UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

JOYNER JACKSON ZARATE SALAZAR Petitioner, v. WARDEN OF IRWIN COUNTY DETENTION CENTER *in his official capacity,* KRISTEN SULLIVAN, *Field Office Director ICE Atlanta Field Office,* DAVID VENTURELLA *in his official capacity as Acting Director of Immigration and Customs Enforcement* and MARKWAYNE MULLIN, *Secretary of Homeland Security,* Respondents.	Case No. 7:26-cv-183 **PETITION FOR WRIT OF HABEAS CORPUS** A# [redacted]

I. INTRODUCTION

1. Petitioner, ("Petitioner") is a noncitizen resident of the United States who is currently detained by the Department of Homeland Security ("DHS") at the Irwin County Detention Center in Ocilla, Georgia. He entered the United States seeking asylum on or about December 1, 2021 and was detained by ICE at a regular check in or about June 9, 2026. He is not and has never been placed in expedited-removal proceedings.

2. Petitioner was released on an Order of Recognizance on or about December 3, 2021, and had remained on the Order, with regular check ins and no violations of the terms of his release until his redetention in 2026.

3. Petitioner seeks a writ of habeas corpus directing Respondents to release

him immediately in response to Respondents' unlawful detention.

II. VENUE AND JURISDICTION

4. This Court has jurisdiction under 28 U.S.C. §§ 2241 and 1331 and Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause). Habeas relief is available to challenge the legality of civil immigration detention and to compel a bond hearing or release.

5. Venue lies in the Middle District of Georgia because Petitioner is confined at the Irwin County Detention Center within this Division and Respondent Warden is his immediate custodian. See 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

6. Petitioner is a 25-year-old asylum seeker from Venezuela who has resided in the United States for five years for many years. He is currently detained at the Irwin County Detention Center in Ocilla, Georgia.

7. Respondent Warden is the warden of Irwin County Detention Center. As such, Respondent is responsible for the operation of the Detention Center where Petitioner is detained. Because ICE contracts with private prisons such as Irwin to house immigration detainees such as Petitioner, Respondent Warden has immediate physical custody of the Petitioner.

8. Respondent Kristen Sullivan is the Atlanta Field Office Director ("FOD") for ICE Enforcement and Removal Operations ("ERO"). As such, Respondent Sullivan is responsible for the oversight of ICE operations at the Folkston Detention Center. Respondent Sullivan is being sued in her official capacity.

9. Respondent David Venturella is the Acting Director of Immigration and Customs Enforcement ("ICE"). As such, Respondent he is responsible for the oversight of ICE operations. Respondent Venturella is being sued in his official capacity.

10. Respondent Markwayne Mullin is the Acting Secretary of the Department of Homeland Security (hereinafter "DHS"). As Secretary of DHS, Secretary Mullin is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.

11. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

12. Petitioner's constitutional challenge to indefinite detention is exempt from administrative exhaustion requirements. *See Woodford v. Ngo*, 548 U.S. 81, 103 (Breyer, J. concurring) (constitutional claims are exempt from administrative exhaustion); *see also Khan v. Atty. Gen. of U.S.*, 448 F.3d 226, 236 n.8 (3d Cir. 2006) (internal alterations and quotations removed) ("[D]ue process claims generally are exempt from the exhaustion requirement because the BIA does not have jurisdiction to adjudicate constitutional issues."); *United States v. Gonzalez-Roque*, 301 F.3d 39, 48 (2d Cir. 2002) ("'[T]he BIA does not have jurisdiction to adjudicate constitutional issues . . . .'" (quoting *Vargas v. U.S. Dep't of Immigration & Naturalization*, 831 F.2d 906, 908 (9th Cir. 1987)).

13. As the Eleventh Circuit has held "It is no longer the law of this circuit

that exhaustion of administrative remedies is a jurisdictional requirement in a § 2241 proceeding." *Santiago-Lugo v. Warden*, 785 F.3d 467, 474–75, n.5 (11th Cir. 2015) (abrogating *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir.2001)).

14. Further, there is no statutory exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Cf.* 8 U.S.C. § 1252(d)(1) (requiring exhaustion of administrative remedies only where requesting review of a final order of removal). "'[W]here Congress has not clearly required exhaustion, sound judicial discretion governs." *Jones v. Zenk*, 495 F. Supp. 2d 1289, 1297 (N.D. Ga. 2007) (citing *McCarthy v. Madigan,* 503 U.S. 140, 144 (1992)). As a matter of discretion, exhaustion of administrative remedies should therefore be waived "(1) where prejudice to the prisoner's subsequent court action 'may result, for example, from an unreasonable or indefinite timeframe for administrative action'; (2) where the administrative agency may not have the authority 'to grant effective relief'; or (3) 'where the administrative body is shown to be biased or has otherwise predetermined the issue before it.'" *Jones*, 495 F. Supp. 2d at 1297 (citing *McCarthy*, 503 U.S. at 146-48). *See also Woodford v. Ngo*, 548 U.S. 81, 103 (2006) (Breyer, J. concurring) (noting "well-established exceptions to exhaustion" that include constitutional claims, futility, hardship to the petitioner, and where administrative remedies are inadequate or unavailable) (citations omitted)).

15. In making its discretionary decision, the Court should consider the urgency of the need for immediate review. "Where a person is detained by executive order . . . the need for collateral review is most pressing. . . . In this context the need

for habeas corpus is more urgent." *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

V. STATEMENT OF FACTS

16. Petitioner is a citizen of Venezuela of born on [redacted]. He entered the United States in or about December 1, 2021, and has lived continuously in the United States since then. (**Exhibit A, Notice to Appear**).

17. On December 3, 2021, Respondents released Petitioner on his own recognizance. (**Exhibit B, Order of Release**).

18. On November 14, 2022, Petitioner timely filed an Application for Asylum. (**Exhibit C, Asylum Receipt Notice**).

19. On March 16, 2023, he complied with his obligation to appear for biometrics. (**Exhibit D, Biometrics Notice**).

20. On May 20, 2024, Petitioner was granted Temporary Protected Status through April 2, 2025 (**Exhibit E, TPS Approval Notice**).

21. Petitioner is currently in possession of a valid Employment Authorization and a valid North Carolina Driver License. (**Exhibit F, EAD and Drivers License**).

22. On February 17th, 2026. Petitioner was scheduled to appear for a check in at the Department of Homeland Security office in Charlotte, North Carolina. Petitioner attended this appointment as required. He arrived at the office at approximately 4:00 a.m. and waited throughout the day. As a result of the extremely long lines and the office's limited capacity to process the large number of immigrants

present that day, he was unable to complete his check-in and was turned away.

23. To prove that he had indeed reported as required and that his failure to be seen was the fault of Respondents and not his own willful conduct, he documented his presence at the facility. (**Exhibit G, Photograph of Petitioner outside the check in location with date showing on his phone screen, together with the metadata confirming same**).

24. The next time he attended a check in, Petitioner was detained and accused of having failed to appear on February 17, 2026. This is categorically incorrect.

25. On information and belief, there were no notices of violation and no new criminal charges.

26. On June 9, 2026, while reporting as required, Petitioner was taken into custody.

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

27. Petitioner's liberty from immigration custody is protected by the Due Process Clause: "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

28. Since 2012, Petitioner exercised that freedom under ICE's order releasing him from custody. As he was released from custody, he retains a weighty liberty interest under the Due Process Clause of the Fifth Amendment in avoiding unlawful re-incarceration. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon*

v. Scarpelli, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972).

29. In *Morrissey*, the Supreme Court examined the "nature of the interest" that a parolee has in "his continued liberty." 408 U.S. at 481-82. The Court noted that, "subject to the conditions of his parole, [a parolee] can be gainfully employed and is free to be with family and friends and to form the other enduring attachments of normal life." *Id.* at 482. The Court further noted that "the parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Id.* The Court explained that "the liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a grievous loss on the parolee and often others." *Id.* In turn, "[b]y whatever name, the liberty is valuable and must be seen within the protection of the [Fifth] Amendment." *Morrissey*, 408 U.S. at 482.

30. This basic principle—that individuals have a liberty interest in their conditional release—has been reinforced by both the Supreme Court and the circuit courts on numerous occasions. *See, e.g.*, *Young v. Harper*, 520 U.S. at 152 (holding that individuals placed in a pre-parole program created to reduce prison overcrowding have a protected liberty interest requiring pre-deprivation process); *Gagnon v. Scarpelli*, 411 U.S. at 781-82 (holding that individuals released on felony probation have a protected liberty interest requiring pre-deprivation process). As the First Circuit has explained, when analyzing the issue of whether a specific conditional release rises to the level of a protected liberty interest, "[c]ourts have

resolved the issue by comparing the specific conditional release in the case before them with the liberty interest in parole as characterized by *Morrissey*." *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks and citation omitted). *See also, e.g.*, *Hurd v. District of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) ("a person who is in fact free of physical confinement—even if that freedom is lawfully revocable—has a liberty interest that entitles him to constitutional due process before he is re-incarcerated") (citing *Young*, 520 U.S. at 152, *Gagnon*, 411 U.S. at 782, and *Morrissey*, 408 U.S. at 482).

31. In fact, it is well-established that an individual maintains a protectable liberty interest even where the individual obtains liberty through a mistake of law or fact. *See id.*; Gonzalez-*Fuentes*, 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir. 1982) (noting that due process considerations support the notion that an inmate released on parole by mistake, because he was serving a sentence that did not carry a possibility of parole, could not be re-incarcerated because the mistaken release was not his fault, and he had appropriately adjusted to society, so it "would be inconsistent with fundamental principles of liberty and justice" to return him to prison) (internal quotation marks and citation omitted).

32. Here, when this Court "'compar[es] the specific release in [Petitioner's case], with the liberty interest in parole as characterized by *Morrissey*,'" it is clear that they are strikingly similar. *See Gonzalez-Fuentes*, 607 F.3d at 887. Just as in *Morrissey*, Petitioner's release "enables him to do a wide range of things open to persons'" who have never been in custody or convicted of any crime, including to live

at home, work, and "be with family and friends and to form the other enduring attachments of normal life." *Morrissey*, 408 U.S. at 482.

Petitioner's Liberty Interest Mandates a Hearing Before any Re-Arrest and Revocation of Release from Custody

33. Petitioner asserts that, here, (1) where his detention would be civil; (2) where he had been at liberty for several years, during which time he has complied with all conditions of release; (3) where no change in circumstances exist that would justify his lawful detention; and (4) where the only circumstance that has changed is ICE's move to arrest as many people as possible because of the new administration, due process mandates that he be released from his unlawful custody and receive notice and a hearing before a neutral adjudicator *prior* to any re-arrest or revocation of his custody release.

34. "Adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its impairment, the greater the procedural safeguards the [government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court must "balance [Petitioner's] liberty interest against the [government's] interest in the efficient administration of" its immigration laws in order to determine what process he is owed to ensure that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357. Under the test set forth in *Mathews v. Eldridge*, this Court must consider three factors in conducting its balancing test: "first, the private interest that will be affected by the official action;

second, the risk of an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and finally the government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail." *Haygood*, 769 F.2d at 1357 (*citing Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

35. The Supreme Court "usually has held that the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Only in a "special case" where post-deprivation remedies are "the only remedies the State could be expected to provide" can post-deprivation process satisfy the requirements of due process. *Zinermon*, 494 U.S. at 985. Moreover, only where "one of the variables in the *Mathews* equation—the value of predeprivation safeguards—is negligible in preventing the kind of deprivation at issue" such that "the State cannot be required constitutionally to do the impossible by providing predeprivation process," can the government avoid providing pre-deprivation process. *Id.*

36. In this case, ICE is required to release Petitioner from his unlawful custody and provide Petitioner with notice and a hearing *prior* to any re-incarceration and revocation of his bond. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinermon*, 494 U.S. at 985; *see also Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*, 744 F.2d 1452 (11th Cir. 1984) (holding that individuals awaiting involuntary civil commitment proceedings may not

constitutionally be held in jail pending the determination as to whether they can ultimately be recommitted). Under *Mathews*, "the balance weighs heavily in favor of [Petitioner's] liberty" and requires a pre-deprivation hearing before a neutral adjudicator.

Petitioner's Private Interest in His Liberty is Profound

37. Under *Morrissey* and its progeny, individuals conditionally released from serving a criminal sentence have a liberty interest that is "valuable." *Morrissey*, 408 U.S. at 482. In addition, the principles espoused in *Hurd* and *Johnson*—that a person who is in fact free of physical confinement, even if that freedom is lawfully revocable, has a liberty interest that entitles him to constitutional due process before he is re-incarcerated—apply with even greater force to individuals like Petitioner, who have been released pending civil removal proceedings, rather than parolees or probationers who are subject to incarceration as part of a sentence for a criminal conviction. Parolees and probationers have a diminished liberty interest given their underlying convictions. *See, e.g.*, *U.S. v. Knights*, 534 U.S. 112, 119 (2001); *Griffin v. Wisconsin*, 483 U.S. 868, 874 (1987). Nonetheless, even in the criminal parolee context, the courts have held that the parolee cannot be re-arrested without a due process hearing in which they can raise any claims they may have regarding why their re-incarceration would be unlawful. *See Gonzalez-Fuentes,* 607 F.3d at 891-92; *Hurd*, 864 F.3d at 683. Thus, Petitioner retains a truly weighty liberty interest even though he is under conditional release.

38. What is at stake in this case for Petitioner is one of the most profound

individual interests recognized by our legal system: whether ICE may unilaterally nullify a prior decision releasing him from custody and to take away—without a lawful basis—his physical freedom, i.e., his "constitutionally protected interest in avoiding physical restraint." *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (internal quotation omitted). "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). *See also Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects."); *Cooper v. Oklahoma*, 517 U.S. 348 (1996).

39. Thus, it is clear that there is a profound private interest at stake in this case, which must be weighed heavily when determining what process he is owed under the Constitution. *See Mathews*, 424 U.S. at 334-35.

The Government's Interest in Re-Incarcerating Petitioner Without a Hearing is Low and the Burden on the Government to Refrain from Re-Arresting Him Unless and Until He is Provided a Hearing That Comports with Due Process is Minimal

40. The government's interest in detaining Petitioner without a due process hearing is low, and when weighed against Petitioner's significant private interest in his liberty, the scale tips sharply in favor of enjoining Respondents to release Petitioner from his unlawful custody and refrain from re-arresting Petitioner unless and until the government demonstrates by clear and convincing evidence that he is a flight risk or danger to the community. It becomes abundantly clear that the *Mathews*

test favors Petitioner when the Court considers that the process he seeks—notice and a hearing regarding whether he has violated any conditions of his release, and, if so, providing Petitioner with a hearing before this Court (or a neutral decisionmaker) to determine whether there is clear and convincing evidence that Petitioner is a flight risk or danger to the community would impose only a *de minimis* burden on the government, because the government routinely provides this sort of hearing to individuals like Petitioner.

41. As immigration detention is civil, it can have no punitive purpose. The government's only interests in holding an individual in immigration detention can be to prevent danger to the community or to ensure a noncitizen's appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690. In this case, the government cannot plausibly assert that it has any lawful basis for detaining Petitioner. Petitioner has lived at liberty complying with the conditions of his release since July 2009. His only criminal history pre-dates his 2009 release.

42. It is difficult to see how the government's interest in ensuring his presence at the moment of removal has materially changed since he was released, when he has complied with all conditions of release. The government's interest in detaining Petitioner at this time is therefore low. That ICE has a new policy to make a minimum number of arrests each day under the new administration does not constitute a material change in circumstances or increase the government's interest in detaining him.[1]

[1] *See* "Trump officials issue quotas to ICE officers to ramp up arrests," *Washington Post* (January 26, 2025), available at: https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-

43. Moreover, the "fiscal and administrative burdens" that his immediate release and a lawful pre-detention hearing would impose is nonexistent in this case. *See Mathews*, 424 U.S. at 334-35. Petitioner does not seek a unique or expensive form of process, but rather a routine hearing regarding whether his bond should be revoked and whether he should be re-incarcerated.

44. As the Ninth Circuit noted in 2017, which remains true today, "[t]he costs to the public of immigration detention are 'staggering': $158 each day per detainee, amounting to a total daily cost of $6.5 million." *Hernandez*, 872 F.3d at 996. ICE's unlawful action of placing him in custody is more of a financial burden than releasing him and providing any pre-custody hearing before any future re-arrest occurs.

45. In the alternative, providing Petitioner with a hearing before this Court (or a neutral decisionmaker) regarding release from custody is a routine procedure that the government provides to those in immigration jails on a daily basis. At that hearing, the Court would have the opportunity to determine whether circumstances have changed sufficiently to justify his re-arrest. But there is no justifiable reason to re-incarcerate Petitioner prior to such a hearing taking place. As the Supreme Court noted in *Morrissey*, even where the State has an "overwhelming interest in being able

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raids-trump-quota/.; "Stephen Miller's Order Likely Sparked Immigration Arrests And Protests," Forbes (June 9, 2025), https://www.forbes.com/sites/stuartanderson/2025/06/09/stephen-millers-order-likely-sparked-immigration-arrests-and-protests/ ("At the end of May 2025, 'Stephen Miller, a senior White House official, told Fox News that the White House was looking for ICE to arrest 3,000 people a day, a major increase in enforcement. The agency had arrested more than 66,000 people in the first 100 days of the Trump administration, an average of about 660 arrests a day,' reported the New York Times. Arresting 3,000 people daily would surpass 1 million arrests in a calendar year.").

to return [a parolee] to imprisonment without the burden of a new adversary criminal trial if in fact he has failed to abide by the conditions of his parole . . . the State has no interest in revoking parole without some informal procedural guarantees." *Morrissey*, 408 U.S. at 483.

46. Releasing Petitioner from unlawful custody and enjoining his re-arrest until ICE (1) moves for a bond re-determination before an IJ and (2) demonstrates by clear and convincing evidence that Petitioner is a flight risk or danger to the community is far *less* costly and burdensome for the government than keeping him detained.

Without a Due Process Hearing Prior to Any Re-Arrest, the Risk of an Erroneous Deprivation of Liberty is High, and Process in the Form of a Constitutionally Compliant Hearing Where ICE Carries the Burden Would Decrease That Risk

47. Releasing Petitioner from unlawful custody and providing him a pre-deprivation hearing would decrease the risk of him being erroneously deprived of his liberty. Before Petitioner can be lawfully detained, he must be provided with a hearing before a neutral adjudicator at which the government is held to show that there has been sufficiently changed circumstances such that ICE's earlier release from custody determination should be altered or revoked because clear and convincing evidence exists to establish that Petitioner is a danger to the community or a flight risk.

48. On June 9, 2026, Petitioner did not receive this protection. Instead, he was detained by ICE, without notice.

49. By contrast, the procedure Petitioner seeks—a hearing in front of a neutral adjudicator at which the government must prove by clear and convincing evidence that circumstances have changed to justify his detention *before* any re-arrest—is much more likely to produce accurate determinations regarding factual disputes, such as whether a certain occurrence constitutes a "changed circumstance." *See Chalkboard, Inc. v. Brandt*, 902 F.2d 1375, 1381 (9th Cir. 1989) (when "delicate judgments depending on credibility of witnesses and assessment of conditions not subject to measurement" are at issue, the "risk of error is considerable when just determinations are made after hearing only one side"). "A neutral judge is one of the most basic due process protections." *Castro-Cortez v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated on other grounds by Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006). The Ninth Circuit has noted that the risk of an erroneous deprivation of liberty under *Mathews* can be decreased where a neutral decisionmaker, rather than ICE alone, makes custody determinations. *Diouf v. Napolitano* ("*Diouf II*"), 634 F.3d 1081, 1091-92 (9th Cir. 2011).

50. Due process also requires consideration of alternatives to detention at any custody redetermination hearing that may occur. The primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this purpose if there are alternatives to detention that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). Accordingly, alternatives to detention must be considered in determining whether Petitioner's re-incarceration was warranted.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Violation of 8 U.S.C. § 1182(d)(5)(A) – Detention Without Individualized Determination that Purposes of Parole Have Been Served)

51. Petitioner restates and re-alleges the allegations contained in paragraphs 1 through 50 as though fully set forth herein.

52. The statutory provision under which Petitioner was paroled into the United States, 8 U.S.C. § 1182(d)(5), currently provides:

> The Secretary of Homeland Security may, except as provided in subparagraph (B) or in section 1184(f) of this title, in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

8 U.S.C. § 1182(d)(5)(A).

53. On information and belief, neither the Secretary of Homeland Security (Respondent Mullin) nor any authorized delegate of his made an individualized determination that the purposes of the parole of Petitioner had been served, prior to DHS taking Petitioner back into custody.

54. Petitioner's detention without an individualized determination that the purposes of his parole had been served violates 8 U.S.C. § 1182(d)(5)(A). See *Mata Velasquez v. Kurzdorfer*, F.Supp.3d, 2025 WL 1953796 (W.D.N.Y. July 16, 2025), at

*10-*11.

SECOND CLAIM FOR RELIEF

(Deprivation of Liberty Without Due Process of Law – Fifth Amendment – Redetention)

55. Petitioner restates and re-alleges the allegations contained in paragraphs 1 through 50 as though fully set forth herein.

56. The Fifth Amendment to the Constitution of the United States provides that "no person shall . . . be deprived of life, liberty, or property, without due process of law."

57. Petitioner was not provided with any discernible pre-detention process to determine whether he should be detained by DHS despite his previous parole.

58. On information and belief, no individualized determination was made in support of Petitioner's detention.

59. Petitioner was not provided with notice and an opportunity to respond before being detained.

60. Petitioner was not provided with a hearing before being detained.

61. Petitioner's detention without any individualized determination that this was appropriate, and without any notice and opportunity to respond, and without a hearing, constitutes deprivation of his liberty without due process of law in violation of the Fifth Amendment. *See Mata Velasquez*, 2025 WL 1953796 at *12-*17.

THIRD CLAIM FOR RELIEF

(Deprivation of Liberty Without Due Process of Law – Fifth Amendment – Detention Without Bond Hearing Pursuant to 8 C.F.R. § 1003.19(h)(2)(i)(A))

62. Petitioner restates and re-alleges the allegations contained in paragraphs 1 through 50 as though fully set forth herein.

63. As a long-term resident of the United States, Petitioner should not be deprived of liberty without receiving the due process of a hearing before a neutral adjudicator to determine whether he should be released on bond.

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Petitioner, respectfully prays that the Court:

a) Order that Respondents release Petitioner from custody;
b) Enjoin Respondents from re-detaining Petitioner unless and until an individualized determination of the appropriateness of re-detention under the standards set out in 8 U.S.C. § 1182(d)(5)(A) is made by a duly authorized DHS official following notice to Petitioner, Petitioner is provided an opportunity to respond and a hearing, and Petitioner is provided written notice of the termination of parole;
c) Declare that Petitioner's legal and constitutional rights were violated by his detention in the absence of an individualized determination of the appropriateness of re-detention by an authorized DHS official following notice to Petitioner, an opportunity for Petitioner to respond, a hearing regarding the termination of parole, and written notice of the termination of parole;
d) In the alternative, declare that, if he is not released, Petitioner is at least entitled to a bond hearing before a neutral adjudicator, and hold a bond hearing before the Court and order Petitioner released upon a reasonable bond;
e) Grant such other and further relief at law and in equity as justice may require; and
f) Grant attorneys' fees and costs of Court to Petitioner under the Equal Access to Justice Act.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this 18th day of June, 2026.

/s/ Helen L Parsonage
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