UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

EMIR EDUARDO SANCHEZ MENDEZ, *Petitioner*, v. JEREMY CASEY, et al. *Respondents*.	Case No.: 26-cv-03196-JLS-DEB **TRAVERSE IN SUPPORT OF PETITION FOR HABEAS CORPUS**

INTRODUCTION

Mr. Sanchez Mendez lived at liberty in the United States with the knowledge of the Department of Homeland Security (DHS) from December 1, 2023, until his re-detention on April 13, 2026. Due Process requires the government to provide noncitizens with notice and a hearing prior to re-detention. Because Mr. Sanchez Mendez was re-detained without prior notice, a showing of changed circumstance, or a meaningful opportunity to respond, this Court should order his immediate release. *See e.g. Ariza Garcia v. Mullin*, No. 3:26-CV-02241-RBM-MSB, 2026 WL 1142629, at *2 (S.D. Cal. Apr. 27, 2026); *Faizyan v. Casey*, No.: 3:25-cv-02884-RBM-JLB, 2025 WL 3208844, at *7 (S.D. Cal. Nov. 17, 2025).

ARGUMENT

I. A totality of the evidence supports a finding that Mr. Sanchez Mendez was arrested and released in 2023

In their Return, Respondents argue that rather than outright release, this Court should order a bond hearing before the immigration court because there is insufficient evidence to establish that Mr. Sanchez Mendez was arrested and paroled into the United States in 2023. Respondents claim that they have no record of Mr. Sanchez Mendez's 2023 arrest and argue that "Petitioner provides no supporting evidence of this encounter nor that he was ever paroled by DHS." Dkt. 4.

Mr. Sanchez Mendez submitted a verified habeas petition detailing the December 1, 2023, arrest, and release. He now submits a declaration detailing all that he remembers about his 2023 arrest and release by DHS as well as the subsequent actions he took to apply for asylum, work authorization, and temporary protected status. *See* Ex. A. He also submitted a copy of his employment authorization document (EAD) and his social security card. Exs. B, C. His EAD notes that it is category C08, which designates an applicant with a pending asylum or withholding of removal application. Ex. B.

The Court must weigh the evidence before it to determine which party's factual contentions are true. *See United Farm Workers v. Noem*, No. 1:25-CV-00246 JLT CDB, 2026 WL 892070, at *31 (E.D. Cal. Apr. 1, 2026). Upon review, rather than undercut the facts laid out in Mr. Sanchez Mendez's petition and declaration, the evidence submitted by the government supports Mr. Sanchez

Mendez's contention that he was detained and paroled into the United States on December 1, 2023. This Court should reach the same conclusion.

Where the government fails to file any sworn declaration or other available evidence, a court may afford limited weight to the government's assertions. *See Singh v. Becerra,* No. 1:26-CV-00513-DJC-CSK, 2026 WL 569262, at *2 (E.D. Cal. Mar. 1, 2026)*; Tincher v. Noem*, 816 F. Supp. 3d 931, 961 (D. Minn. 2026). So too when the government's contentions are vague and devoid of details. *Sun v. Noem*, No. 3:25-CV-02433-CAB-MMP, 2025 WL 2800037, at *2 (S.D. Cal. Sept. 30, 2025); *Nguyen v. Noem*, No. 3:25-CV-03404-CAB-VET, 2025 WL 3640999, at *3 (S.D. Cal. Dec. 16, 2025). Where the government submits database records, it often files a declaration explaining the agency's database searches. *See e.g. Ye v. Blanche*, No. 2:26-CV-01296-JNW, 2026 WL 1382387, at *1 (W.D. Wash. May 18, 2026); *B.R.F. v. Noem*, No. 3:25-CV-02154-AN, 2026 WL 84526, at *2 (D. Or. Jan. 12, 2026).

Here, Respondents argue that "DHS has no evidence regarding any December 1, 2023, encounter." Respondents filed two Immigration and Customs Enforcement ("ICE") records to support this contention. First, Respondents submitted what appears to be a search result from ICE's "ENFORCE Alien Removal Module"[1] database. Dkt. 4-1 at 2. Respondents fail explain what fields

[1] *See* Dep't of Homeland Sec'y, *Privacy Impact Assessment Update for the Enforcement Integrated Database (EID) ENFORCE Alien Removal Module (EARM 3.0)* DHS/ICE-PIA-015(b), May 20, 2011, https://www.dhs.gov/sites/default/files/publications/privacy_pia_ice_eidupdate%2815b%29.pdf.

ICE searched or whether their search yielded any other results. DHS has a system called the "e3 portal, which contains information about individuals who have interacted with U.S. Border Patrol." *Kruglov v. United States Customs & Border Prot.,* No. CV 22-260 (RDM), 2024 WL 4345853, at *1 (D.D.C. Sept. 30, 2024); *see also Stevens v. United States Dep't of Health & Hum. Servs.*, No. 22 C 5072, 2024 WL 4007684, at *3 (N.D. Ill. Aug. 30, 2024). Yet Respondents chose to not provide any e3 portal entry information for Mr. Sanchez Mendez.

Respondents also submit Form I-213 which is a DHS narrative of the agency's reasons for his arrest on April 13, 2026. *United Farm Workers,* 2026 WL 892070, at *5. Rather than undercut Mr. Sanchez Mendez's evidence that he was arrested and released on December 1, 2023, this form supports the facts laid out in Mr. Sanchez Mendez's petition and declaration. Border Patrol Agent Erick Flores wrote that "El Centro Sector Processing Center record checks revealed that...SANCHEZ MENDEZ illegally crossed into the United States on 11/15/2023 near Laredo, Texas." Dkt. 4-2 at 5. Officer Flores does not explain how DHS' record checks would reveal the exact date and approximate place of Mr. Sanchez Mendez's entry into the United States if not for an arrest and release. In addition, DHS record checks would likely not reveal the date and place of Mr. Sanchez Mendez's entry if he entered the United States without being apprehended by the agency. *Cf Alvarado-Diaz v. Chestnut*, No. 1:26-CV-02459-JLT-HBK, 2026 WL 1493102, at *1 n.1 (E.D. Cal. May 28, 2026) (weighing Form I-213 entry that

petitioner "entered the United States at an unknown date and unknown location" and finding that DHS never encountered or arrested him.).

Thus, even if the Court finds insufficient evidence that Mr. Sanchez Mendez was paroled into the United States, in its totality, the evidence establishes that, at the very least, Mr. Sanchez Mendez was encountered by immigration authorities on December 1, 2023, and subsequently released into the United States.

II. Because Mr. Sanchez Mendez was at liberty in the United States with the knowledge of DHS prior to his re-detention, he has a Due Process Interest in Continued Liberty

Even if this Court finds the evidence of Mr. Sanchez Mendez's 2023 arrest and parole into the United States insufficient, he still must be released from detention. He was clearly at liberty in the United States with the knowledge of DHS. Thus, his re-detention without prior notice, a showing of changed circumstance, or a meaningful opportunity to respond, violates procedural due process under the Fifth Amendment. *See e.g. Ariza Garcia v. Mullin*, No. 3:26-CV-02241-RBM-MSB, 2026 WL 1142629, at *2; *Faizyan v. Casey*, No.: 3:25-cv-02884-RBM-JLB, 2025 WL 3208844, at *7.

If a noncitizen has been paroled into the U.S., the government may not revoke their parole or re-detain them without first affording pre-deprivation notice and a hearing establishing that the person is now a danger or flight risk—failure to provide this is a violation of the person's Fifth Amendment Due Process rights requiring immediate habeas relief. *See, e.g.*, *Ramirez-Bibiano*, No. 25-CV-3429-JLS (SBC), 2025 WL 3632748, at *2-3 (S.D. Cal. Dec. 15, 2025); *see also Noori v.*

LaRose, 807 F. Supp. 3d. 1146 (S.D. Cal. 2025); *Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130 1135–39 (W.D. Wash. 2025); *Fernandez Lopez v. Wofford*, No. 1:25-CV-01226-KES-SKO (HC), 2025 WL 2959319, at *6 (E.D. Cal. Oct. 17, 2025) (ordering immediate habeas release; canvassing seven cases establishing the principle that re-detention of a previously paroled noncitizen without a pre-deprivation hearing establishing a change in the person's risk of danger or flight violates Due Process and requires immediate habeas relief).

Courts have applied this same rationale to individuals were not paroled into the United States but were released from immigration detention. *See Maceo-Aguilera v. LaRose*, 26-CV-532-LL-MSB, 2026 WL 381633 (S.D. Cal. Feb. 11, 2026); *Escamilla Alvarado v. Casey,* No. 26-cv-2593-JO-BJW (S.D. Cal. May 7, 2026), Dkt. No. 6; *Magana-Hernandez v. Casey,* No. 26-cv-2952-JLS (MSB) (S.C. Cal. May 18, 2026), Dkt. No. 5. Thus, Mr. Sanchez-Mendez's "release from ICE custody after [his] initial apprehension reflected a determination by the government that [he] was neither a flight risk nor a danger to the community, and [Petitioner] has a strong interest in remaining at liberty unless [he] no longer meets those criteria. *Pinchi v. Noem*, 792 F. Supp. 3d. 1025, 1034 (N.D. Cal. 2025).

A petitioner has a "clear interest in his continued freedom" where the government grants a "five-year work authorization increasing his expectation that he could continue his release until a decision on his asylum application." *R.C.C. v. Noem*, No. 1:26-CV-00373-TLN-EFB, 2026 WL 177834, at *3 (E.D. Cal. Jan. 21,

2026). When DHS grants a period of work authorization, it "implicitly promised [a] Petitioner's continued release" while the authorization remains valid. In addition, where an applicant "remained non-detained after filing his asylum application" and "has timely applied for asylum and obtained a work authorization, a social security number, and a driver's license," that applicant is "entitled to due process before his detainment." *Saadi v. Larose*, No. 26-CV-1779-GPC-JLB, 2026 WL 892831, at *5 (S.D. Cal. Mar. 30, 2026)

Mr. Sanchez Mendez has lived at liberty in the United States for over two-and-a-half years. Dkt. 4-2 at 5. He applied for asylum on April 4, 2024, less than six months after entering the United States. *Id.* DHS granted Mr. Sanchez Mendez work authorization until September 2029 and the Social Security Administration granted him a social security number. Exs. B, C. DHS also granted Mr. Sanchez Mendez Temporary Protected Status. Dkt. 4-2 at 5. Because Mr. Sanchez Mendez has a protected liberty interest, the government may not arbitrarily re-detain him without first providing him with notice and a meaningful opportunity to respond.

CONCLUSION

For the foregoing reasons the Court should order Mr. Sanchez Mendez's immediate release rather than ordering a bond hearing before the immigration court.

Dated: June 5, 2026

Respectfully Submitted,

/s/ Cassandra Lopez
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