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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.: '26CV4239 BJC JAC

Agency Number: A [redacted]

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE

INTRODUCTION

1. MUHAMMED OZBALIK, born [redacted] is a 30-year-old man from Turkey. [redacted] He believed he could no longer live in Turkey and he made his way to the United States. On February 9, 2023 he entered the United States and presented himself to the authorities.

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

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

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

approximately 3:08 p.m. The soldier at the gate stopped him, took his driver's license, and instructed him to wait in the parking area while they conducted an identity check. He was held there for approximately 2 hours and 30 minutes.

5. Afterward, the officers told him that because he did not live there and did not have a green card or passport, they would turn him over to ICE (Immigration and Customs Enforcement). A female military officer handcuffed his hands behind his back and transported him to the main gate, approximately 15 minutes away, where he was handed over to law enforcement officers. In front of civilians, he was treated like a criminal. His hands and feet were shackled, and he was taken into custody. He was then transported to the San Diego Courthouse, where he was held for two days in cold conditions and forced to sleep on the floor. He was not told why he was arrested. He was not told what law he had violated. He was not advised of his Miranda rights. With no cause and no explanation and no warrant he was put in the ICE vehicle and transferred to the ICE facility in downtown San Diego. He was then transferred to the Otay Mesa facility.

6. One of the benefits that petitioner enjoyed with parole has been his ability to work and to more actively participate in his asylum application process. Suddenly, with no notice, no neutral determination that there has been a change in circumstances, Respondents seek to revoke Mr. Ozbalik parole and force him to remain in custody for the duration of his application process. Respondents do so

based not on Mr. Ozbalik' personal circumstances but because of Respondents' interpretation of President Trump's whim and categorical determination that, the Fifth Amendment notwithstanding, noncitizens are not entitled to due process.

7. But Respondents cannot evade the law so easily. The U.S. Constitution requires the Respondents provide at least the rights available to him when he was granted parole and when he filed his application for asylum[1].

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

JURISDICTION

9. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

10. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

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[1] *See, e.g.*, NBC News, Meet the Press interview of President Donald Trump (May 4, 2025), https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donaldtrump-interviewed-meet-press-mod-rcna203514 (in response to a question whether noncitizens 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.").

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

VENUE

12. Venue is proper because Petitioner is in Respondents' custody in San Diego, California. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondent's custody. 28 U.S.C. § 1391(e).

13. For these same reasons, divisional venue is proper under Local Rule HC.1

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

14. 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.*

15. 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 or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

16. Petitioner is "in custody" for the purpose of § 2241 because he is arrested and detained by Respondents.

PARTIES

17. Muhammed Ozbalik ("Petitioner") is a 30-year-old citizen of Turkey born [redacted]. He is currently a resident of San Diego, California, and is present within the state of California as of the time of the filing of this petition.

18. Respondent Christopher Larose is the Warden of the Otay Mesa Detention Center and is a legal custodian of Petitioner.

19. Respondent Patrick Divver is the Field Office Director for the San Diego Field Office, Immigration and Customs Enforcement and Removal Operations ("ICE"). The San Diego Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non- citizens. The San Diego Field Office's area of responsibility includes San Diego, California and the Otay Mesa Detention Center. Respondent Patrick Divver is a legal custodian of Petitioner.

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).

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

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

26. The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of "refugee." Under that definition, individuals generally are eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion and if they are unable or unwilling to return to and avail themselves of the protection of their homeland because of that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).

27. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for

asylum to any noncitizen "who is physically present in the United States or who arrives in the United States[.]" 8 U.S.C. § 1158(a)(1).

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

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

30. Noncitizens who are applicants for asylum are entitled to a full hearing in immigration court before they can be removed from the United States. 8 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative appellate review before the Board of Immigration Appeals of removal orders entered against them and judicial review in federal court upon a petition for review. 8 U.S.C. § 1252(a) *et seq*.

31. Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 4253 (1979).

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

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

FACTUAL BACKGROUND

34. Petitioner is a citizen of Turkey. He was born [redacted] in Turkey and is currently a citizen of Turkey.

35. Petitioner was repeatedly persecuted in Turkey. He believed he could no longer live in Turkey and he sought asylum in the United States.

36. On or about February 10, 2023, Petitioner was conditionally paroled into the United States to seek asylum. This release was based on the individualized facts in his case determined during interviews with the officers that were overseeing him

37. He was also issued an NTA and placed in 240 removal proceedings.

38. He has attended all scheduled hearings in connection with his removal proceedings.

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

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

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

42. On November 1, 2025, Mr. Ozbalik left his workplace in Anaheim and was traveling to his job at a farmers' market in San Diego. Due to a traffic accident on southbound Interstate 5 near Oceanside, police officers forced vehicles to exit using the right-side off-ramp. His navigation system mistakenly directed him into a military residential area located at 20250 Vandegrift Blvd, Oceanside, CA 92058, United States, and without realizing it, he entered the area at approximately 3:08 p.m. The soldier at the gate stopped him, took his driver's license, and instructed him to wait in the parking area while they conducted an identity check. He was held there for approximately 2 hours and 30 minutes.

43. Afterward, the officers told him that because he did not live there and did not have a green card or passport, they would turn him over to ICE (Immigration and Customs Enforcement). A female military officer handcuffed his hands behind my back and transported him to the main gate, approximately 15

minutes away, where he was handed over to law enforcement officers. In front of civilians, he was treated like a criminal. His hands and feet were shackled, and he was taken into custody. He was then transported to the San Diego Courthouse, where he was held for two days in cold conditions and forced to sleep on the floor. He was never given a written notice that his parole was being terminated. He was not given any particularized reason for why he was being placed into detention. He was never presented with a warrant for his arrest. He was never given any Miranda warnings. He was eventually transported to Otay Mesa Detention Center. Mr. Ozbalik must now continue his asylum application process while in detention.

44. Mr. Ozbalik was never presented with a warrant for his arrest. The ICE agents did not provide him any process. The ICE agents did not offer him any opportunity to be heard prior to arresting and detaining him.

45. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The "Protecting the American People Against Invasion" EO instructs the DHS Secretary "to take all appropriate action to enable" ICE, CBP, and USCIS to

prioritize civil immigration enforcement procedures including through the use of mass detention.

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

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

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

PROCEDURAL HISTORY

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

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

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

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

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

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

54. Respondents filed a Return on 5/20/2026 and asserted that, because he had a bond hearing in response to his first petition Mr. Ozbalik has received all the habeas relief he is due. *ECF 6.*

55. In fact, Respondents and this court have never addressed the underlying Due Process violation that occurred on November 1, 2025 nor the appropriate remedy for that violation.

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

57. Petitioner asserts that the post-detention bond hearing cannot remedy the pre-detention violation of his due process rights. Respondents may argue that, pursuant to his earlier habeas petition, he was granted a bond hearing and, as a result, his due process violations have been remedied. However, that bond

hearing was a response to the status of the Maldonado ruling and his right to have a bond hearing. It was not a direct remedy for his Due Process violation. It was simply an enforcement anyone's right to have a bond hearing situated as he was at that dime. It was not ordered as a means to remedy the unlawful revocation of his liberty. This court made that clear in requesting that the Due Process violation be briefed. Post-deprivation bond hearings cannot remedy pre-detention violations. District courts applying the foregoing principle have repeatedly held that an ordinary post-detention bond hearing cannot cure the denial of constitutionally required pre-deprivation process. See *Xiaoming Yang v. Field Office Director*, No. 5:26-cv-02334-AJR, slip op. at 10 n.2 (C.D. Cal. May 18, 2026) ("The fact that Petitioner could receive a post-deprivation bond hearing while in custody does not remedy the violation of Petitioner's procedural due process rights."); *Anderson v. Chestnut*, No. 1:26-cv-01960-DAD-CKD, slip op. at 4–5 (E.D. Cal. Mar. 24, 2026) (holding that a bond hearing provided two months after detention and only after the petitioner sought habeas relief did not cure the denial of pre-deprivation process); *Vazquez v. Mullin,* No. C26-2039-KKE, slip op. at 4 (W.D. Wash. July 2, 2026) (holding that a post-deprivation hearing is inadequate because it occurs after the fact and cannot prevent an erroneous deprivation of liberty); *Victoriano v. Mullin*, No. 2:26-cv-00886-RAJ, slip op. at 10–11 (W.D. Wash. May 1, 2026) (holding that detention imposed without pre-deprivation process was unlawful from its inception and that a post-detention bond hearing would be an inadequate procedural safeguard); *Soto v. Bondi*, No. 2:26-cv-00652-BAT, slip op. at 8 (W.D. Wash. Apr. 10, 2026) (concluding that although the petitioner could request a bond hearing, a post-deprivation hearing was inadequate because it would occur only after detention); *A.B.J.C. v. Hermosillo*, No. 2:26-cv-00185-JNW, slip op. at 5–6 (W.D. Wash. Feb. 23, 2026) (holding that post-deprivation proceedings cannot

adequately safeguard against an erroneous deprivation because they occur after the fact); *Castellano v. Blanche*, No. 2:26-cv-00124-GMN-BNW, slip op. at 10–11 (D. Nev. May 20, 2026) (concluding that a later bond hearing would not adequately vindicate the right to pre-deprivation process); see also *Banol v. Warden*, No. 5:26-cv-00529-CAS-ACCV, slip op. at 11–12 (C.D. Cal. Mar. 19, 2026) (concluding that a bond hearing provided six or nine months after detention would not adequately remedy the denial of timely process). Again, the *Mathews v. Eldrige* factors weigh heavily in Petitioner's favor, and this revocation of liberty violates procedural due process.

BOND IS NOT THE APPROPRIATE REMEDY FOR THIS VIOLATION

58. The bond hearing that was ordered in the first habeas case was a simple, expedient solution to find a way for Mr. Ozbalik to be released. However, it did not address the underlying Due Process violation. This court recognized that when it ordered Respondents to file a brief on those issues. In fact, ordering the bond hearing relieved Respondents from any responsibility for their actions. It turned justice on its head and told Mr. Ozbalik that HE must now prove that he warrants release and he must pay a fee for that release!

THIS COURT HAS ALREADY DETERMINED THAT BOND IS NOT THE APPROPRIATE REMEMDY

59. In *Modrekiladze v. LaRose*, 3:26-cv-00271-JES-DEB (S.D. Cal 2026), the court came to the conclusion that a bond was not the appropriate

remedy. Mr. Modrekiladze's facts are nearly identical. He had driven on to the same military base, Camp Pendleton Marine Corps Base, had been stopped by the base guard and asked if he had a green card. Since he did not, just like Mr. Ozbalik, he was directed to pull over and wait. After several hours, ICE officers showed up and arrested him and detained him. Just like Mr. Ozbalik, there was no individualized determination PRIOR to his detention that he was now a danger or a flight risk such that his liberty must be taken from him. Mr. Modrekiladze asked this court for immediate release. Just as in this case, Respondents sought a solution by asserting that he qualified for a bond hearing under *Maldonado*. The court wrote:

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

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

CLAIMS FOR RELIEF

COUNT ONE

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

Not in Accordance with Law and in Excess of Statutory Authority

Unlawful Detention

60. Petitioner restates and realleges all paragraphs as if fully set forth here.

61. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

62. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551U.S. 644, 658 (2007) (*quoting Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

63. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

64. By categorically revoking Petitioner's parole and transferring him to Otay Mesa Detention Center without consideration of his individualized facts and circumstances, Respondents have violated the APA.

65. Respondents have made no finding that Petitioner is a danger to the community prior to his detention.

66. Respondents have made no finding that Petitioner is a flight risk prior to his detention.

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

68. Respondents had already considered Petitioner's facts and circumstances and determined that he was not a flight risk or danger to the community when they granted him parole. There have been no changes to the facts prior to his detention that justify this revocation of his parole.

COUNT TWO

Violation of Fifth Amendment Right to Due Process

Procedural Due Process

69. Petitioner restates and realleges all paragraphs as if fully set forth here.

70. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life,

liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693; *accord Flores*, 507 U.S. at 306.

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

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

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

COUNT THREE

Violation of the Fourth Amendment to the Constitution

74. Petitioner restates and realleges all paragraphs as if fully set forth here.

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

76. The Fourth Amendment requires that arrests entail a neutral, judicial determination of probable cause. See *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). That neutral, judicial determination can occur either before the arrest in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *Id.* Arrest and detention of a person, including of a noncitizen, absent a neutral judicial determination of probable cause violates the Fourth Amendment of the Constitution. *Id. See also Cnty. Of Riverside v McLaughlan*, 500 U.S. 44, 57 (1991). This determination must occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstances. *Id.*

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

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

79. The Government cannot salvage this seizure by invoking generalized immigration enforcement interests. The Fourth Amendment's reasonableness inquiry is fact-specific and demands individualized justification for both the arrest and the extended detention. See *United States v Brignoni-Ponce*, 422 U.S. 873, 882-84 (1975). *Gerstein*, 420 U.S. at 114. Mr. Ozbalik was granted release from DHS custody in 2023 and did not pose any danger to any person in the community at large.

80. Respondents' warrantless arrest of Mr. Ozbalik constitutes an unreasonable and unlawful seizure in violation of the Fourth Amendment.

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PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

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

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

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

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

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

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

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

(9) Grant any further relief this Court deems just and proper.

Dated: July 24, 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**

  camille.savedra@usdoj.gov,brenda.seyler@usdoj.gov,USACAS.Habeas2241@usdoj.gov ,caseview.ecf@usdoj.gov,darryl.brooks@usdoj.gov,Efile.dkt.civ@usdoj.gov

- **U S Attorney CV**

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/s/Brian J. McGoldrick
Brian J. McGoldrick, Esq.
Counsel for Petitioner