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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MUHAMMED OZBALIK,

Plaintiff,

vs.

CHRISTOPHER LAROSE, warden of
Otay Mesa Detention Center
PATRICK DIVVER, San Diego Field
Office Director, Immigration and
Customs Enforcement and Removal
Operations ("ICE/ERO");
TODD LYONS, Acting Director of
Immigration Customs Enforcement
("ICE");
MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security
("DHS");
OTAY MESA DETENTION CENTER;

Respondents.

Case No.: 3:26-cv-02961 JES-SBC

Agency Number: 

FIRST AMENDED PETITION FOR
WRIT OF HABEAS CORPUS AND
ORDER TO SHOW CAUSE

INTRODUCTION

1 1. MUHAMMED OZBALIK,  is a 30-year-old man
2 from Turkey. He has been targeted by the Turkish authorities and has been
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4 persecuted as a result. He believed he could no longer live in Turkey and he made
5 his way to the United States. On February 9, 2023 he entered the United States and
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7 presented himself to the authorities.

8 2. He entered the United States on February 9, 2023. He was detained
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10 for approximately one day. Respondents determined at that time the he was not a
11 danger to the community or a flight risk and they granted him conditional parole
12 through release on his own recognizance. Respondents initiated removal
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14 proceedings along with his release on February 28, 2023.

15 3. Mr. Ozbalik began his life in the United States after he was
16 released. He received work authorization, found a place to live and integrated
17
18 himself into the local community. In the two and a half years he has lived freely
19 here he has established himself financially as well.

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21 4. On November 1, 2025, Mr. Ozbalik left his workplace in Anaheim
22 and was traveling to his job at a farmers' market in San Diego. Due to a traffic
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24 accident on southbound Interstate 5 near Oceanside, police officers forced vehicles
25 to exit using the right-side off-ramp. His navigation system mistakenly directed
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27 him into a military residential area located at 20250 Vandegrift Blvd, Oceanside,
28 CA 92058, United States, and without realizing it, he entered the area at

1 approximately 3:08 p.m. The soldier at the gate stopped him, took his driver's
2 license, and instructed him to wait in the parking area while they conducted an
3 identity check. He was held there for approximately 2 hours and 30 minutes.
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5 5. Afterward, the officers told him that because he did not live there
6 and did not have a green card or passport, they would turn him over to ICE
7 (Immigration and Customs Enforcement). A female military officer handcuffed his
8 hands behind his back and transported him to the main gate, approximately 15
9 minutes away, where he was handed over to law enforcement officers. In front of
10 civilians, he was treated like a criminal. His hands and feet were shackled, and he
11 was taken into custody. He was then transported to the San Diego Courthouse,
12 where he was held for two days in cold conditions and forced to sleep on the floor.
13 He was not told why he was arrested. He was not told what law he had violated. He
14 was not advised of his Miranda rights. With no cause and no explanation and no
15 warrant he was put in the ICE vehicle and transferred to the ICE facility in
16 downtown San Diego. He was then transferred to the Otay Mesa facility.
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22 6. One of the benefits that petitioner enjoyed with parole has been his
23 ability to work and to more actively participate in his asylum application process.
24 Suddenly, with no notice, no neutral determination that there has been a change in
25 circumstances, Respondents seek to revoke Mr. Ozbalik parole and force him to
26 remain in custody for the duration of his application process. Respondents do so
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1 based not on Mr. Ozbalik' personal circumstances but because of Respondents'
2 interpretation of President Trump's whim and categorical determination that, the
3 Fifth Amendment notwithstanding, noncitizens are not entitled to due process.
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5 7. But Respondents cannot evade the law so easily. The U.S.
6 Constitution requires the Respondents provide at least the rights available to him
7 when he was granted parole and when he filed his application for asylum¹.
8

9 8. Accordingly, to vindicate Petitioner's rights, this Court should grant
10 the instant petition for a writ of habeas corpus. Mr. Ozbalik asks this Court to find
11 that Respondents' attempt to detain him are arbitrary and capricious and a violation
12 of his due process rights.
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15 JURISDICTION

16 9. This action arises under the Constitution of the United States and
17 the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.
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19 10. This court has subject matter jurisdiction under 28 U.S.C. § 2241
20 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the
21 United States Constitution (Suspension Clause).
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26 ¹ See, e.g., NBC News, Meet the Press interview of President Donald Trump (May 4, 2025),
27 <https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-interviewed-meet-press-mod-rcna203514> (in response to a question whether noncitizens
28 deserve due process under the Fifth Amendment, President Trump replied "I don't know. It seems—it might say that, but if you're talking about that, then we'd have to have a million or 2 million or 3 million trials.").

1 11. This Court may grant relief under the habeas corpus statutes, 28
2 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq.,
3 the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8
4 U.S.C. § 1252(e)(2).
5

6 VENUE

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8 12. Venue is proper because Petitioner is in Respondents' custody in
9 San Diego, California. Venue is further proper because a substantial part of the
10 events or omissions giving rise to Petitioner's claims occurred in this District,
11 where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).
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14 13. For these same reasons, divisional venue is proper under Local
15 Rule HC.1

16 REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

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18 14. The Court must grant the petition for writ of habeas corpus or
19 issue an order to show cause (OSC) to the Respondents "forthwith," unless the
20 petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court
21 must require Respondents to file a return "within three days unless for good cause
22 additional time, not exceeding twenty days, is allowed." *Id.*
23

24
25 15. Courts have long recognized the significance of the habeas statute
26 in protecting individuals from unlawful detention. The Great Writ has been
27 referred to as "perhaps the most important writ known to the constitutional law of
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1 England, affording as it does a swift and imperative remedy in all cases of illegal
2 restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

3
4 16. Petitioner is “in custody” for the purpose of § 2241 because he is
5 arrested and detained by Respondents.

6
7 **PARTIES**

8 17. Muhammed Ozbalik (“Petitioner”) is a 30-year-old citizen of
9 Turkey  He is currently a resident of San Diego,
10 California, and is present within the state of California as of the time of the filing
11 of this petition.
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14 18. Respondent Christopher Larose is the Warden of the Otay Mesa
15 Detention Center and is a legal custodian of Petitioner.

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17 19. Respondent Patrick Divver is the Field Office Director for the San
18 Diego Field Office, Immigration and Customs Enforcement and Removal
19 Operations (“ICE”). The San Diego Field Office is responsible for local custody
20 decisions relating to non-citizens charged with being removable from the United
21 States, including the arrest, detention, and custody status of non- citizens. The San
22 Diego Field Office’s area of responsibility includes San Diego, California and the
23 Otay Mesa Detention Center. Respondent Patrick Divver is a legal custodian of
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20. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Sidney Aki and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

21. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Mullin is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

22. This action is commenced against all Respondents in their official capacities.

LEGAL FRAMEWORK

23. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides a right to apply for asylum to individuals seeking safe haven in the United States. The purpose of the Refugee Act is to enforce the “historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands.” Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).

1 24. The “motivation for the enactment of the Refugee Act” was the
2 United Nations Protocol Relating to the Status of Refugees, “to which the United
3 States had been bound since 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424,
4 432-33 (1987). The Refugee Act reflects a legislative purpose “to give ‘statutory
5 meaning to our national commitment to human rights and humanitarian concerns.’”
6 *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).
7

8 25. The Refugee Act established the right to apply for asylum in the
9 United States and defines the standards for granting asylum. It is codified in
10 various sections of the INA.
11

12 26. The INA gives the Attorney General or the Secretary of Homeland
13 Security discretion to grant asylum to noncitizens who satisfy the definition of
14 “refugee.” Under that definition, individuals generally are eligible for asylum if
15 they have experienced past persecution or have a well-founded fear of future
16 persecution on account of race, religion, nationality, membership in a particular
17 social group, or political opinion and if they are unable or unwilling to return to
18 and avail themselves of the protection of their homeland because of that
19 persecution of fear. 8 U.S.C. § 1101(a)(42)(A).
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25 27. Although a grant of asylum may be discretionary, the right to
26 apply for asylum is not. The Refugee Act broadly affords a right to apply for
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1 asylum to any noncitizen “who is physically present in the United States or who
2 arrives in the United States[.]” 8 U.S.C. § 1158(a)(1).
3

4 28. Because of the life-or-death stakes, the statutory right to apply for
5 asylum is robust. The right necessarily includes the right to counsel, at no expense
6 to the government, see 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the
7 right to counsel, see 8 U.S.C. § 1158(d)(4), and the right to access information in
8 support of an application, see § 1158(b)(1)(B) (placing the burden on the applicant
9 to present evidence to establish eligibility.).
10
11

12 29. Noncitizens seeking asylum are guaranteed Due Process under the
13 Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306
14 (1993).
15

16 30. Noncitizens who are applicants for asylum are entitled to a full
17 hearing in immigration court before they can be removed from the United States. 8
18 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative
19 appellate review before the Board of Immigration Appeals of removal orders
20 entered against them and judicial review in federal court upon a petition for
21 review. 8 U.S.C. § 1252(a) *et seq.*
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25 31. Immigration detention is a form of civil confinement that
26 “constitutes a significant deprivation of liberty that requires due process
27 protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).
28

1 32. Immigration detention should not be used as a punishment and
2 should only be used when, under an individualized determination, a noncitizen is a
3 flight risk because they are unlikely to appear for immigration court or a danger to
4 the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
5

6 33. Parole must be terminated upon written notice after an
7 individualized determination that the humanitarian purposes no longer apply. 8
9 C.F.R. § 212.5(e)(2)(i).
10

11
12 **FACTUAL BACKGROUND**

13 34. Petitioner is a citizen of Turkey. He was 
14 in Turkey and is currently a citizen of Turkey.
15

16 35. Petitioner was repeatedly persecuted in Turkey. He believed he
17 could no longer live in Turkey and he sought asylum in the United States.
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19 36. On or about February 10, 2023, Petitioner was conditionally
20 paroled into the United States to seek asylum. This release was based on the
21 individualized facts in his case determined during interviews with the officers that
22 were overseeing him
23

24 37. He was also issued an NTA and placed in 240 removal
25 proceedings.
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1 38. He has attended all scheduled hearings in connection with his
2 removal proceedings.
3

4 39. On information and belief, Petitioner continues to meet all the
5 requirements of his parole.
6

7 40. Petitioner applied for asylum within one year of his entry.

8 41. Respondents issued work authorization to Petitioner pursuant to 8
9 C.F.R. § 274a.12(c)(08).
10

11 42. On November 1, 2025, Mr. Ozbalik left his workplace in Anaheim
12 and was traveling to his job at a farmers' market in San Diego. Due to a traffic
13 accident on southbound Interstate 5 near Oceanside, police officers forced vehicles
14 to exit using the right-side off-ramp. His navigation system mistakenly directed
15 him into a military residential area located at 20250 Vandegrift Blvd, Oceanside,
16 CA 92058, United States, and without realizing it, he entered the area at
17 approximately 3:08 p.m. The soldier at the gate stopped him, took his driver's
18 license, and instructed him to wait in the parking area while they conducted an
19 identity check. He was held there for approximately 2 hours and 30 minutes.
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22 43. Afterward, the officers told him that because he did not live there
23 and did not have a green card or passport, they would turn him over to ICE
24 (Immigration and Customs Enforcement). A female military officer handcuffed his
25 hands behind my back and transported him to the main gate, approximately 15
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1 minutes away, where he was handed over to law enforcement officers. In front of
2 civilians, he was treated like a criminal. His hands and feet were shackled, and he
3 was taken into custody. He was then transported to the San Diego Courthouse,
4 where he was held for two days in cold conditions and forced to sleep on the floor.
5 He was never given a written notice that his parole was being terminated. He was
6 not given any particularized reason for why he was being placed into detention. He
7 was never presented with a warrant for his arrest. He was never given any Miranda
8 warnings. He was eventually transported to Otay Mesa Detention Center. Mr.
9 Ozbalik must now continue his asylum application process while in detention.
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14 44. Mr. Ozbalik was never presented with a warrant for his arrest. The
15 ICE agents did not provide him any process. The ICE agents did not offer him any
16 opportunity to be heard prior to arresting and detaining him.
17

18 45. On January 20, 2025, President Donald Trump issued several
19 executive actions relating to immigration, including “Protecting the American
20 People Against Invasion,” an executive order (EO) setting out a series of interior
21 immigration enforcement actions. The Trump administration, through this and
22 other actions, has outlined sweeping, executive branch-led changes to immigration
23 enforcement policy, establishing a formal framework for mass deportation. The
24 “Protecting the American People Against Invasion” EO instructs the DHS
25 Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to
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1 prioritize civil immigration enforcement procedures including through the use of
2 mass detention.

3
4 46. On information and belief, Respondents are detaining Petitioner
5 regardless of the individual facts and circumstances of his case.

6
7 47. On information and belief, Respondents are using the immigration
8 detention system as a means to punish individuals for asserting rights under the
9 Refugee Act.

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11 48. On information and belief, Petitioner has no criminal history.

12 **PROCEDURAL HISTORY**

13
14 49. On 12/18/2025, Mr. Ozbalik filed his first Petition for a Writ of
15 Habeas Corpus, case number 3:25-cv-03656-JES-SBC. In that petition Mr. Ozbalik
16 made the due process argument he makes in this second petition.

17
18 50. In response to the first petition, the Respondents claimed that,
19 pursuant to *Maldonado Bautista v. Santacruz*, No., 5:25-CV-01873-SSS-BFM, ---
20 F. Supp. 3d ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025), Petitioner was
21 eligible for a bond hearing and asked the court to order a bond hearing rather than
22 address their unlawful behavior and violation of Mr. Ozbalik's Fifth Amendment
23 guarantees against their behavior. *ECF 4*.

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26 51. This court agreed to order the bond hearing. *ECF 6*. However, this
27 court noted that Respondents had failed to address the Due Process claims the
28

1 Petitioner had made and ordered the Respondents to file a brief addressing those
2 issues no later than February 13, 2026. *ECF 6 p.2.*
3

4 52. The bond hearing was had and bond was denied. Petitioner made
5 an emergency request for Enforcement alleging the bond hearing was deficient.
6
7 *ECF 8.* This court denied the emergency request, but then ordered the case closed
8 on February 10, 2026, thereby excusing the government from having to address the
9 underlying due process violation. *ECF 9.*
10

11 53. On May 11, 2026, Petitioner filed another Petition for Writ of
12 Habeas Corpus, 3:26-cv-02961 JES-SBC. *ECF 1.*
13

14 54. Respondents filed a Return on 5/20/2026 and assert that, because
15 he had a bond hearing in response to his first petition Mr. Ozbalik has received all
16 the habeas relief he is due. *ECF 6.*
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18 55. In fact, Respondents and this court have never addressed the
19 underlying Due Process violation that occurred on November 1, 2025 nor the
20 appropriate remedy for that violation.
21

22 56. Accordingly, Mr. Ozbalik files this First Amended Petition for
23 Writ of Habeas corpus to assert those claims and request for immediate release.
24

25 **BOND IS NOT THE APPROPRIATE REMEDY FOR THIS VIOLATION**

26 57. The bond hearing that was ordered in the first habeas case was a
27 simple, expedient solution to find a way for Mr. Ozbalik to be released. However,
28

1 it did not address the underlying Due Process violation. This court recognized that
2 when it ordered Respondents to file a brief on those issues. In fact, ordering the
3 bond hearing relieved Respondents from any responsibility for their actions. It
4 turned justice on its head and told Mr. Ozbalik that HE must now prove that he
5 warrants release and he must pay a fee for that release!
6
7

8 **THIS COURT HAS ALREADY DETERMINED THAT BOND IS NOT THE**
9
10 **APPROPRIATE REMEDY**

11 58. In *Modrekiladze v. LaRose*, 3:26-cv-00271-JES-DEB (S.D. Cal
12 2026), this court came to the conclusion that a bond was not the appropriate
13 remedy. Mr. Modrekiladze's facts are nearly identical. He had driven on to the
14 same military base, Camp Pendleton Marine Corps Base, had been stopped by the
15 base guard and asked if he had a green card. Since he did not, just like Mr.
16 Ozbalik, he was directed to pull over and wait. After several hours, ICE officers
17 showed up and arrested him and detained him. Just like Mr. Ozbalik, there was no
18 individualized determination PRIOR to his detention that he was now a danger or a
19 flight risk such that his liberty must be taken from him. Mr. Modrekiladze asked
20 this court for immediate release. Just as in this case, Respondents sought a solution
21 by asserting that he qualified for a bond hearing under *Maldonado*. This court
22 wrote:
23
24
25
26
27

28 As a threshold issue, the Court will first address the parties'

1 disagreement regarding whether a bond hearing is an appropriate remedy.
2 The Court agrees with Petitioner that it is not. Indeed, in several cases within
3 this district where the petitioner raised a due process violation regarding re-
4 detention after having been released on parole, the courts have rejected the
5 same argument made by Respondents that the petitioner is only entitled to a
6 bond hearing as a member of the *Maldonado Bautista* class.

7 Mr. Ozbalik asks this court reach the same conclusion it reached in
8 *Modrekiladze, supra*.

9 CLAIMS FOR RELIEF

10 COUNT ONE

11 Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

12 Not in Accordance with Law and in Excess of Statutory Authority

13 Unlawful Detention

14
15 59. Petitioner restates and realleges all paragraphs as if fully set forth
16 here.

17
18 60. Under the APA, a court shall “hold unlawful and set aside agency
19 action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

20
21 61. An action is an abuse of discretion if the agency “entirely failed to
22 consider an important aspect of the problem, offered an explanation for its decision
23 that runs counter to the evidence before the agency, or is so implausible that it
24 could not be ascribed to a difference in view or the product of agency expertise.”
25

26 *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551U.S. 644, 658 (2007)

1 (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*,
2 463 U.S. 29, 43 (1983)).
3

4 62. To survive an APA challenge, the agency must articulate “a
5 satisfactory explanation” for its action, “including a rational connection between
6 the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551,
7 2569 (2019) (citation omitted).
8

9 63. By categorically revoking Petitioner’s parole and transferring him
10 to Otay Mesa Detention Center without consideration of his individualized facts
11 and circumstances, Respondents have violated the APA.
12

13 64. Respondents have made no finding that Petitioner is a danger to
14 the community prior to his detention.
15

16 65. Respondents have made no finding that Petitioner is a flight risk
17 prior to his detention.
18

19 66. By detaining the Petitioner categorically, Respondents have
20 further abused their discretion because there had been no changes to his facts or
21 circumstances since the agency made its initial determination to parole him into the
22 United States that support detention.
23

24 67. Respondents had already considered Petitioner’s facts and
25 circumstances and determined that he was not a flight risk or danger to the
26
27
28

1 community when they granted him parole. There have been no changes to the facts
2 prior to his detention that justify this revocation of his parole.
3

4 5 **COUNT TWO**

6 **Violation of Fifth Amendment Right to Due Process**

7 **Procedural Due Process**

8
9 68. Petitioner restates and realleges all paragraphs as if fully set forth
10 here.
11

12 69. The Due Process Clause of the Fifth Amendment to the U.S.
13 Constitution prohibits the federal government from depriving any person of “life,
14 liberty, or property, without due process of law.” U.S. Const. Amend. V. Due
15 process protects “all ‘persons’ within the United States, including [non-citizens],
16 whether their presence here is lawful, unlawful, temporary, or permanent.”
17
18 *Zadvydas*, 533 U.S. at 693; *accord Flores*, 507 U.S. at 306.
19

20
21 70. Due process requires that government action be rational and non-
22 arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
23

24 71. While the government has discretion to detain individuals under 8
25 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this
26 discretion is not “unlimited” and must comport with constitutional due process. *See*
27 *Zadvydas*, 533 U.S. at 698.
28

1 72. Here, Respondents have chosen to revoke Petitioner's parole in an
2 arbitrary manner and not based on a rational and individualized determination of
3 whether he was a safety or flight risk, in violation of due process. Because no
4 individualized custody determination had been made and no circumstances had
5 changed to make Petitioner a flight risk or a danger to the community,
6 Respondents' revocation of Petitioner's release violates his right to procedural due
7 process.
8
9
10

11 **COUNT THREE**

12 **Violation of the Fourth Amendment to the Constitution**

13 73. Petitioner restates and realleges all paragraphs as if fully set forth
14 here.
15

16 74. The Fourth Amendment protects "[t]he right of the people to be
17 secure in their persons ... against unreasonable searches and seizures." U.S. Const.
18 Amend. IV. The Supreme Court has recognized that immigration arrests and
19 detentions are "seizures" within the meaning of the Fourth Amendment. *INS v*
20 *Lopez-Mendoza*, 468 U.S. 1032, 1044f (1984) (acknowledging that deportation
21 proceedings are civil, but the Fourth Amendment still applies to the "Seizure" of
22 the person.)
23
24
25

26 75. The Fourth Amendment requires that arrests entail a neutral,
27 judicial determination of probable cause. See *Gerstein v. Pugh*, 420 U.S. 103, 114
28

1 (1975). That neutral, judicial determination can occur either before the arrest in the
2 form of a warrant, or promptly afterward, in the form of a prompt judicial probable
3 cause determination. *Id.* Arrest and detention of a person, including of a
4 noncitizen, absent a neutral judicial determination of probable cause violates the
5 Fourth Amendment of the Constitution. *Id.* See also *Cnty. Of Riverside v*
6 *McLaughlan*, 500 U.S. 44, 57 (1991). This determination must occur within 48
7 hours of detention, which includes weekends, unless there is a bona fide
8 emergency or other extraordinary circumstances. *Id.*

12 76. Congress enacted a strong preference that immigration arrests be
13 based on warrants. See *Arizona v. United States*, 567 U.S. 387, 407-08 (2012). The
14 Immigration and Nationality Act thus provides immigration officers with only
15 limited authority to conduct warrantless arrests. See 8 C.F.R § 287.8(c)(2)(ii).

18 77. Mr. Ozbalik, at the moment of the arrest by Respondents, was
19 lawfully present based on the Respondents' prior grant of release and parole. He
20 did not receive any judicial determination of probable cause for his arrest or
21 continued detention by Respondents.

23 78. The Government cannot salvage this seizure by invoking
24 generalized immigration enforcement interests. The Fourth Amendment's
25 reasonableness inquiry is fact-specific and demands individualized justification for
26 both the arrest and the extended detention. See *United States v Brignoni-Ponce*,
27
28

1 422 U.S. 873, 882-84 (1975). *Gerstein*, 420 U.S. at 114. Mr. Ozbalik was granted
2 release from DHS custody in 2023 and did not pose any danger to any person in
3 the community at large.
4

5 79. Respondents' warrantless arrest of Mr. Ozbalik constitutes an
6 unreasonable and unlawful seizure in violation of the Fourth Amendment.
7

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Petitioner respectfully requests this Court to grant the
10 following:
11

12 (1) Assume jurisdiction over this matter;
13

14 (2) Issue an Order to Show Cause ordering Respondents to show
15 cause why this Petition should not be granted within three days;
16

17 (3) Declare that Petitioner's detention without an individualized
18 determination prior to his detention violates the Due Process Clause of the Fifth
19 Amendment and the Administrative Procedures Act;
20

21 (4) Declare that Petitioner's warrantless arrest and detention
22 constitutes an unreasonable and unlawful seizure in violation of the Fourth
23 Amendment;
24

25 (5) Issue a Writ of Habeas Corpus ordering Respondents to release
26 Petitioner from custody;
27

1 (6) Issue an Order prohibiting the Respondents from transferring
2 Petitioner from the district without the court's approval;
3

4 (7) Issue an Order prohibiting the Respondents from enrolling the
5 Petitioner in any Alternative to Detention program, specifically barring them from
6 requiring an ankle monitor;
7

8 (8) Issue an Order directing Respondents to return any and all
9 documents and papers, including ID's and work authorization cards, that were in
10 Petitioner's possession upon his arrest;
11

12 (8) Grant any further relief this Court deems just and proper.
13

14 Dated: June 1, 2026

/s/ Brian J. McGoldrick
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Attorney for Petitioner

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 June 1, 2026, I served a copy of this **FIRST**
AMENDED PETITION FOR WRIT OF HABEAS CORPUS

by the method and to the parties listed below:

On June 1, 2026, 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:

- **Camille Savedra**

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