Alexis E. Howell
Alexis Howell, Attorney at Law, LLC
3875 Geist Rd. Suite E #220
Fairbanks, AK 99709
P: 907.202.8885
Email: alexis@ahowelllaw.com

Attorney for Petition-Plaintiff
Roger Martin Aldana CENTENO

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

ROGER MARTIN ALDANA CENTENO, Petitioner-Plaintiff, vs. Anchorage Correctional Complex, Zane NIGHSWONGER, Director; Alaska Department of Corrections, Cori MILLS, Acting Attorney General of Alaska; U.S. Immigration and Customs Enforcement and Customs Enforcement. U.S. Department of Homeland Security; Todd M. LYONS, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security; Markwayne MULLIN, Secretary, U.S. Department of Homeland Security; and Todd BLANCE, Attorney General of The United States Respondents-Defendants.	Case No.: **PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** Challenge to Unlawful Incarceration Under Color of Immigration Detention Statutes; Request for Declaratory and Injunctive Relief

COMES NOW Petitioner, Roger Martin Aldana Centeno ("Mr. Aldana" or "Petitioner"), by and through his counsel of record, Alexis Howell of Alexis Howell, Attorney at Law, LLC, and hereby files this petition for writ of habeas corpus and complaint for declaratory and injunctive relief to compel his immediate release confinement where he has been held by the U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) since being unlawfully arrested on July 31, 2026, without any legal basis, and without at any point having been provided a due process hearing to determine whether his detention is justified. Mr. Aldana's removal from the United States is not reasonably foreseeable, and since being arrested, he has received no formal notice or regulatory interview that is required by binding regulations.

INTRODUCTION

1. Petitioner, Roger Martin Aldana Centeno, is a citizen and national of Nicaragua who came to the United States seeking asylum in 2023. He has had an open asylum case since that time. Mr. Aldana has had a work permit since 2025 (See Exhibit 1, Work Permit) and has worked full time at [redacted] in Fairbanks, Alaska, since that time. He lives with his brother in Fairbanks and is a productive member of society. He has not received even as much as a parking ticket since his arrival in the United States.

2. On July 31, 2026, Mr. Aldana left for work and was reportedly arrested at approximately 8:30am. On information and belief, Mr. Aldana was pulled over by an unmarked black SUV and was detained. His vehicle was left in a nearby parking lot. Exhibit 2, Photo of Mr. Aldana's vehicle. Mr. Aldana was not allowed to call his brother or anyone else upon his arrest, and Mr. Aldana's brother had to call the local confinement facility as well as his friends to attempt to piece together what occurred.

3. As way of background, Mr. Aldana came to the United States to flee heinous persecution and torture as well as potential death based on his political opinions and membership in a particular social group. His brother had previously come to the United States for the same reason and sought to have him join him in Fairbanks where he would be much safer than in Nicaragua.

4. In early 2026, the Board of Immigration Appeals (BIA) began to require an Annual Asylum Fee (AAF) be paid by aliens seeking asylum each year that their application was pending. BIA also states that it will give applicants a 30-day notice of when this fee is due. However, numerous individuals have never received this notice. According to the BIA website, failure to pay this fee may result in severe consequences, including rejection and dismissal of a petitioner's asylum application. These penalties have been challenged in courts across the United States.

5. It appears from Mr. Aldana's USCIS account that Mr. Aldana's AAF was due on July 30, 2026. On information and belief, Mr. Aldana never received a 30-day notice to make this payment. Any failure to pay the AAF is inadvertent, as Mr. Aldana is still actively seeking asylum.

6. As far as counsel can discern, the only rationale for arresting and detaining Mr. Aldana was that his AAF was approximately eight and a half hours past due. Mr. Aldana was not provided with an explanation as to why he was being arrested, nor has he been provided with an explanation of his confinement since that time. There is no evidence of any other change relevant to his detention status, removability, or criminal record. On information and belief, although Mr. Aldana's AAF was technically "past due," he was

never informed in writing other otherwise that his asylum petition had been denied or revoked or that his legal authority to reside in the United States had been revoked.

7. In this individual habeas petition and complaint for declaratory and injunctive relief, Petitioner submits that there is no legal basis for his detention and that he should be released immediately.

VENUE AND JURISDICTION

8. This case arises under the Immigration and Nationality Act (INA), 8 U.S.C. 1101 et. Seq., the regulations implementing the INA, the Foreign Affairs Reform and Restructuring Act of 1998 (FARRA), Pub. L. No. 105-277, div. G, Title XXII, 2242(a), 112 Stat. 2681, 2681-822 (1998) (codified as Note to 8 U.S.C. 1231), the regulations implementing the FARRA, the Administrative Procedure Act (APA), 5 U.S.C. 701 et. seq.; and 5 U.S.C. 552 et. seq.

9. This Court has jurisdiction over the present action pursuant to 28 U.S.C. 1331, general federal question jurisdiction; 5 U.S.C. 701 et seq., All Writs Act; 28 U.S.C. 2241 et seq., habeas corpus; 28 U.S.C. 2201, the Declaratory Judgment Act; Art. 1, 9, Cl. 2 of the United States Constitution (Suspension Clause); Art. 3 of the United States Constitution, and the common law, as Petitioner is detained under color of the authority of the United States, and such custody is in violation of the Constitution, laws, regulations, and or treaties of the United States.

10. This Court may grant relief pursuant to 28 U.S.C. 2241, the Declaratory Judgment Act, 28 U.S.C. 2201 et seq., and the All Writs Act, 28 U.S.C. 1651 to protect

Petitioner's rights under the Due Process Clause of the Fifth Amendment to the United States Constitution, the Excessive Bail Clause of the Eighth Amendment, and under applicable Federal law, and to issue a writ of habeas corpus for their immediate release. *See generally INS v. St. Cyr*, 533, U.S. 289 (2001), *Zacvydas v. Davis*, 533 U.S. 678 (2001).

11. Venue is proper in the District of Alaska under 28 U.S.C. §§ 1391(e) because the Respondents are employees or officers of the United States, acting in their official capacity; because all events or omissions giving rise to these claims occurred within the District of Alaska; because Petitioner is currently detained in the District of Alaska; and because there is no real property involved in this action.

12. Petitioner was arrested by ICE agents on or about July 31, 2026, around 8:30am, on his way to work in Fairbanks, Alaska.

13. On information and belief, Petitioner was briefly held at Fairbanks Correctional Complex and is currently being held at Anchorage Correctional Complex.

REQUIREMENTS OF 28 U.S.C. 2243

14. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to 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. Court have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Write 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)(emphasis added).

16. Habeas corpus must remain a swift remedy. Importantly, "the statute itself directs courts to give petitioners for habeas corpus 'special, preferential consideration to insure expeditious hearing and determination.'" *Young v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000)(internal citations omitted). The Ninth Circuit warned against any action creating the perception "that courts are more concerned with efficient trial management than with the vindication of constitutional rights." *Id*.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

17. For habeas claims, exhaustion of administrative remedies is prudential not jurisdictional. *Hernandez*, 872 F.3d at 988. A court may waive the prudential exhaustion requirement if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation marks omitted)).

18. No statutory exhaustion requirements apply to Mr. Aldana's claim of unlawful custody and unlawful removal in violation of his due process rights, and there are no administrative remedies that he needs to exhaust. *See Am.-Arab Anti-Discrimination Comm. V. Reno*, 70 F.3d 1045, 1058 (9th Cir. 1995) (finding exhaustion to be a "futile

exercise because the agency does not have jurisdiction to review" constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).

PARTIES

19. Mr. Aldana is a citizen and national of Nicaragua who entered the United States in 2023 seeking asylum and who has been on an order of supervision since that time. In 2025, he received a work permit. He resides with his brother in Fairbanks, Alaska and works a full-time job at [redacted]

20. Respondent Zane NIGHSWONDER is the Director of the Anchorage Correctional Complex (ACC). ACC is currently holding Mr. Aldana at the direction of ICE and DHS. In his official capacity, he is the legal custodian of Mr. Aldana.

21. Respondent Cori MILLS is the Acting Attorney General of the State of Alaska and is the most senior official in the Alaska Department of Law and is named in her official capacity. As the Attorney General, she oversees all legal issues related to the Department of Corrections and contracts between ACC and ICE/DHS.

22. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is responsible for the administration and enforcement of the immigration laws, including the removal of noncitizens. In his official capacity as the head of ICE, he is the legal custodian of Mr. Aldana.

23. Respondent Markwayne MULLINS is the Secretary of the DHS and is named in his official capacity. DHS is the federal agency encompassing ICE, which is responsible for the administration and enforcement of the INA and all other laws relating to the immigration of noncitizens. In his capacity as Secretary, Respondent MULLINS has

responsibility of the administration and enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); see also 8 U.S.C. § 1103(a). Respondent MULLINS is the ultimate legal custodian of Mr. Aldana.

24. Respondent Todd BLANCHE is the Attorney General of the United States and the most senior official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She has the authority to interpret immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review (EOIR) which administers the immigration courts and the BIA.

STATEMENT OF FACTS

25. Mr. Aldana is a citizen and national of Nicaragua who entered the United States in August 2023, seeking asylum. He received permission to travel to the United States for this purpose prior to his arrival. See Exhibit 3, Travel Authorization. His asylum case number is [redacted]

26. Mr. Aldana resides with his brother at [redacted] He obtained a work permit in October 2025. He works full time at [redacted] at [redacted]. He has kept BIA and all other relevant agencies informed of his residence and all other required information. With the help of his brother, Mr. Aldana has also applied for permanent residence, separate and apart from his asylum application.

27. Mr. Aldana's annual asylum fee was due on July 30, 2026. Mr. Aldana was never given a 30-day notice to pay. As a result, Mr. Aldana inadvertently failed to pay the

AAF by July 30, despite his intention to pay it and to follow through with the asylum process.

28. At approximately 8:30am on July 31, 2026, Mr. Aldana was arrested by ICE on his way to work. Mr. Aldana was not provided with a reason for his detention, was not provided a notice or hearing, and was arrested absent any change in circumstances. To date, Petitioner has not be provided with a post-deprivation interview, as required by 8 C.F.R. § 241.13 and, on information and belief, his authorization to reside in the U.S. has not been revoked, withdrawn, or otherwise cancelled. In fact, although his USCIS account shows a past-due AAF, his account also shows that he is pending an interview for the asylum process.

29. Petitioner has remained unlawfully detained without having been provided a due process hearing, and his prolonged and indefinite detention is not constitutional.

30. For the past three years, Mr. Aldana has been living at liberty, during which time he has been able to support himself and assisted his family. He has paid his taxes annually and has never been arrested. He has not, in fact, even received a parking ticket in the three years he has resided in Fairbanks.

31. On information and belief, BIA never notified Mr. Aldana of his past-due asylum fee, nor did they provide him with an opportunity to make that payment.

32. On information and belief, on July 31, 2026, when Mr. Aldana was arrested, he was not provided an opportunity to pay this asylum fee. He was not permitted to call anyone. He has not, to date, been allowed to contact anyone.

33. On information and belief, on January 25, 2025, officials in the new Trump administration directed senior ICE officials to increase arrests to meet daily quotas. Specifically, each field office was instructed to make seventy-five arrests per day.[1]

34. Multiple credible reports demonstrate that, in recent weeks and months, numerous noncitizens across the country, including throughout Alaska, who have appeared as instructed at ICE check-ins have been incarcerated or re-incarcerated by ICE.[2]

35. In recent months, ICE has engaged in highly publicized arrests of individuals who presented no flight risk or danger, often with no prior notice that anything regarding their status was amiss or problematic, whisking them away to faraway detention centers without warning.[3]

36. Decisions issued by other courts in this Circuit further corroborate that ICE is re-arresting and re-incarcerating individuals who are not flight risks or dangers to the community, including when their removal from the United States are not reasonably foreseeable. *See e.g. Rodrigruez-Florez v. F. Semaia*, No. 2:25-cv-06900-JGB-JC, Dkt. 14 (C.D. Cal. Aug. 14, 2025) ("The only changed circumstance the government cites is the reopening of Petitioner's Ninth Circuit case"); *Zakzouk*, No. 25-cv-06243 (RFL), 2025 WL

---

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

[2] See attached photographs indicating ICE activity in Fairbanks.

[3] See, e.g., McKinnon de Kuyper, Mahmoud Khalil's Lawyers Release Video of His Arrest, N.Y. Times (Mar. 15, 2025), available at https://www.nytimes.com/video/us/politics/100000010054472/mahmoud-khalils-arrest.html (Mahmoud Khalil, arrested in New York and transferred to Louisiana); "What we know about the Tufts University PhD student detained by federal agents," CNN (Mar. 28, 2025), https://www.cnn.com/2025/03/27/us/rumeysaozturk-detained-what-we-know/index.html (Rumeysa Ozturk, arrested in Boston and transferred to Louisiana); Kyle Cheney & Josh Gerstein, Trump is seeking to deport another academic who is legally in the country, lawsuit says, Politico (Mar. 19, 2025), available at https://www.politico.com/news/2025/03/19/trump-deportationgeorgetowngraduate-student-00239754 (Badar Khan Suri, arrested in Arlington, Virginia and transferred to Texas).

2097470 at *2 ("Although Petitioner-Plaintiff informed the ICE officer that she has no right to return to either country because she is stateless, the officer told Petitioner-Plaintiff that 'things are different now.'"); *Hoac*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *7; Phan, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *7; *Guillermo M. R.*, --- F.Supp.3d ----, 2025 WL 1983677, at *10; Pinchi, --- F.Supp.3d ----, 2025 WL 2084921, at *7; *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL 1676854, at *1 (N.D. Cal. June 14, 2025); *Doe v. Becerra*, -- F. Supp. 3d --, 2025 WL 691664, *8 (E.D. Cal. Mar. 3, 2025); *Ortega v. Kaiser*, No. 25-CV-05259-JST, 2025 WL 1771438 (N.D. Cal. June 26, 2025); *Singh v. Andrews*, No. 1:25-cv-801-KES-SKO, 2025 WL 1918679 (E.D. Cal. July 11, 2025); *Garcia v. Andrews*, No. 2:25-CV-01884-TLN-SCR, 2025 WL 1927596, at *6 (E.D. Cal. July 14, 2025); *Doe v. Andrews*, No. 1:25-cv-00506-SAB-HC, 2025 WL 1856591 (E.D. Cal. June 26, 2025); *Alva v. Kaiser*, No. 25-cv-06676-RFL, 2025 WL 2419262 (N.D. Cal. Aug. 21, 2025); *Paz Hernandez v. Wofford*, No. 1:25-cv-00986-KES-CDB, 2025 WL (E.D. Cal. Aug. 21, 2025); *Guzman v. Andrews*, No. 1:25-cv-01015-KES-SKO, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *R.D.T.M. v. Wofford*, No. 1:25-cv-01141-KES-SKO, 2025 WL 2617255 (E.D. Cal. Sept. 9, 2025); *Aceros v. Kaiser*, No. 25-cv-06924-EMC, 2025 WL 2458865 (N.D. Cal. Aug. 25, 2025).

29. In addition to being unlawfully detained and unlawfully transported out of Fairbanks, Petitioner is at risk of being unlawfully removed without constitutionally adequate notice and a meaningful opportunity to apply for protection under the Convention Against Torture, in violation of the INA, binding international treaties, and due process.

30. Intervention from this Court is therefore required to ensure that Petitioner does not continue to suffer irreparable harm in the form of unjustified, prolonged, and indefinite detention, and further violation of his rights in the form of summary removal.

LEGAL BACKGROUND

I. Under the circumstances of this case, the constitution did not permit Mr. Aldana to be arrested approximately eight hours after he missed his payment for his asylum case.

31. Non-citizens present in the United States may apply for asylum. 8 U.S.C. 1158. While an application may be rejected for improperly filed documents, federal law entitles applicants to individualized adjudication of their application once it is accepted. 8 C.F.R. 208.9(a). In April 2026, USCIS began to require the payment of an Annual Asylum Fee (AAF) that requires applicants to pay a $102 fee each year their application remains pending. This April rule also states that failure to pay this fee carries several automatic penalties such as immediate rejection, denial, or dismissal of a pending asylum case.

32. However, even this rule states that "if an alien does not pay the AAF within *30 days of notification*, USCIS will reject their pending asylum application. If an alien does not have legal status in the U.S., USCIS will also initiate the alien's removal." Nowhere does USCIS warn aliens that failure to pay this fee will result in immediate arrest.[4] In this case, (1) Mr. Aldana did not have 30 days-notice of this fee, (2) he was not informed that his asylum application was rejected or dismissed as a result of this "late"

[4] See https://my.uscis.gov/accounts/annual-asylum-fee/start/overview

fee, and (3) he was not provided the required notification regarding his potential removal and constitutionally required hearings but was instead stopped for an unknown (and likely illegitimate) reason and detained. Although, on its face, this provision allows for removal proceedings to begin should an applicant fail to pay the annual fee and have no other claim to legal residency, it also states that applicants will be informed of the status of their case. Mr. Aldana has never been informed of this status and was instead arrested, seemingly under no basis.

33. Furthermore, on July 1, 2026 a lawsuit was filed against USCIS's implementation of the annual asylum fee in *Venezuelan Association of Massachusetts, et. al. v. USCIS*, 1:26-cv-13038-NMG. On July 21, the judge agreed and granted a stay preventing USCIS's implementation of penalties against individuals who missed the payment deadline.[5] In this way, Mr. Aldana was unlawfully detained and is unlawfully held at this time.

II. Petitioner's Protected Liberty Interest in His Release

34. 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). In order for an individual who has applied for asylum to receive release, ICE must make a determination to assess the person's flight and public safety risk. ICE can require additional conditions of release such as

[5] Order granting Stay included as Exhibit 4 for ease of reference.

electronic monitoring or periodically reporting to an ICE officer. 8 C.F.R. §§ 241.5(a), 241.4(j); *see generally Zadvydas,* 533 U.S. at 679. ICE made the determination that Petitioner was not a risk and did not require any additional conditions for him to remain released. 8 C.F.R. § 241.4(e)-(f).

35. Since 2023, Petitioner has exercised that freedom, which ICE issued him after determining that he is neither a danger nor a flight risk and his removal was not reasonably foreseeable. He thus retains a weighty liberty interest under the Due Process Clause of the Fifth Amendment in avoiding incarceration, which is not diminished by the supervised nature of his release. *Zadvydas*, 533 U.S. at 679. ("[A] noncitizen's liberty interest is not diminished by their lack of a legal right to live at large, for the choice at issue here is between imprisonment and supervision under release conditions that may not be violated and their liberty interest is strong enough to raise a serious constitutional problem with indefinite detention."); *see also Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 78182 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972).

36. Just as importantly, petitioner's USCIS record continues to state that he is pending an interview for his asylum application, and he has continued to receive future dates and times to appear. In this way, his arrest and continued detention were not foreseeable. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), aff'd sub nom. Saravia for A.H. v. Sessions, 905 F.3d 1137 (9th Cir. 2018) ("Release reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk."); *Singh v. Andrews*, No. 1:25-cv-00801-KES-SKO (HC), 2025 WL

1918679, *2 (E.D. Cal. July 11, 2025) ("DHS, at least implicitly, made a finding that petitioner was not a flight risk when it released him.").

37. 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.

38. This basic principle—that individuals have a liberty interest in their 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).

39. 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.*; *GonzalezFuentes*, 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 reincarcerated 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).

40. Here, when this Court "'compar[es] the specific conditional 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 with his community, and "be with family and friends and to form the other

enduring attachments of normal life." *Morrissey*, 408 U.S. at 482. Petitioner has complied with conditions of his release for three years. During that time, he has obtained employment authorization granted by DHS, worked full time, and remained law-abiding. He is a well-respected member of the community and by no means the type of individual who should be incarcerated.

Petitioner's Private Interest in his Liberty is Profound.

41. 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 incarcerated—apply with even greater force to individuals like Petitioner, who have complied with OSUPs and are not dangers or flight risks, 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 GonzalezFuentes*, 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 supervised release.

The Government's Interest in Keeping Petitioner Incarcerated is Low and the Burden on the Government to Release Him from Custody is Minimal.

42. The government's interest in keeping Petitioner in detention without a due process hearing is low, and when weighed against his significant private interest in his liberty, the scale tips sharply in favor of releasing him from custody unless and until the government demonstrates that his removal is reasonably foreseeable or 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—release from ICE because Petitioner was determined to be eligible for release through an OSUP, all of which occurred three years ago and where nothing in the interim has changed to warrant re-detention after—is a standard course of action for the government. In the alternative, providing Petitioner with a hearing before a neutral decisionmaker to determine whether there is evidence that he is a flight risk or danger to the community and whether his removal is reasonably foreseeable would impose only a de minimis burden on the government, because the government routinely conducts these reviews for individuals in Petitioner's same circumstances. 8 C.F.R. § 241.4(e)-(f).

43. 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. Moreover, the Supreme Court has made clear that indefinite detention of noncitizens who cannot be removed to the country in the removal order is unconstitutional. In this case, the government cannot plausibly assert

that it had a sudden interest in detaining Petitioner due to alleged dangerousness, or due to a change in the foreseeability of his removal to Nicaragua, as his circumstances have not changed since he arrived in the United States in 2023. Release from custody until ICE assesses and demonstrates that Petitioner is a flight risk or danger to the community, or that his detention is not going to be indefinite, is far less costly and burdensome for the government than keeping him detained. 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. If, in the alternative, the Court chooses to order a hearing for Petitioner at which the government bears the burden of justifying his continued detention, the government would bear no additional cost if the hearing is scheduled within seven days, rather than allowing him to sit in detention for days or weeks awaiting a hearing.

Without Release from Custody until the Government Provides a Due Process Hearing, the Risk of Erroneous Deprivation of Liberty is High.

44. Releasing Petitioner from custody until he is provided a pre-deprivation hearing would decrease the risk of him being erroneously deprived of his liberty. Before he can be lawfully detained, he must be provided with a hearing before a neutral adjudicator, at which the government is held to show that his detention will not be indefinite, or that the circumstances have changed since his release in 2023 such that evidence exists to establish that he is a danger to the community or a flight risk. His continued detention for an unknown reason - perhaps for failing to meet a purely administrative requirement for eight hours – is unconstitutional and carries a high risk for

erroneous deprivation of liberty. This is especially true as (A) the only circumstance which has changed since 2023 is a slight delay in the payment of an administrative fee, (B) other circuits have granted a stay on enforcement provisions for failure to pay an AAF, and (C) petitioner has not been provided any form of hearing or due process to determine why he was detained and if his continued detention is warranted for any reason.

FIRST CAUSE OF ACTION

Procedural Due Process – Arrest and Incarceration

U.S. Const. amend. V

45. Petitioner re-alleges and incorporates herein by reference, as set forth fully herein, the allegations in all the preceding paragraphs.

46. 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.

47. Petitioner had a vested liberty interest in his release while pending asylum proceedings. Due process did not (and does not) permit the government to strip him of that liberty without a hearing before this Court. *See Morrissey*, 408 U.S. at 487-488.

48. The Court must therefore order his immediate release from custody and further order that, prior to any re-arrest, the government must provide him with a hearing before a neutral adjudicator. At the hearing, the neutral adjudicator would evaluate, *inter alia*, whether clear and convincing evidence demonstrate that Petitioner is a danger to the

community or a flight risk, taking into consideration alternatives to detention, and that his removal is reasonably foreseeable, and that his incarceration is warranted.

SECOND CAUSE OF ACTION

Substantive Due Process – Arrest and Incarceration

U.S. Const. amend. V

49. Petitioner re-alleges and incorporates herein by reference, as is set forth fully herein, the allegations in all the preceding paragraphs.

50. The Due Process Clause of the Fifth Amendment forbids the government from depriving individuals of their right to be free from unjustified deprivations of liberty. U.S. Const. amend. V.

51. Petitioner had (and still has) a vested liberty interest in his conditional release. Due Process does not permit the government to strip him of that liberty without it being tethered to one of the two constitutional bases for civil detention: to mitigate against the risk of flight or to protect the community from danger.

52. Since 2023, Petitioner has complied with all requirements imposed on him by ICE, thus demonstrating that he is neither a flight risk nor a danger. Arresting him now was punitive and violated his constitutional right to be free from the unjustified deprivation of his liberty.

53. For these reasons, Petitioner's arrest without first being provided a hearing violated the Constitution.

54. Furthermore, the stay in place on the consequences for failing to pay an AAF forbids ICE from acting to delete an asylum application and deprive Mr. Aldana of his

right to lawfully reside in the United States, meaning he has been falsely imprisoned, in violation of the Constitution.

55. The Court must therefore order his immediate release from custody and further order that, prior to any re-arrest, the government must provide him with a hearing before a neutral adjudicator. At the hearing, the neutral adjudicator would evaluate, inter alia, whether clear and convincing evidence demonstrates that Petitioner is a danger to the community or a flight risk, taking into consideration alternatives to detention, and that his removal is reasonable foreseeable, such that his re-incarceration is warranted.

THIRD CAUSE OF ACTION

Violation of the APA – Unlawful Arrest and Incarceration

56. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, the allegations in all the preceding paragraphs.

57. Petitioner was previously released by Respondents on an OSUP because he did not pose a danger or flight risk. As long as he complies with the conditions of his release, Respondents have authority to revoke release only if circumstances have changed—i.e., he has violated a condition of release or there is a "significant" likelihood that he will be removed in the reasonably foreseeable future. 8 C.F.R. § 241.13(i)(1), (2); 8 C.F.R. § 1231(a)(6).

58. Because Respondents revoked his release absent any material change in circumstances, their actions would be arbitrary, capricious, an abuse of discretion, and contrary to law. 5 U.S.C. § 706(a)(2)(A). The fact that a decision-making process involves discretion does not prevent an individual from having a protectable liberty

interest. *Young*, 520 U.S. at 150; *Ortega-Rangel v. Sessions*, 313 F. Supp. 3d 993, 1001 (N.D. Cal 2018). Just like people on pre-parole, parole, probation status, bail, or bond have a liberty interest, so too does Petitioner have a liberty interest in remaining out of custody. *Ortega v. Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019). He should therefore be immediately released from custody and, prior to any re-arrest, be provided a full and fair hearing before a neutral arbiter where the government bears the burden of showing that circumstances have changed such that his removal is reasonably foreseeable, and otherwise evidence of his dangerousness and flight risk is established by clear and convincing evidence. *Id*.

<u>FOURTH CAUSE OF ACTION</u>

Violation of Procedures for Revocation of Release

59. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, the allegations in all the preceding paragraphs.

60. Respondents must notify Petitioner of the reason for his detention. 8 C.F.R. § 241.13(i)(3). The regulations also require Respondents to afford him an initial interview promptly after their detention at which he can respond to the purported reasons for revocation. *Id*.

61. Respondents have not provided Petitioner adequate and timely notice of the reasons for revocation. Respondents also have not timely provided him with an initial interview or an opportunity to respond.

PRAYER FOR RELIEF

WHEREFORE, the Petitioner prays that this Court grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Order that Petitioner's detention is unlawful in violation of *Zadvydas* because his removal is not reasonably foreseeable;

(3) Order that Petitioner's detention is unlawful in violation of 8 C.F.R. § 241.13(i)(2) because there are no changed circumstances showing that he is a danger or a flight risk, or that there is a significant likelihood that he may be removed in the reasonably foreseeable future;

(4) Order that Petitioner's detention is unlawful because ICE did not follow its own regulations in arresting him on July 31, 2026, and therefore his detention is unlawful;

(5) Order the immediate release of Petitioner from custody because his detention is not reasonably foreseeable in violation of *Zadvydas*;

(6) Order the immediate release of Petitioner from custody because his detention is unlawful in violation of 8 C.F.R. § 241.13(i)(2);

(7) Order that Petitioner detention is unlawful because ICE detained him for failure to pay his AAF, a requirement which is currently under review by another court and which has had its enforcement provisions stayed, therefore meaning Mr. Aldana was lawfully residing in the United States and there was not a basis for his arrest;

(8) Order the immediate release of Petitioner from custody on any other basis that this Court finds proper;

(9) Order that, prior to any future re-detention, Petitioner must be provided a hearing before a neutral adjudicator to determine whether his re-detention would be lawful because the government has shown that he is now a danger or a flight risk and that his removal is reasonably foreseeable. During such hearing, the neutral adjudicator must further consider whether, in lieu of detention, alternatives to detention exist to mitigate any risk that DHS may establish;

(10) Order that Petitioner cannot be removed to any country without first being provided constitutionally compliant procedures.

(11) Award Petitioner reasonable costs and attorney fees; and

(12) Grant such further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED August 2, 2026, at Fairbanks, Alaska.

_/s/Alexis E. Howell
3875 Geist Rd. Suite E, #220
Fairbanks, Alaska 99709
P: 907-202-8885
Alaska Bar No. 2305038

Homeland Security

TRAVEL AUTHORIZED

Your travel authorization has been approved and you are now authorized to travel to the United States under the Nicaraguan parole process to seek parole. You must meet all requirements for boarding an aircraft. This document does not grant you parole. Upon arrival to the United States, a U.S. Customs and Border Protection (CBP) officer will make the determination on parole once you arrive at a port of entry.

You are responsible for arranging your own travel to the United States. You are required to travel to the United States via commercial air. Please be prepared to show this status page in your myUSCIS account to airline personnel along with your passport and other appropriate identification. If you are traveling with a child under 18 years old, you should be prepared to provide proof that the child is traveling with a parent or legal guardian. For their protection, children who are not accompanied by a parent or legal guardian may be placed in the custody of the Department of Health and Human Services (HHS).

Name: ALDANA CENTENO, ROGER MARTIN

Date of Birth	Alien Number	Passport Number	Status	Expiration Date
[redacted]	[redacted]	[redacted]	Authorization Approved	Jul 11, 2023

EXHIBIT 3

United States District Court
District of Massachusetts

Venezuelan Association of Massachusetts, et al., Plaintiffs, v. United States Citizenship and Immigration Services, et al., Defendants.	)	Civil Action No. 26-13038-NMG

MEMORANDUM & ORDER

GORTON, J.

Before the Court is plaintiffs' emergency motion for an administrative stay (Docket No. 42) pending resolution of the motion to stay agency action under 5 U.S.C. §705 (Docket No. 11). For the following reasons, that motion will be allowed, in part, and denied, in part.

I. Background

This case is brought by membership-based organizations challenging several recent policies of defendant United States Customs and Immigrations Services ("defendant" or "USCIS"). Plaintiffs challenge 1) a July 22, 2025 Federal Register Notice ("the July 2025 Cap Policy"), 2) a March 2026 Update to USCIS's website ("the March 2026 Update") and 3) portions of the April 29, 2026 interim final rule ("the April 2026 IFR"). Plaintiffs

EXHIBIT 4

represent two categories of alleged aggrieved parties, those holding Temporary Protected Status ("TPS") and those with pending applications for asylum.

The TPS program allows for foreign nationals to live and work in the United States while their home country is designated unsafe. 8 U.S.C. §1254a. TPS holders are entitled to apply for employment authorization documents ("EADs"). Before the promulgation of the challenged policies, EADs were valid for the duration of the TPS status itself. The 2025 Cap Policy and the April 2026 IFR retroactively apply a new expiration date for some EADs that will cause those TPS holders to lose their work authorization as early as July 22, 2026.

Noncitizens present in the United States may apply for asylum. 8 U.S.C. §1158. While USCIS may reject applications that are improperly filed, federal law entitles applicants to an individualized adjudication of their application once it is accepted for filing. 8 C.F.R. §208.9(a). The April 2026 IFR purports to implement an Annual Asylum Fee ("AAF") that requires applicants for asylum to pay a fee every year their application remains pending. Failure to pay this fee will result in the rejection of the application, revocation of work authorization and initiation of removal proceedings against the applicant.

Moreover, most asylum applicants are eligible to apply for employment authorization after their asylum application has been accepted for filing and pending for 150 days. 8 C.F.R. §208.7(a)(1)(i). The April 2026 IFR removed a regulation requiring USCIS to adjudicate initial employment-authorization applications within 30 days of filing.

II. Discussion

Plaintiffs filed their motion to stay the challenged policies under 5 U.S.C. §705 on July 2, 2026. Counsel for defendants filed a notice of appearance on July 15, 2026, and the Court scheduled a hearing on the plaintiffs' motion for July 30, 2026. On July 15, 2026, plaintiffs filed this emergency motion to stay the challenged policies until the Court issues its final ruling. Plaintiffs request that, if the Court denies this motion for an emergency stay, it nonetheless stay the challenged actions pending the appeal of that denial.

At least one other session of this District Court has issued an administrative stay to "permit time for briefing and deliberation." Afr. Cmtys. Together v. Noem, No. 26-CV-11201-ADB, 2026 WL 710666, at *1 (D. Mass. Mar. 13, 2026) (quoting United States v. Texas, 144 S. Ct. 797, 798 (2024) (Barrett, J., concurring)). Such a stay reflects an initial judgment on the relative consequences facing both parties rather than a consideration of the merits. See id. Although administrative stays are typically used in appellate courts, they have also been issued by district courts in cases seeking emergency relief under the APA. Nat'l Council of Nonprofits v. Off. of Mgmt. & Budget, 763 F. Supp. 3d 13, 17 (D.D.C. 2025).

Here, the consequences faced by plaintiffs are potentially severe. As noted by plaintiffs, many TPS holders will have their work authorizations expire on July 22, 2026, after which point they will be without legal authority to work in this country. With respect to asylum applicants, the consequences for failure to pay the AAF may result in rejection of the asylum application and the initiation of removal proceedings. Defendants do not argue that they will be harmed by the issuance of the stay but the Court is nevertheless aware of the danger of interfering with the executive branch.

Having weighed those competing interests, the Court will allow the emergency motion with respect to those limited policies resulting in 1) the expiration of work authorization for TPS holders and 2) the imposition of penalties for failure to pay the AAF. The government may continue to charge AAFs and need not abide by the previous 30-day deadline to review asylum applicants' initial employment-authorization applications.

EXHIBIT 4

ORDER

For the forgoing reasons, the motion for an emergency stay is **ALLOWED**, in part, and **DENIED**, in part. The following portions of the 2025 Cap Policy, March 2026 Update and April 2026 IFR are hereby stayed:

1) retroactive application of EAD expiration deadlines, meaning that any EAD previously extended shall maintain its prior expiration date;
2) rejection of asylum applications for failure to pay the annual asylum application fee;
3) termination of work authorization of those who have failed to pay the annual asylum application fee; and
4) initiation of removal procedures against those who have failed to pay the annual asylum application fee.

This administrative stay will remain in effect until an Order of this Court with respect to plaintiffs' motion for a stay pursuant to 5 U.S.C. §705 (Docket No. 11), which will be issued no later than August 5, 2026.

So ordered.

/s/ Nathaniel M. Gorton
Nathaniel M. Gorton
Senior United States District Judge

Dated: July 21, 2026

EXHIBIT 4