the new administration does not constitute a valid increase in the government's
2 interest in detaining her. Moreover, the "fiscal and administrative burdens" that
3 release from custody would provide are nil. Release from custody is far less costly
4 than keeping her detained. As the Ninth Circuit noted in 2017, which remains even
5 more true today, "[t]he costs to the public of immigration detention are 'staggering':
6 \$158 each day per detainee, amounting to a total daily cost of \$6.5 million."

7 Hernandez v. Session, 872 F.3d 976, 996 (9th Cir. 2017).

8 Dated: September 23, 2025,

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CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2025, I caused the foregoing document to be electronically filed with the Clerk of the Court for the United States District Court for the Southern District of California by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

Executed on: September 23, 2025 /s/ Bashir Ghazialam
Bashir Ghazialam