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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FAUDELIN DAT,

Petitioner

v.

JEREMY CASEY, Senior
Warden, Imperial Regional Detention
Facility; DANIEL A. BRIGHTMAN,
San Diego, Field Office Director, U.S.
U.S. Immigration & Customs
& Customs Enforcement (ICE) ; TODD
LYONS, Acting Director, U.S. ICE;
KRISTI NOEM, U.S. Secretary of
Homeland Security; PAMELA BONDI,
Attorney General of the United States

Respondents.

Case No. '26CV0717 TWR JLB

Agency No.



**PETITION FOR WRIT OF
HABEAS CORPUS AND ORDER
TO SHOW CAUSE WITHIN
THREE DAYS**

INTRODUCTION

1. This case challenges the unlawful re-detention of Petitioner, Mr. Faudelin Dat, who entered the United States with his wife and two minor children on February 13, 2020, to seek asylum. He was apprehended shortly after his entry but was released on his own recognizance. The conditions of his release included GPS monitoring and monthly in-person check-ins with Immigration and Customs Enforcement (ICE). Mr. Dat has never missed an ICE check in and has not otherwise violated any terms of the conditions of his release. He has also never been convicted of a crime.

2. After his release, Mr. Dat timely filed an asylum application and an application for Temporary Protected Status (TPS) with US Citizenship and Immigration Services (USCIS), obtained a work permit and a Social Security Card and started working and supporting his family.

3. On December 10, 2025, Mr. Dat was detained at a border patrol immigration check point after he presented his valid employment authorization card, his driver's license and proof of his TPS status and advised the officers of his pending asylum application. He was handcuffed and eventually taken to the Imperial Regional Detention Facility (IRDF), where he remains to this day.

4. On information and belief, at the time of his arrest, immigration officers were aware that Mr. Dat was from Haiti with a pending asylum application with USCIS and a valid TPS status.

5. Before re-detaining him on December 10, 2025, Respondents did not provide Mr. Dat with any written notice explaining the basis for the revocation of his release. Nor did they provide a hearing before a neutral decision-maker where ICE was required to justify the basis for re-detention or explain why Mr. Dat is a flight risk or danger to the community.

6. By failing to provide such a hearing, Respondents have violated Mr. Dat's constitutional right to due process.

7. Accordingly, this Court should grant the instant petition for a writ of habeas corpus and order his immediate release.

JURISDICTION

8. This action arises under the Constitution of the United States, the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq. and the Administrative Procedure Act (APA), 5 U.S.C. § 551 et seq.

9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All-Writs Act, 28 U.S.C. § 1651.

VENUE

11. Venue is properly with this Court because Respondent Warden CASEY is Mr. Dat's immediate custodian at IRDC in Imperial, California. Pursuant to *Braden v. 30th Judicial*

Circuit Court of Kentucky, 410 U.S. 484, 493–500 (1973), venue lies in the judicial district in which Mr. Dat currently is in custody.

12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District Of California.

REQUIREMENTS OF 28 U.S.C. § 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

14. Habeas corpus is “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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (habeas corpus is “a speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination”)

PARTIES

15. Mr. Dat is an adult from Haiti who is currently detained at the Imperial Regional Detention Facility (IRDF).

16. Respondent JEREMY CASEY is the warden at Imperial Regional Detention Facility. Respondent CASEY oversees the day-to-day operations at IRDF and acts at the direction of Respondents BRIGHTMAN, LYONS, NOEM, AND BONDI. He is custodian of the Petitioner and is named in this official capacity.

17. Respondent DANIEL A. BRIGHTMAN is the Field Office Director for ICE's San Diego Field Office. The San Diego Field Office is responsible for local custody decisions relating to noncitizens charged with being removable from the United States. Respondent is a legal custodian of Petitioner and is sued in his official capacity.

18. Respondent TODD LYONS is the Acting Director of ICE and is named in his official capacity. In his official capacity, he is a legal custodian of the Petitioner.

19. Respondent KRISTI NOEM is the Secretary of the Department of Homeland Security (DHS). She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

20. Respondent PAMELA BONDI is the Attorney General of the United States, and as such has authority over the Department of Justice. She is sued in her official capacity.

FACTUAL BACKGROUND

21. The Petitioner, Mr. Faudelin Dat, was born on  in St. Michel De Lattalay, Haiti. He entered the United States on February 13, 2020, with his wife and two minor children, to seek asylum. He was subsequently apprehended by immigration officials.

22. The next day, ICE released Mr. Dat on his own recognizance. As part of his release conditions, he was subject to GPS monitoring and monthly check-ins with ICE. After Mr. Dat checked in every month for about a year, ICE removed the GPS monitoring, and he was placed on monthly telephone check-ins. A few months later, ICE told Mr. Dat that he was no longer required to check in.

23. Since his release, Mr. Dat has timely filed his asylum application and an Application For Temporary Protected Status (TPS) with USCIS. He has also received an employment authorization document, a U.S. Social Security card and a Driver's license and has been working and supporting his three minor children. In addition to the two minor children who traveled with him and his wife to the United States, he now also has a child who was born in the US. He is currently separated from his wife and is the sole financial support for his children and wife. At the time of his re-arrest, he was working as a truck driver, living in Miami, Florida.

24. On December 10, 2025, Mr. Dat was detained at a border patrol immigration check point while transporting cargo from Calexico, California to Los Angeles, California. At the check point he had presented to the Border Patrol officers his valid employment authorization card, his driver's license and proof of his TPS status. He had also told the officers of his pending

asylum application. However, the officers said that the President had terminated TPS and he was therefore illegal and would have to fight his case in court. At the time of his arrest, his TPS status was still valid. He is now facing removal proceedings.

25. Mr. Dat was then handcuffed and eventually taken to the Imperial Regional Detention Facility, where he remains to this day.

26. Since his release, Mr. Dat has not violated any of the conditions of his release. For approximately a year he wore a GPS monitoring device and attended his monthly ICE check-ins. After the year he continued to check in each month by phone until he was told by ICE he no longer needed to check in.

27. No material change in facts or circumstances has occurred since Mr. Dat was released on parole.

28. Prior to Mr. Dat's re-arrest, he did not receive written notice of the reason for his re-detention.

29. Prior to Mr. Dat's re-arrest, ICE did not assess whether Mr. Dat presented a flight risk or a danger to the community, or whether his re-arrest was justified for some other reason.

30. Prior to Mr. Dat's re-detention, he never received a hearing before a neutral decisionmaker to determine if his re-detention is justified.

LEGAL FRAMEWORK

31. Due process requires that if DHS seeks to re-arrest a person like Mr. Dat, who has lived in the United States without incident after DHS first released him, and has submitted an application for protection from removal and generally complied with the terms of his release—

the government must afford a hearing before a neutral decisionmaker to determine whether any re-detention is justified, and whether the person is a flight risk or danger to the community.

32. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Civil detention, including that of a non-citizen, violates due process in the absence of a “special justification” sufficient to outweigh one’s “constitutionally protected interest in avoiding physical restraint.” *Id.* (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)) (internal quotation marks omitted).

33. This interest in freedom from detention is particularly strong for individuals who are facing termination of previous release conditions and re-detention. Individuals released on parole or other forms of conditional release have a liberty interest in their “continued liberty.” *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Such liberty is protected by the Fifth Amendment because, “although indeterminate, [it] includes many of the core values of unqualified liberty,” such as the ability to be gainfully employed and live with family, “and its termination inflicts a ‘grievous loss’ on the [released individual] and often on others.” *Id.* See, *Carballo v. Andrews*, No. 1:25-CV-00978- KES-EPG (HC), 2025 WL 2381464, at *4 (E.D. Cal. Aug. 15, 2025)(There is “a meaningful distinction between a challenge to an initial period of detention . . . and a challenge to *re-detention* after a court has previously granted release on bond pending immigration proceedings.”)(emphasis in original).

34. To protect against arbitrary re-detention and to ensure the right to liberty, due process requires “adequate procedural protections” that test whether the government’s asserted

justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (citation modified).

35. Due process thus guarantees notice and an individualized hearing before a neutral decisionmaker to assess danger or flight risk before the revocation of an individual's release. *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) ("The fundamental requisite of due process of law is the opportunity to be heard . . . at a meaningful time in a meaningful manner." (citation modified)); *see also, e.g., Morrissey*, 408 U.S. at 485 (requiring "preliminary hearing to determine whether there is probable cause or reasonable ground to believe that the arrested parolee has committed . . . a violation of parole conditions" and that such determination be made "by someone not directly involved in the case" (citation modified)).

36. "In practice, the DHS re-arrests individuals only after a 'material' change in circumstances. To satisfy due process, those changed circumstances must represent individualized legal justification for detention." *Sanchez v. LaRose*, No. 25cv2396-JES-MMP (S.D. Cal. Sept. 26, 2025) (internal citations omitted); *Tran v. Noem*, No. 25cv2334-JES-MSB, at *6-7 (S.D. Cal. Sept. 29, 2025) (citing *Ying Fong v. Ashcroft*, 317 F.Supp. 2d 398, 403 (S.D.N.Y.2004). "This standard prevent[s] arbitrary revocations and ensure[s] that detention decisions rest [] on individualized assessment of changed circumstances rather than categorical assumptions. *Gonzalez v. Bostock*, No. 2:25cv01404-JNW-GJL at *13 (W.D. Wash. Oct.7, 2025 (discussing *Vagas v. Jennings*, No. 20-cv-5785, 2020 WL 5074312, at *2 (N.D. Cal. August 23, 2020) (quoting *Ortega v. Bonnar*, 415 F.Supp.3d 963, 968 (N.D. Cal. 2019) (quoting

Matter of Sugay, 17 I&N Dec. 637, 640 (B.I.A. 1981))) *Saravia v. Sessions*, 280 F.Supp.3d 1168, 1197 (N.D. Cal. 2017).

37. The same framework and principles apply here and compel Mr. Dat's immediate release.

CLAIM FOR RELIEF
Violation of Fifth Amendment Right to Due Process

38. Mr. Dat restates and realleges all the prior paragraphs as if fully set forth herein.

39. Due process does not permit the government to re-detain Mr. Dat and strip him of his liberty without written notice and a pre-deprivation hearing before a neutral decisionmaker to determine whether re-detention is warranted based on danger or flight risk. *See Morrissey*, 408 U.S. at 487–88. Such written notice and a hearing must occur prior to any re-detention.

40. Respondents revoked Mr. Dat's release and deprived him of liberty without providing him written notice and a meaningful opportunity to be heard by a neutral decisionmaker prior to his re-detention.

41. Accordingly, Mr. Dat's re-detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
Violation of the Administrative Procedure Act—5 U.S.C. § 706(2)(A)
Abuse of Discretion
Violation of 8 U.S.C. § 1226(b), 8 CFR § 1236.1(c)(9)

42. Mr. Dat incorporates the allegations in the paragraphs above as though fully set forth here.

43. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

44. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007)(quoting *Motor Vehicle Mfrs. Ass’n of U.S. Inc. v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983)).

45. To prevail against such a claim, the agency must articulate “a satisfactory explanation for its action, including a rational connection between the facts found and the choice made.” *Dept. of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

46. Respondents considered Mr. Dat’s individual facts and circumstances in February 2020 and determined that he was not a flight risk or danger to the community. There have been no changes to Mr. Dat’s circumstances that justify this revocation of release and re-detention. The fact that Mr. Dat has already been granted release by Respondents under the same facts and circumstances that continue to exist at this time, shows that the Respondents do not consider him a flight risk or danger to the community and have not for the last five years.

47. By categorically revoking Mr. Dat’s release and re-detaining him without consideration of his individualized facts and circumstances, Respondents have violated the

APA by failing to exercise discretion at all, let alone find facts and make a rational choice based on those facts.

PRAYER FOR RELIEF

WHEREFORE, Mr. Dat respectfully requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Issue an order prohibiting Respondents from transferring Mr. Dat outside the Southern District of California pending the resolution of this case;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days;
- (4) Declare that Mr. Dat's re-detention without first providing an individualized determination before a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Mr. Dat from custody immediately under the same conditions prior to his re-arrest and permanently enjoining his re-detention during the pendency of his removal proceeding absent written notice and a hearing prior to re-detention where Respondents must prove by clear and convincing evidence that he is a flight risk or danger to the community and that no alternatives to detention would mitigate those risks;
- (7) Enjoin Respondents from adding additional requirements to Mr. Dat's

release conditions, including but not limited to enrollment in an “alternatives to detention” program that requires GPS or any other electronic monitoring;

(3) Award Ms. Dat’s attorney’s fees and costs under the Equal Access to Justice Act, and on any other basis justified under law;

(4) Grant any further relief this Court deems just and proper.

Respectfully submitted on this 5th day of February 2026

/s/R.Sherif

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

Dated: February 5, 2026

/s/ R.Sherif
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Counsel for Petitioner-Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed on February 5, 2026 through the ECF system and that it will be sent electronically to the registered participants as identified on the Notice Of Electronic Filing.

Dated: February 5, 2026

/s/R.Sherif

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