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12 UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
14
15

16 FERNANDO JOSE JUAREZ
17 FERNANDEZ,
18 Petitioner,
19 v.
20 FERETI SEMAIA, *et al.*,
21 Respondents.
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No. 5:25-cv-03412-SPG-MBK

**FEDERAL RESPONDENTS'
OPPOSITION TO MOTION FOR
TEMPORARY RESTRAINING ORDER**

Hon. Sherilynn Peace Garnett
United States District Judge

1 **I. INTRODUCTION**

2 The Court should deny the relief requested in the Application for Temporary
3 Restraining Order (“TRO Application”) because Petitioner has not shown that
4 Respondents lacked authority to detain him. Petitioner appears to concede that he does
5 not have legal status; Petitioner argues that because he was paroled into the country
6 when he illegally entered in 2022, that Respondents are barred from detaining him in
7 removal proceedings absent a pre-detention hearing. However, nothing in the
8 Immigration and Nationality Act requires a pre-detention hearing solely because he was
9 previously paroled into the United States for reasons that may have had nothing to do
10 with him not being a flight risk or danger to the community.

11 Petitioner appears to be a member of the Bond Eligible Class certified in
12 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---,
13 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). On December 18, 2025, the *Bautista* court
14 entered final judgment as to the Bond Eligible Class. *See Bautista*, ECF No. 94. A notice
15 of appeal was then filed by the *Bautista* defendants on December 18, 2025, ECF No. 95.

16 Accordingly, Respondents acknowledge that Petitioner’s claims in this action as to
17 his entitlement to a bond hearing appear to be subject to the *Bautista* judgment and to
18 any applicable appellate proceedings relating to it. To the extent Petitioner seeks an
19 order requiring such a bond hearing here, it should be consistent with what Courts in this
20 District have generally ordered in similar cases, which is to require such a hearing be
21 held within seven (7) days. To the extent that Petitioner seeks additional relief, it is not
22 warranted for the reasons stated below.

23 **II. ARGUMENT**

24 **A. Petitioner Has Not Shown that Respondents Lacked Authority to**
25 **Detain Him, that Respondents Revoked his Release Improperly, or that**
26 **the Remedy Would Be Immediate Release**

27 To succeed on a habeas petition, Petitioner must show that he is “in custody in
28 violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241.

1 Although Petitioner is being detained in this district, he has not shown that his current
2 custody is unlawful.

3 Petitioner argues he should not be detained, because he was previously released
4 under conditional humanitarian parole. However, the government's authority to re-detain
5 individuals that ICE previously released on parole does not require an intensive
6 evidentiary procedure.

7 The INA governs the detention and release of noncitizens during and following
8 their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021).
9 The INA does not provide for a pre-detention hearing. *See, e.g., 8 U.S.C. § 1231*. DHS
10 has the authority to revoke a noncitizen's parole "at any time," even if that individual has
11 previously been released. 8 U.S.C. § 1226(b).

12 By law, such parole can be terminated by, inter alia, serving the noncitizen with a
13 charging document, including a notice to appear.

14 In cases not covered by paragraph (e)(1) of this section, upon
15 accomplishment of the purpose for which parole was authorized or when in
16 the opinion of one of the officials listed in paragraph (a) of this section,
17 neither humanitarian reasons nor public benefit warrants the continued
18 presence of the alien in the United States, parole shall be terminated upon
19 written notice to the alien and he or she shall be restored to the status that he
20 or she had at the time of parole. When a charging document is served on the
21 alien, the charging document will constitute written notice of termination of
22 parole, unless otherwise specified.

23 8 C.F.R. § 212.5(e)(2)(i).

24 The government is authorized to revoke the parole it had previously granted under
25 8 C.F.R. § 212(d)(5). *See Hassan v. Chertoff*, 593 F.3d 785, 789 (9th Cir. 2010).

26 **B. The Remedy for any Alleged Fifth Amendment Violation is a Bond**
27 **Hearing, Not Release**

28 In habeas jurisdiction, as in other contexts, preliminary injunctive relief must be

1 narrowly tailored to the wrong asserted. *See e.g. Rodriguez Diaz v. Garland*, 53 F.4th
2 1189, 1214 (9th Cir. 2022). Here, even if there were some defect in the revocation of
3 Petitioner's parole status—which the TRO Application does not establish—then the
4 narrowly tailored remedy would not be immediate release, but rather (1) rectifying that
5 procedural deficiency; or (2) providing Petitioner a bond hearing consistent with his
6 rights as a detainee—which are adequately protected, like other detainees, by the
7 existing bond hearing regime.

8 Other Courts in this district have rejected Petitioner's argument that an alleged
9 Fifth Amendment violation in the context of immigration detention entitles the petitioner
10 to release. *See Nora Noemi Marroquin-Salazar v. Noem*, 5:25-cv-02367-FLA-JC, Report
11 and Recommendation at 19-20, Dkt. 9-1 (C.D. Cal. Oct. 24, 2025), adopted at Dkt. 12
12 (C.D. Cal. Dec. 8, 2025); *Long Ton v. Kristi Noem, et al.*, 5:25-cv-02033-SB-AGR,
13 Order Denying Application for Preliminary Injunction, Dkt. 17 (C.D. Cal. Sept. 3, 2025).
14 Even if the Court were to make a finding that Petitioner's arrest was unlawful, that
15 would not entitle him to release from custody.

16 Generally, the remedy for an unlawful arrest is the suppression of evidence
17 obtained therefrom, not release from custody. *See INS v. Lopez-Mendoza*, 468 U.S. 1032,
18 1040-41 (1984); *United States v. Garcia-Beltran*, 443 F.3d 1126, 1131-32 (9th Cir.
19 2006), *cert. denied*, 549 U.S. 395 (2006); *see also Martinez-Medina v. Holder*, 673 F.3d
20 1029, 1033-34 (9th Cir. 2011) (exclusionary rule applies in civil removal proceedings
21 only when Fourth Amendment violation is egregious). To the extent Petitioner seeks
22 release from custody based on his allegedly unlawful arrest, he is not automatically
23 entitled to release. *See, e.g., Rodrigues De Oliveira v. Joyce*, 2025 WL 1826118, at *5
24 (D. Me. July 2, 2025) ("Petitioner's argument that an illegal arrest automatically results
25 in an illegal detention is misguided . . . [E]ven if Petitioner's initial arrest was unlawful,
26 her detention pending removal may stand.")' *Alonso-Portillo v. Bondi*, 2025 WL
27 2483393, at *11 (S.D. Ohio Aug. 28, 2025) ("Traditional application of the exclusionary
28 rule results in the suppression of evidence, as 'fruits of the poisonous tree,' obtained in

1 violation of the Fourth Amendment. But the rule does not, as Alonso-Portillo asserts
2 here, dictate his immediate release from detention.”); *Amezcu-Gonzalez v. Lobato*, 2016
3 WL 6892934, at *2 (W.D. Wash. Oct. 6, 2016) (“even if petitioner’s arrest amounts to an
4 egregious Fourth Amendment violation, he is not entitled to habeas relief”), *report and*
5 *recommendation adopted*, 2016 WL 12984435, at *1 (W.D. Wash. Nov. 22, 2016).

6 Petitioner’s circumstances are similar to those in *Martinez-Hernandez v. Andrews*,
7 2025 WL 2495767, at * 14 (E.D. Cal. Aug. 28, 2025). In *Martinez-Hernandez*, the
8 petitioner was apprehended near the U.S. Mexico border, issued a Notice to Appear,
9 made an asylum claim, initially taken into ICE custody, and then released on his own
10 recognizance with an ankle monitor. *Id.* at *1-2. Similar to what Petitioner contends
11 here, *Martinez-Hernandez* stated he was compliant with ICE check ins and complied
12 with his ankle monitor. *Id.* at ¶*2-3. He was taken back into ICE custody at a scheduled
13 check in. *Id.* at *3. The *Martinez-Hernandez* court recognized that courts in similar
14 circumstances refused to release the petitioner, but ordered timely bond hearings. *Id.* at
15 *12 (collecting cases). Consistent with what other courts have ordered, the *Martinez-*
16 *Hernandez* court issued an order that petitioner be provided with a bond hearing. *Id.* at
17 *14.

18 Unlike other cases where detainees were previously released on bond or released
19 pursuant to an order of supervision prior to re-detention, here, Petitioner was released on
20 conditional humanitarian parole. To the extent bond-re-detention cases apply, they also
21 do not hold that petitioners are entitled to a pre-deprivation hearing. As Judge Frimpong
22 noted in her Amended Order Denying Petitioner’s Ex Parte Application for a Temporary
23 Restraining Order in *Francisco Lagara Mayo v. Semaia*, 5:25-cv-03003-MEMF-E, Dkt.
24 12 (C.D. Cal. Dec. 9, 2025):

25 The Ninth Circuit has not defined the contours of what procedural
26 safeguards are due to noncitizens facing redetention following release from
27 ICE custody. But the relevant statutes do not appear to entitle an immigrant
28 petitioner facing the revocation of bond to a change in circumstances

1 *hearing. See 8 U.S.C. § 1226(d); 8 C.F.R. § 236.1(c)(9).* Moreover, *Matter*
2 *of Sugay, 17 I. & N. Dec. at 640*, similarly does not establish that a
3 noncitizen facing redetention is constitutionally entitled to a *hearing*.
4 Instead, the Court there noted that the noncitizen is subject to redetention in
5 the ‘discretion of the District Director,’ . . . Taken together, then, this Court
6 does not find statutory or precedential support for the proposition that due
7 process requires that a noncitizen facing bond revocation is entitled to a
8 *predetention hearing* before an immigration judge or a district judge in this
9 instance.

10 *Lagara Mayo, Dkt. 12 at 8.*

11 **III. CONCLUSION**

12 Respondents reiterate that if Petitioner is entitled to any relief, it would be in the
13 form of a bond hearing so that he may present evidence to an Immigration Judge that he
14 is not a flight risk or danger to the community during the pendency of his removal
15 proceedings.

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17 Dated: January 8, 2025

Respectfully submitted,

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* This brief contains 1,491 words and complies with the word limit of L.R. 11-6.1.