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UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

THIERNO AMADOU BARRY, *Petitioner*, v. JEREMY CASEY, Facility administrator at the Imperial Regional Detention Facility, GREGORY J. ARCHAMBEAULT, Director of the U.S. Immigration and Customs Enforcement San Diego Field Office, DAVID VENTURELLA, acting Director of U.S. Immigration and Customs Enforcement, MARKWAYNE MULLIN, Secretary of the U.S. Department of Homeland Security, and TODD BLANCHE, Acting U.S. Attorney General	'26CV3947 JES DEB **VERIFIED EMERGENCY PETITION FOR A WRIT OF HABEAS CORPUS, ORDER TO SHOW CAUSE WITHIN THREE DAYS, AND COMPLAINT FOR DECLARATORY RELIEF**

INTRODUCTION

1. Petitioner Thierno Amadou Barry petitions for a writ of habeas corpus seeking his release from U.S. Immigration and Customs Enforcement (ICE) custody. ICE is a component agency of the Department of Homeland Security (DHS).

2. Mr. Barry arrived in the U.S. on December 27, 2023, at or near San Luis, Arizona seeking asylum, withholding of removal, or protection under the Convention Against Torture because he feared he will be persecuted by the Guinean government and associated groups if he returns to Guinea. Ex. A.

3. U.S. Customs and Border Protection (CBP), another component agency of DHS, released Mr. Barry on an order of release on recognizance on December 29, 2023. He was later issued an employment authorization document (EAD) valid from January 1, 2025, through January 8, 2030. Ex. B.

4. Mr. Barry complied with all the terms of his order of release on his own recognizance. He sought asylum within one year of his arrival to the United States. He has no criminal history.

5. On or about October 23, 2025, Mr. Barry attended an ICE check in at 26 Federal Plaza in New York City. The officers took Mr. Barry into custody at that time and detained him at the Elizabeth Contract Detention Facility in New Jersey. Mr. Barry was transferred to Imperial Regional Detention Facility (IRDF) on May 9, 2026, where he remains today.

6. The officers did not provide Mr. Barry with prior notice that DHS was revoking his release or an opportunity to contest whether his re-detention was warranted. There were no allegations that Mr. Barry had violated the terms of his release.

7. Due Process requires the government to provide noncitizens with notice and a hearing prior to re-detention, and that 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 (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).

8. Mr. Barry's re-detention therefore violated the Fifth Amendment's Procedural Due Process guarantee. As such, this Court should order Respondents to immediately release him.

JURISDICTION AND VENUE

9. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (declaratory relief), and art. I sec. 9, cl. 2 of the United States Constitution (Suspension Clause), as Mr. Barry is presently in custody under the authority of the United States and challenges his detention as in violation of the Constitution, laws, or treaties of the United States.

10. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).

11. The Court should also reject any jurisdictional defenses the government may assert under 8 U.S.C. §§ 1252(g) and (b)(9), because this challenge does not seek review of any removal order and instead challenges re-detention. *See Ramirez-Bibiano v. LaRose*, No. 25-CV-3429-JLS (SBC), 2025 WL 3632748, at *2-3 (S.D. Cal. Dec. 15, 2025) (rejecting the government's challenges under 8 U.S.C. §§ 1252(g) and (b)(9) to habeas jurisdiction). The Court also should waive any exhaustion requirement as futile for the same reasons it did so in *Ramirez-Bibiano*. 2025 WL 3632748 at *3 (recognizing the Southern District of California finds exhaustion to be futile in this context such that immediate judicial review of habeas petitions challenging re-detention is required). *Id.* at *2–3.

12. Venue is proper in the Southern District of California, pursuant to 28

U.S.C. §§ 1391 and 2241(d) because Mr. Barry is detained at IRDF in Calexico, California.

REQUIREMENTS OF 28 U.S.C. § 2243 (IMMEDIATE ISSUANCE OF WRIT OF HABEAS CORPUS OR OSC THEREON)

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 the 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. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "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 and confinement. *Fay v. Noia*, 372 U.S. 391, 400 (1963) (overruled on other grounds by *Wainwright v. Sykes*, 433 U.S. 72 (1977)). "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 [or her] within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

15. Petitioner Thierno Amadou Barry is currently detained by Respondents in the IRDF despite having been previously released by DHS on an order of recognizance.

16. Respondent Jeremy Casey is the facility administrator at the Imperial Regional Detention Facility in Calexico, California where Mr. Barry is currently detained. He is thus Mr. Barry's immediate custodian. He is sued in his official capacity.

17. Respondent Gregory J. Archambeault is the Director of ICE's San Diego Field Office, which has jurisdiction over ICE detention facilities in San Diego

and Imperial County, including the Imperial Regional Detention Center. As such, Mr. Archambeault is a legal custodian of Mr. Barry. He is sued in his official capacity.

18. Respondent David Venturella is the Director of ICE. He is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including noncitizen detention. He is sued in his official capacity.

19. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS), which is responsible for the administration of ICE and the implementation and enforcement of the immigration laws. As such, Mr. Mullin is a legal custodian of Petitioners. He is sued in his official capacity.

20. Respondent Todd Blanche is the Attorney General of the United States and head of the Department of Justice, which encompasses the Board of Immigration Appeals and the Immigration Courts. Mr. Blanche shares responsibility for implementation and enforcement of the immigration laws with Respondent Mullin. Mr. Blanche is a legal custodian of Mr. Lopez Camacho. He is sued in his official capacity.

STATEMENT OF FACTS

21. Mr. Barry arrived in the U.S. at or near San Luis, Arizona to seek asylum on or about December 27, 2023. Ex. A. CBP arrested Mr. Barry and detained him in San Luis, Arizona and then released him on December 29, 2023. He was ordered to appear in person before an immigration judge on October 4, 2024, at 290 Broadway – 15th Floor New York, NY. *Id.*

22. On information and belief, ICE released Mr. Barry on an Order of Release on his own Recognizance.

23. Mr. Barry fled Guinea because he fears that the government will harm or kill him. He was targeted and harmed in Guinea due to his political activities with

[redacted]

[redacted]

24. He applied to DHS for asylum within one year of his arrival to the United States. DHS granted him work authorization on account of his pending asylum application. His work authorization is valid from January 9, 2025, through January 8, 2030. Ex. B.

25. As part of his release, ICE required Mr. Barry to check in with ICE within 60 days of his release either in person or through an online link provided in his release documents. Mr. Barry checked in using the online link within 60 days and uploaded his passport and photo as required. After his online check-in, he waited for a response. ICE eventually emailed him and told him that he did not have to attend an in-person check-in yet. Instead, ICE provided him with a date, around March 2025, on which he should contact ICE by email again.

26. Mr. Barry emailed ICE on that date. He received a response from ICE around September 2025, which directed him to attend an in-person check-in on October 23, 2025, at the New York City ICE Field Office. ICE also directed him to bring his valid passport, the email, and all his immigration documents, which Mr. Barry did.

27. During his time in the United States, Mr. Barry lived with the expectation that he would not be subject to re-detention absent some material change in circumstances. He made every effort to comply with the law and follow the rules of the United States.

28. Mr. Barry timely filed an application for asylum. On September 29, 2025, Mr. Barry paid the asylum fee through EOIR's online fee payment portal. Immediately after making his payment, Mr. Barry received the electronic receipt confirming payment. EOIR notified Mr. Barry that this would be the only receipt he would receive. Mr. Barry maintained the fee receipt on his cellular telephone, the only method he had of saving the receipt.

29. Despite his full compliance with all immigration laws while in the United States, ICE officers arrested Mr. Barry on October 23, 2025, while he attended his first in-person ICE check-in. The ICE officer did not inform Mr. Barry as to why ICE detained him, nor did ICE provide Mr. Barry any notice or opportunity to contest the detention at any point prior to this arrest.

30. Upon his arrest, ICE confiscated Mr. Barry's cell phone and he has not had access to it since.

31. Mr. Barry was ordered to provide evidence that he had paid the asylum application fee. Because the receipt was on his telephone, Mr. Barry was unable to provide the documentary evidence that he had made the payment. However, on March 4, 2026, he told the then-presiding immigration judge that he had paid the fee and explained why he was unable to provide a copy of the receipt: the only receipt provided by EOIR issued instantaneously and in electronic format, it is impossible to obtain another copy of the receipt from EOIR, ICE confiscated his telephone upon arrest and denied all requests for him to access it.

32. Mr. Barry was ordered removed by an immigration judge on April 3, 2026, after the judge concluded that he had failed to provide proof that he had paid the asylum application filing fee. Mr. Barry appealed to the Board of Immigration Appeals, which reversed the Immigration Judge's decision on June 17, 2026. Ex. C. The BIA vacated the immigration judge's decision because Mr. Barry was able to file evidence of a fee payment made on September 29, 2025. *Id.* The BIA remanded the case to the immigration judge for consideration of the merits of his asylum application. *Id.* His case is now pending before the Imperial Immigration Court.

LEGAL FRAMEWORK

33. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 679 (2001). Accordingly, "[i]t is well established that the Fifth Amendment entitles aliens to due process of law in the

context of removal proceedings." *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (internal quotation marks omitted) (citing *Reno v. Flores*, 507 U.S. 292, 306 (1993)). Due process "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).

34. Traditionally, to determine what protections due process demands in a given situation, courts consider three factors, the *Mathews* factors: (1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of such interest through the procedures used, and the probable value of additional safeguards; and (3) the government's interest, including the function involved and that burdens that would be imposed by additional process. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). In applying these factors specifically to the context of a person challenging immigration detention, courts assess: (1) the petitioner's liberty interest in remaining out of custody; (2) the risk of erroneous deprivation of that interest in remaining out of custody; and (3) the government's interest in detaining the petitioner without affording pre-deprivation notice, reasoning, and a hearing. *Ramirez-Bibiano*, 2025 WL 3632748 at *4–5.

35. DHS may not re-detain an individual who has been released on their own recognizance without a meaningful pre-deprivation hearing before a neutral arbiter. *Faizyan*, 2025 WL 3208844, at *7; *Vicky v. Casey*, No. 26-CV-949 JLS (JLB), 2026 WL 608589, at *3 (S.D. Cal. Mar. 4, 2026); *Ruiz Diaz v. Larose*, No. 3:25-CV-3517-CAB-SBC, 2025 WL 3707051, at *2 (S.D. Cal. Dec. 22, 2025). Failure to provide notice and a hearing prior to re-detention is a violation of the person's Fifth Amendment Due Process rights requiring immediate release "subject only to the conditions of his preexisting order of release on recognizance." *Sunil v. Casey*, No. 26CV1653-LL-DDL, 2026 WL 1021407, at *3 (S.D. Cal. Apr. 15, 2026); *see also Ariza Garcia*, 2026 WL 1142629, at *2; *Ruiz Diaz*, 2025 WL 3707051, at *2.

A. Courts Have Regularly Found that Summary Revocation of Release and Re-Detention Deprives Petitioners of Procedural Due Process

36. Consistent with the traditional *Mathews* three-factor test, district courts in the Ninth Circuit have formulated a bright-line Due Process rule: 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*, 2025 WL 3632748 (ordering immediate habeas relief; holding the government's summary revocation of parole and re-detention without pre-deprivation notice or a hearing establishing present risk of danger or flight violates Fifth Amendment Due Process); *see also Noori v. LaRose,* 807 F. Supp. 3d. 1146 (S.D. Cal. 2025) (granting immediate habeas release; holding the government's summary revocation of parole and re-detention without pre-deprivation notice, reasons, and a hearing establishing present danger or flight risk violated due process under *Mathews*); *Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130, 1135–39 (W.D. Wash. 2025) (granting TRO and ordering immediate release; applying *Mathews* to hold that even though petitioner's parole had expired, because he had previously been paroled, his re-detention without a pre-deprivation hearing establishing a justification for re-detention violated due process under *Mathews*); *Fernández López 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).

37. Courts have applied this same rationale to individuals released from immigration detention. *See Aguilera v. City of Holtville*, 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.D. Cal. May 18, 2026), Dkt. No. 5. Thus, Mr. Barry'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).

38. In *Ramirez-Bibiano*, a case from this district, a noncitizen who had been previously paroled into the U.S. was summarily re-detained after ICE revoked his parole without notice, reasons, or an opportunity to be heard. *Ramirez-Bibiano*, 2025 WL 3632748 at *1, 4–5. The Court applied *Mathews*, granted immediate habeas relief and attorneys' fees according to proof, and ordered that any future detention be supported at a hearing with the government bearing the burden to show by clear and convincing evidence that the petitioner was a present danger or flight risk. *Id.* at *4–5; *see also Aguilera*, 26-CV-532-LL-MSB, 2026 WL 381633 (S.D. Cal. Feb. 11, 2026); *Alegria Palma v. LaRose,* No. 25-CV-1942-BJC (MMP), (S.D. Cal. Aug. 11, 2025); *Navarro Sanchez v. LaRose*, No. 25-CV-2396-JES-MMP, 2025 WL 2770629 (S.D. Cal. Sept. 26, 2025).

39. In *Noori*, an Afghan national paroled into the U.S. after assisting U.S. forces was arrested at a courthouse and re-detained following the government's summary revocation of his humanitarian parole, without any pre-deprivation notice, reasons provided, or opportunity to be heard, despite a clean record and consistent compliance. 807 F. Supp 3d. 1146. The Court held that the government's summary parole revocation and re-detention violated due process under *Mathews* given the lack of justification, notice, and an opportunity to be heard. *Id.* at 1164-65. The Court granted the habeas petition, ordered that the government shall not re-detain the petitioner during the pendency of his removal proceedings, and granted attorneys' fees according to proof. *Id.* at 1169.

40. In *Ramirez Tesara*, a Venezuelan asylum-seeker who had been paroled

into the U.S. was re-detained as he appeared for a monitoring appointment, without any pre-deprivation notice or hearing. 800 F. Supp. 3d at 1134. That court assessed the petitioner's due process habeas claim under *Mathews* and concluded that because he had been previously paroled, ICE could only have re-detained the petitioner after a hearing before an immigration judge at which the government met its burden to justify detention. *Id.* at 1135–38. ICE's summary re-detention therefore violated Due Process and required the petitioner's immediate release. *Id.* at 1138–39.

41. In *Fernández López*, an asylum-seeker from Chile who had been paroled in 2021 was summarily re-detained by ICE in August 2025 after a credible-fear interview. 2025 WL 2959319 at *1. Once again, applying *Mathews*, and for the same reasons as the courts in *Ramirez-Bibiano*, *Ramirez Tesara*, and *Noori*, that court granted a preliminary injunction as well as the habeas petition at issue, and enjoined the government from re-detaining the petitioner absent a pre-deprivation bond hearing at which the government must prove current danger or flight risk by clear and convincing evidence. *Id.* at 8. That court also canvassed cases from other district courts in the Ninth Circuit to state the *Mathews*-derived rule that if the government has previously paroled a noncitizen, it may not re-detain that person without first providing pre-deprivation notice and a hearing through which the government establishes a change in the person's risk of danger or flight. *See id.* at 6. Failure to provide this pre-deprivation process is a violation of the person's Fifth Amendment Due Process rights and grounds for immediate habeas relief. *See id.* at 7.

42. Taken together, the district courts of the Ninth Circuit have developed the bright-line rule that **if a noncitizen has been paroled into the U.S., the government may not revoke that person's parole or re-detain them without first providing pre-deprivation notice and a hearing establishing a change in danger or flight risk by clear and convincing evidence**. To date, the courts to have considered habeas petitions in this context have each applied the three-factor *Mathews* test to reach what has now coalesced into a uniform rule of law. The above

rule incorporates and relies upon a *Mathews* analysis but streamlines the statement of law so as not to require a step-by-step in-depth inquiry of each *Mathews* factor.

43. This rule is grounded in the acknowledgment that the government's initial decision to grant release "reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk." *Fernández López*, 2025 WL 2959319 at *2 (citation omitted). Absent "evidence that the noncitizen is in fact dangerous or has become a flight risk," "there is no evidence that these findings have changed" and there is therefore no justification for re-detention. *Ramirez-Bibiano*, 2025 WL 3632748 at *4 (citation omitted). Without establishing a change in circumstances via notice, a hearing, and evidence, parole-revocation or re-detention of a previously paroled person violates Fifth Amendment Due Process. *See id.*

44. Accordingly, where the Court finds that a petitioner has been previously paroled and yet the government summarily revoked his parole or re-detained him, a step-by-step *Mathews* analysis is unnecessary; it is already incorporated into and performed by the bright-line rule established by *Ramirez-Bibiano*, *Ramirez Tesara*, *Fernández López* and the many district court cases it cites, and *Mathews*.

B. Applying the *Mathews* Test to Petitioners Re-detained Without Process Results Confirms that the Government Violates the Fifth Amendment in Such Cases.

45. "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*, 533 U.S. at 690. A noncitizen released by DHS has a "significant liberty interest in remaining out of custody pursuant to his release." *Vicky,* 2026 WL 608589, at *2.

46. While "the initial decision to detain or release an individual may be within the government's discretion, the government's decision to release an individual from custody creates 'an implicit promise,' upon which that individual may rely, that their liberty 'will be revoked only if they fail to live up to the . . . conditions of release." *Pinchi,* 792 F. Supp. 3d at 1032 (alteration marks omitted);

see also Faizyan, 2025 WL 3208844, at *7 (quoting *Pinchi*).

47. As to the first *Mathews* factor, Mr. Barry possesses a protected liberty interest in remaining out of custody, namely, "the most significant liberty interest there is – the interest in being free from imprisonment." *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020).

48. Here, as in *Ramirez-Bibiano*, Petitioner has a significant liberty interest in remaining free of ICE custody under prior release conditions. His initial "release from ICE custody constituted an implied promise that [his] liberty would not be revoked unless [he] failed to live up to the conditions of [his] release." *Pinchi*, 792 F. Supp. 3d at 1034 (internal quotation marks omitted). In other words, Petitioner gained a protected liberty interest in remaining out of custody absent a showing that he is a flight risk or a danger to the community. *See, e.g., Fernández López*, 2025 WL 2959319 at *4-5 (finding that petitioner released from immigration detention on parole had protected liberty interest in remaining out of custody, including if the authority for petitioner's parole was § 1182(d)(5)(A)); *Noori v. Larose*, 807 F. Supp. 3d. 1146 (S.D. Cal. 2025)(finding that petitioner who was paroled from immigration detention under § 1182(d)(5)(A) had protected liberty interest in remaining out of custody).

49. As to the second *Mathews* factor, "the risk of an erroneous deprivation of such interest is high" where "Petitioner's release on his own recognizance was revoked without providing him a reason for revocation or giving him an opportunity to be heard." *Vicky,* 2026 WL 608589, at *3. Immigration detention serves only to prevent flight and danger to the community. *Zadvydas*, 533 U.S. at 690. As such, re-detention absent a material change in flight risk or danger, runs a high risk of depriving a non-dangerous petitioner that presents only a minimal risk of flight of their liberty. *See Vicky,* 2026 WL 608589, at *3; *Faizyan*, 2025 WL 3208844, at *7. Mr. Barry has no criminal record, complied with the conditions of his release, and timely filed for asylum. His re-detention does not serve to prevent flight or a risk to

the community, therefore, the risk of an erroneous deprivation of his liberty interest is high. *See e.g.*, *Faizyan*, 2025 WL 3208844, at *7 (finding the risk of erroneous deprivation high where the Petitioner had no encounters with the criminal justice system and ICE arrested him at an ICE check-in, indicating he was not a flight risk.)

50. As to the third *Mathews* factor, "the Government's interest in detaining [a] Petitioner without notice, reasoning, and a hearing is 'low.'" *Vicky*, 2026 WL 608589, at *3. The government may always re-arrest a petitioner if it provides notice and a fair hearing. *Id.* (citing *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. Nov. 22, 2019)); *Faizyan*, 2025 WL 3208844, at *7 (same). In addition, "[d]etention for its own sake, to meet an administrative quota, or because the government has not yet established constitutionally required pre-detention procedures is not a legitimate government interest." *Singh v. Noem,* No. 3:26-CV-00261-RBM-MSB, 2026 WL 296656, at *2 (S.D. Cal. Feb. 4, 2026) (quoting *Pinchi*, 792 F. Supp. 3d at 1036). Finally, "[i]n immigration court, custody hearings are routine and impose a 'minimal' cost."). *Singh v. Andrews*, No. 25-cv-00801-KES-SKO (HC), 2025 WL 1918679, at *8 (E.D. Cal. July 11, 2025).

51. As *Ramirez-Bibiano* recognized, where a noncitizen has been lawfully paroled and there is no change in circumstances indicating danger or flight risk, the Government's interest in immediate re-detention without notice or hearing is low, while the value of modest additional procedures is high. *Ramirez-Bibiano* 2025 WL 3632748, at * 4-5. Applied here, the government has not identified any change in circumstances to justify summary revocation of, and requiring notice and a brief hearing would not compromise its ability to manage parole or ensure attendance but would meaningfully reduce the risk of error. The third *Mathews* factor therefore weighs against detention without a pre-deprivation process in this case. *See id.* at *5; *Mathews*, 424 U.S. at 335.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF DUE PROCESS REVOCATION OF RELEASE WITHOUT NOTICE

52. Petitioner re-alleges and incorporates by reference each allegation contained above.

53. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. "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*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

54. An individual released from immigration custody has a constitutionally protected liberty interest in remaining free from detention. *Navarro Sanchez*, 2025 WL 2770629, at *3; *see also Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Thus, Petitioner has a fundamental interest in liberty and being free from official restraint.

55. The liberty interest applies to individuals who are paroled into the United States and released to attend removal proceedings. *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *11 (E.D. Cal. Aug. 21, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2578207, at *3 (N.D. Cal. Sept. 5, 2025); *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1142-43 (D. Or. 2025).

56. While DHS has discretion to revoke release, it may not do so in a manner that is inconsistent with constitutional protections.

57. Due process requires notice before Petitioner is re-detained by immigration authorities. *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 320, 70 S. Ct. 652, 660, 94 L. Ed. 865 (1950); *Ramirez-Bibiano*, 2025 WL 3632748,

at *3; *Ramirez Tesara*, 800 F. Supp. 3d at 1135; *Fernández López v. Wofford*, 2025 WL 2959319, at *3.

58. DHS did not provide Mr. Barry any notice before re-detaining him.

COUNT TWO

VIOLATION OF DUE PROCESS REVOCATION OF RELEASE WITHOUT A PRE-DEPRIVATION HEARING

59. Petitioner re-alleges and incorporates by reference each allegation contained above.

60. Under the Due Process Clause of the Fifth Amendment to the United States Constitution, no person shall be "deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. "Freedom from imprisonment— from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690.

61. An individual released from immigration custody has a liberty interest in remaining free from detention. *Morrissey*, 408 U.S. at 482.

62. The liberty interest applies to individuals who are released into the United States to attend removal proceedings. *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *11 (E.D. Cal. Aug. 21, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2578207, at *3 (N.D. Cal. Sept. 5, 2025); *Bostock*, 792 F. Supp. 3d at 1142-43.

63. While DHS has discretion to revoke release, it may not do so in a manner that is inconsistent with constitutional protections.

64. Due Process requires that Petitioner be afforded a pre-deprivation hearing before a neutral adjudicator if the government is to re-detain Petitioner. *Ramirez-Bibiano*, 2025 WL 3632748, at *5; *Ramirez Tesara*, 800 F. Supp. 3d at 1136; *Fernández López v. Wofford*, 2025 WL 2959319, at *7.

65. DHS did not provide Mr. Barry any pre-deprivation hearing before re-

detaining him.

PRAYER FOR RELIEF

Petitioners pray that this Court grant the following relief:

1. Assume jurisdiction over this matter.

2. Order that Mr. Barry shall not be transferred outside the Southern District of California.

3. Issue an Order to Show Cause why this Petition should not be granted within three days and set a hearing on this Petition within five days of the return pursuant to 28 U.S.C. § 2243.

4. Declare that Mr. Barry's current detention is unlawful.

5. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Mr. Barry under the terms and conditions of his original release.

6. Order that DHS may not re-detain Mr. Barry without proper notice of the reasons that form the basis for revocation of release.

7. Order that DHS may not re-detain Mr. Barry without a hearing before a neutral decision maker at which the government must prove dangerousness and irredeemable flight risk by clear and convincing evidence.

8. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412.

9. Grant such further relief as this Court deems just and proper.

Respectfully submitted,

Cassandra Lopez

Litigation Director
AL OTRO LADO
Telephone: 619.730.5891
Email: Cassandra.l@alotrolado.org
Date: July 9, 2026

VERIFICATION BY ATTORNEY ACTING ON MR. BARRY'S BEHALF PURSUANT TO 28 U.S.C. §2242

I am submitting this verification on behalf of Mr. Barry because I am his attorney. As Mr. Barry's attorney, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: July 9, 2026 By: /s/ Cassandra Lopez