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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ANTONIO FRANCISCO,

Petitioner

v.

WARDEN CENTRAL VALLEY ANNEX, *et al.*,

Case No.: 26-cv-03929-RBM-JLB

PETITIONER'S TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

I. Introduction

Petitioner challenges the legality of his continued detention following his abrupt re-detention after having previously been released from immigration custody and permitted to reside at liberty in the United States for approximately four years.

The question presented is narrow: whether the Department of Homeland Security may revoke Petitioner's previously granted liberty through abrupt re-detention without prior notice, without any individualized determination justifying detention, and without constitutionally adequate process.

Respondents' Opposition does not meaningfully answer that constitutional question. Instead, Respondents principally repeat their position that Petitioner remains subject to detention under INA § 235(b) because he is an applicant for admission. But that statutory argument does

not resolve the issue presented here. Petitioner does not challenge the government's authority to conduct removal proceedings or seek review of any discretionary immigration determination. Rather, he challenges the government's revocation of his previously granted liberty after approximately four years of government-authorized release without constitutionally adequate procedures.

Respondents' Opposition effectively acknowledges that, if this Court adheres to its prior re-detention decisions, those decisions control the outcome here. Respondents expressly acknowledge that this Court's prior decisions "will control the result here" because "the facts are not materially distinguishable for purposes of the Court's decision." On that basis, Respondents do not oppose the Petition and defer to the Court regarding the appropriate relief. Consistent with that position, Respondents identify no basis for departing from this Court's established due process analysis.

Nor do Respondents identify any individualized circumstance justifying Petitioner's re-detention. They do not contend that Petitioner violated the conditions of his release, failed to appear for any immigration proceeding or reporting obligation, absconded, or otherwise engaged in conduct demonstrating that continued detention became necessary after DHS released him from custody. Instead, Respondents rely almost exclusively upon generalized statutory arguments that fail to explain why Petitioner's previously granted liberty could be revoked without due process of law.

This Court has recently recognized that the government may not revoke a previously granted liberty interest through abrupt re-detention without constitutionally adequate process. Because Respondents have failed to identify any constitutionally meaningful distinction from those decisions, failed to identify any changed circumstance justifying Petitioner's re-detention, and failed to establish that constitutionally adequate process preceded the revocation of Petitioner's liberty, the Petition should be granted and Petitioner should be immediately released.

II. Respondents Fail to Address the Constitutional Question Presented

Respondents' Opposition does not meaningfully address the constitutional issue presented by this case. Rather than explain why Petitioner's previously granted liberty could be revoked without constitutionally adequate process, Respondents principally argue that Petitioner remains subject to detention under INA § 235(b) because he is an applicant for admission. That argument misses the point.

Petitioner does not challenge the government's authority to conduct removal proceedings or dispute his statutory classification for purposes of those proceedings. Nor does he seek review of any discretionary immigration determination. The Petition challenges more than Respondents' asserted statutory detention authority. It challenges Respondents' decision to revoke Petitioner's previously granted liberty after approximately four years of government-authorized release without prior notice, without a meaningful opportunity to be heard, and without any individualized justification supporting his re-detention.

Respondents likewise fail to identify any changed circumstance that would justify Petitioner's re-detention. They do not contend that Petitioner violated the conditions of his release, failed to report as directed, failed to appear for any immigration proceeding, absconded, or otherwise engaged in conduct demonstrating that detention became necessary after DHS released him into the community. Instead, Respondents rely almost exclusively upon generalized statutory arguments that would apply equally to every noncitizen previously released by DHS, regardless of the individual's conduct or circumstances following release.

That response does not answer the constitutional question presented. Even assuming Respondents correctly describe Petitioner's statutory classification, they do not explain why due process permits the government to revoke Petitioner's previously granted liberty after approximately four years of government-authorized release without constitutionally adequate procedures. The issue before the Court is not simply whether DHS possesses statutory detention authority, but whether the manner in which Respondents exercised that authority complied with the Fifth Amendment.

Because Respondents fail to identify any individualized justification for Petitioner's re-detention and fail to explain why constitutionally adequate process was unnecessary before revoking Petitioner's previously granted liberty, their Opposition does not defeat the Petition.

III. Respondents Revoked Petitioner's Previously Granted Liberty Without Constitutionally Adequate Process

Respondents previously released Petitioner from immigration custody and permitted him to remain at liberty in the United States for approximately four years while his removal proceedings remained pending. During that period, Petitioner complied with the conditions imposed by DHS, reported as directed to immigration authorities, continued participating in his removal proceedings, and remained at liberty without any allegation that he had violated the conditions of his release or failed to comply with any reporting requirement.

Respondents subsequently revoked that liberty by abruptly re-detaining Petitioner during a routine ICE reporting appointment. Yet Respondents identify no violation of Petitioner's conditions of release, no failure to appear, no newly discovered information, and no changed circumstance arising after Petitioner's release that would justify revoking his previously granted liberty. Nor do Respondents contend that Petitioner received prior notice that his liberty would be revoked or any meaningful opportunity to challenge that deprivation before a neutral decisionmaker.

Respondents expressly acknowledge that Petitioner "was previously released from immigration custody on conditional parole issued under 8 U.S.C. § 1226(a)." Having conceded that DHS affirmatively released Petitioner from custody and permitted him to remain at liberty in the community for approximately four years, Respondents nevertheless fail to explain why that previously granted liberty could later be revoked without constitutionally adequate process. Their Opposition identifies no changed circumstance, no violation of Petitioner's release conditions, and no individualized justification for abruptly depriving Petitioner of his liberty.

This Court has repeatedly recognized that when DHS affirmatively releases a noncitizen from immigration custody and permits that individual to remain at liberty in the community, the

government may not later revoke that previously granted liberty without constitutionally adequate process. See, e.g., *Morao Quero v. LaRose*, No. 3:26-cv-03478-RBM-AHG (S.D. Cal. June 25, 2026); *Mendez-Garcia v. LaRose*, No. 3:26-cv-03914-RBM-VET (S.D. Cal. July 14, 2026). Respondents identify no constitutionally meaningful distinction between those decisions and this case.

Respondents' Opposition does not meaningfully address that constitutional principle. Although Respondents now contend that Petitioner's current detention is authorized under INA § 235(b), they expressly acknowledge that Petitioner "was previously released from immigration custody on conditional parole issued under 8 U.S.C. § 1226(a)." Respondents nevertheless do not explain why the revocation of that previously granted liberty complied with the Fifth Amendment. Instead, they focus almost exclusively on Petitioner's current statutory classification and their asserted authority to detain him under INA § 235(b). But even assuming arguendo that Respondents correctly characterize Petitioner's current detention authority, they do not explain why due process permits the government to revoke Petitioner's previously granted liberty without prior notice, without a meaningful opportunity to be heard, and without any individualized determination demonstrating that continued detention had become necessary.

Because Respondents revoked Petitioner's previously granted liberty without constitutionally adequate procedures, Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment.

IV. Immediate Release Is the Appropriate Remedy

The constitutional violation was complete when Respondents revoked Petitioner's previously granted liberty without constitutionally adequate procedures. Because that injury has already occurred, the traditional function of habeas corpus is to restore the liberty that was unlawfully taken. Immediate release is therefore the appropriate remedy.

This Court has repeatedly recognized that immediate release—not merely a future custody hearing—is the appropriate remedy where the government has unlawfully deprived a noncitizen of liberty. Most recently, in *Mendez-Garcia v. LaRose*, No. 3:26-cv-03914-RBM-

VET (S.D. Cal. July 14, 2026), the Court granted the petition and ordered the petitioner's immediate release after concluding that his continued detention was unlawful. The Court further ordered that, prior to any future re-detention, the Government must first provide a hearing before an immigration judge at which it bears the burden of establishing, by clear and convincing evidence, that detention is warranted.

Likewise, in *Morao Quero v. LaRose,* No. 3:26-cv-03478-RBM-AHG (S.D. Cal. June 25, 2026), the Court held that Respondents' revocation of parole without constitutionally adequate process violated the Due Process Clause and ordered Petitioner's immediate release, explaining that a post-deprivation hearing cannot adequately remedy an unconstitutional deprivation of liberty that has already occurred.

The same result is warranted here. Respondents have not identified any violation of Petitioner's conditions of release, any failure to comply with his reporting obligations, any danger to the community, any risk of flight, or any changed circumstance arising after DHS released Petitioner from custody in February 2022. Nor have Respondents demonstrated that Petitioner received constitutionally adequate process before the government revoked approximately four years of previously granted liberty.

Respondents instead suggest that any constitutional concerns may be addressed through a future custody hearing. But this Court has repeatedly rejected that approach. Once the government has deprived an individual of liberty without constitutionally adequate procedures, a later hearing cannot undo the completed constitutional injury. The purpose of habeas corpus is to restore liberty unlawfully taken, not merely to provide process after the deprivation has already occurred.

Accordingly, because Respondents have failed to establish a lawful basis for Petitioner's continued detention, the Court should grant the Petition and order Petitioner's immediate release.

In the alternative, and only if the Court declines to order immediate release, Petitioner respectfully requests that the Court order a prompt custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear and convincing

evidence, that Petitioner's continued detention is necessary because he presents a danger to the community or a risk of flight, and at which less restrictive alternatives to detention are considered.

V. Conclusion

For the foregoing reasons, Respondents have failed to identify any constitutionally meaningful distinction between this case and this Court's prior re-detention decisions, failed to identify any individualized basis justifying Petitioner's continued detention, and failed to establish that constitutionally adequate process was provided before revoking Petitioner's previously granted liberty.

Respondents identify no changed circumstance arising after Petitioner's release, no violation of Petitioner's release conditions, and no individualized basis that would justify revoking Petitioner's previously granted liberty without constitutionally adequate process.

Accordingly, Petitioner respectfully requests that the Court grant the Petition for Writ of Habeas Corpus and order his immediate release from custody.

Petitioner further respectfully submits that the Court may rule directly on the merits of the Petition based on the existing record. Respondents have fully addressed the merits of Petitioner's claims, expressly do not oppose the Court resolving the Petition on the present record, and have identified no factual dispute requiring an evidentiary hearing.

Respectfully Submitted.

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