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

ZOLFIA HEKMAT,
ROYA MOHAMMADI,
Petitioners,

vs.

CHRISTOPHER CHESTNUT, warden
of California City Detention Center;
SERGIO ALBARRAN, San Francisco
Field Office Director, Immigration and
Customs Enforcement and Removal
Operations ("ICE/ERO");
TODD LYONS, Acting Director of
Immigration Customs Enforcement
("ICE");
KRISTI NOEM, Secretary of the
Department of Homeland Security
("DHS");
PAMELA BONDI, Attorney General of
the United States,
U.S. DEPARTMENT OF HOMELAND
SECURITY;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;

Respondents.

Case No.:

Agency Number:



**TRAVERSE TO PETITION FOR
WRIT OF HABEUS CORPUS**

Section 1225 does not apply to petitioners.

The Government alleges that Section 1225 applies to Petitioners because they are aliens who have not been admitted into the United States and they are subject to mandatory detention.

On July 8, 2025, the Department of Homeland Security (“DHS”) instituted a notice titled “Interim Guidance Regarding Detention Authority for Applicants for Admission” (the “Notice”) requiring, in general, that anyone arrested in the United States and charged with being inadmissible to be considered an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A), subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and not subject to detention under 8 U.S.C. § 1226(a).

In *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.R.D. ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), the district court declared the Notice unlawful under the Administrative Procedures Act but did not issue a final judgment. On December 18, 2025, however, the *Bautista* court entered final judgement. *Bautista*, ECF No. 94. The petitioners are not subject to mandatory detention pursuant to this guidance.

The petitioner’s rights to due process have been violated.

The petitioners were granted parole until May 25, 2026. ECF 1- 2. The termination of parole requires written notice and an individualized determination that the circumstances have changed such that they are now considered a flight risk

1 or a danger to the community. *See* 8 CFR § 212.5(e). Respondents failed to follow
2 their own procedures. No notice was given, no opportunity to refute the
3 government's claims was given. The petitioners were simply put in handcuffs and
4 detained. In their response the government seeks to do now, what it failed to do
5 then. Set out in a declaration how they believed the petitioners violated their
6 check-in requirements. But this puts the cart before the horse. This is not the forum
7 for the government to establish any breach of requirements ... after it has breached
8 its own requirements. For example, the government asserts that the petitioners
9 missed numerous ICE check ins. However, these check-ins are done by phone. The
10 person takes a picture of themselves and submits it through the app. If the app isn't
11 working or there is a network problem, it appears the alien didn't check in.
12 However, this is all stored on the phone and the alien can easily demonstrate that
13 they in fact have checked in as required. This is why notice is required. The alien
14 must have an opportunity to demonstrate compliance BEFORE they are detained.
15 This was not provided here.

16 As this court has noted in previous orders:

17 ICE has a duty to follow its own regulations and, if it fails to do so, the
18 detention is likely a violation of due process. 4 *See Diaz v. Wofford*, No. 1:25-cv-
19 01079-JLT-EPG, 2025 WL 2581575, at *7–8 (E.D. Cal. Sept. 5, 2025) (“DHS’s
20 failure to follow its own procedural regulations may constitute a due process
21

violation.”); *Constantinovici v. Bondi*, No. 3:25-cv02405-RBM-AHG, 2025 WL 2898985, at *5 (S.D. Cal. Oct. 10, 2025) (“Both 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 were intended to ‘provide due process protections to [noncitizens] following the removal period as they are considered for . . . possible revocation of release . . .’”) (quoting *Santamaria Orellana v. Baker*, No. 25-cv-1788-TDC, 2025 WL 2444087, at *6 (D. Md Aug. 25, 2025); *Bui*, 2025 WL 2988356, at *3 (recognizing that respondent’s failure to follow their own regulations may be a due process violation). *Uzzhina v. Chestnut* 1:25-cv-01594-DAD-SCR.

The petitioners also have a constitutional liberty interest that all people have in this country.¹ These petitioners cannot be deprived of their liberty without notice and an individualized determination before a neutral third party that they constitute a flight risk or a danger to the community. This was never afforded to the petitioners and this violation cannot be remedied by an after the fact declaration that they missed some automated, phone-app check-ins.

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¹ Individuals subject to conditional release have a liberty interest in their continued release. See *Garcia v. Andrews*, No. 2:25-cv-01884-TLN-SCR, 2025 WL 1927596, at *3 (E.D. Cal. July 14, 2025); *Guillermo M. R.*, 791 F. Supp. 3d at 1030 (“[L]iberty interests of persons detained under § 1231(a)(6) are comparable to those of persons detained under § 1226(a).”) (quoting *Diouf v. Napolitano*, 634 F.3d 1081, 1086–87 (9th Cir. 2011)). *Uzzhina*, *supra*

The petitioners' detention is a violation of the Administrative Procedures Act.

For the same reasons as set out above, the petitioners' detention was a violation of the APA in that the government failed to follow its own regulations regarding notice and revocation of parole. 8 CFR § 212.5(e) sets out the requirements for terminating parole. Notice is the pivotal consideration in this case. Petitioners' parole can only be revoked upon notice. This notice affords the parolee an opportunity to be heard and to defend themselves against any accusations. The respondents failed to provide this notice and opportunity to be heard. Rather, they decided to arrest and detain the petitioners, without notice, and then justify this detention later.

CONCLUSION

The petitioners are not subject to mandatory detention.

The detention of the petitioners was done without notice and an opportunity to be heard in contravention to the government's own statutory procedures and as such is a violation of the Administrative Procedures Act.

They were deprived of their liberty without notice and a determination by a neutral third party that their circumstances had changed such that they were now a flight risk or a danger to the community.

For all these reasons the petitioners request that the court:

1 (1) Declare that Petitioners' re-detention without an individualized
2 determination violates the Due Process Clause of the Fifth Amendment and the
3 Administrative Procedures Act;
4

5 (2) Issue a Writ of Habeas Corpus ordering Respondents to release
6 Petitioner from custody;
7

8 (3) Order that the Petitioners may not be re-detained without further
9 order of this court;
10

11 (4) Award Petitioner attorney's fees and costs under the Equal Access
12 to Justice Act, and on any other basis justified under law; and
13

14 (5) Grant any further relief this Court deems just and proper.
15

16 Dated: December 22, 2025.

17 /s/ Brian J. McGoldrick
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CERTIFICATE OF SERVICE

I, Brian J. McGoldrick, CERTIFY

I am over the age of 18 and not a party to this matter. My business address is 4916 Del Mar Avenue, San Diego, CA 92107. On December 22, 2025, I served a copy of this TRAVERSE TO PETITION FOR WRIT OF HABEAS CORPUS

by the method and to the parties listed below:

On December 22, 2025, I accessed the electronic mailing list for CM/ECF users in this case and representatives of all parties are CM/ECF users and are noticed as follows:

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