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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Leandro Jose ECHENIQUE DALPONTE,

Petitioner,

v.

Patrick, DIVVER, Field Office Director of Enforcement and Removal Operations, San Diego Field Office, Immigration and Customs Enforcement; Todd M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement; Markwayne MULLIN, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Todd BLANCE, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Christopher J. LAROSE, Warden of Otay Mesa Detention Facility,

Respondents.

Case No. '26CV4549 JAO BJW

Petition for Writ of Habeas Corpus

I. Introduction

On September 7, 2023, ICE permitted then-forty five year-old Leandro Jose Echenique Dalponte, to enter the country on Venezuelan humanitarian parole. He was issued an I-94. On July 6, 2026, ICE arrested him after stopping his vehicle in Ft. Meyers, Florida. ICE did not provide him with a basis for his detention. He was subsequently transferred and has been detained at the Otay Mesa Detention Center since July 16, 2026.

This civil immigration habeas petition explains that his detention violates the humanitarian parole statute, the government's regulations, and the Fifth Amendment's Due Process Clause.

This Court should order Petitioner's immediate release and reinstate Petitioner's parole. *See, e.g.*, *Noori v. LaRose*, __ F. Supp. 3d __, 2025 WL 2800149, *9–*13 (S.D. Cal. Oct. 1, 2025); *Delfin-Ricardo v. Noem*, No. 26-cv-136-RSH-BJW, 2026 WL 353357, *1–*2 (S.D. Cal. Feb. 9, 2026); *Modrekiladze v. LaRose*, No. 26-cv-271-JEW-DEB, 2026 WL 242041, *2–*4 (S.D. Cal. Jan. 29, 2026); *Lozada v. LaRose*, No. 25-cv-3614-LL-KSC, 2026 WL 184205 (S.D. Cal. Jan. 23, 2026) (finding similar violations for unlawful revocations of humanitarian parole and ordering release on previously imposed conditions).

II. Statement of Facts

Leandro Jose Echenique Dalponte is a forty eight year-old -old Venezuelan national who entered the United States on September 7, 2023 on a grant of

Venezuelan humanitarian parole. Exhibit A. He had no issues while on parole. On July 6, 2026, Mr. Echenique's vehicle was pulled over by ICE officials in Ft. Meyer, Florida.

III. Legal Argument

I. Ms. Echenique's detention is a violation of the Due Process Clause.

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 v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

An individual released from immigration custody has a constitutionally protected liberty interest in remaining free from detention. *Morrissey v. Brewer*, 408 U.S. 471, 482, 92 S. Ct. 2593, 2601, 33 L. Ed. 2d 484 (1972); *see also Sanchez v. LaRose*, 25-cv-2396; 2025 WL 2770629, at * 3 (S.D. Cal.). Thus, Petitioner has a fundamental interest in liberty and being free from official restraint.

"Even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody [he] has a protected liberty interest in remaining out of custody." *Pinchi* v. *Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025). (internal citation omitted). That 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*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *13 (D. Or. July 9, 2025).

To determine which procedures are constitutionally sufficient to satisfy the Due Process Clause, the Court must apply the *Matthews* factors. *See Matthews v. Eldridge*, 424 U.S. 319, 335 (1976). Courts must consider: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.*

All three factors support a finding that the Mr. Echenique detention without reasoning or an opportunity to be heard denied him of his due process rights. First, Mr. Echenique has a significant liberty interest in remaining out of custody pursuant to his parole. "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. He also has an interest

in remaining with the community. See *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) ("Subject to the conditions of his parole, he can be gainfully employed and is free to be with family and friends and to form the other enduring attachments of normal life."). DHS affirmatively permitted him to enter and live in the United States pursuant to humanitarian parole, and for approximately three years the government did not subject him to removal proceedings or immigration detention. By the time DHS detained him, he developed a substantial liberty interest in remaining free from physical confinement.

Second, the risk of an erroneous deprivation of such interest is high. The government previously made an individualized decision that parole was appropriate, finding that he did not pose a danger to the community and was not a flight risk. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1760 (N.D. Cal. 2017) ("Release reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk."). Petitioner was then detained without an opportunity to be heard. "Once a noncitizen has been released, the law prohibits federal agents from rearresting him merely because he is subject to removal proceedings." *Id.* "Rather, the federal agents must be able to present evidence of materially changed circumstances—namely, evidence that the noncitizen is in fact dangerous or has become a flight risk." *Id.* "Where, as here, 'the petitioner has not received any bond or custody hearing,' 'the risk of an erroneous deprivation of liberty is high' because neither the government nor

[Petitioner] has had an opportunity to determine whether there is any valid basis for [his] detention." *Pinchi*, 2025 WL 2084921 at *5 (cleaned up).

Petitioner's parole was tied to an identified governmental purpose. A simple assertion that parole has lapsed creates a serious risk of error if the agency does not determine whether that purpose remains ongoing, whether the noncitizen complied with all conditions, and whether any changed circumstances justify re-detention. Here, the central factual question, whether the purpose of parole had ended, was readily ascertainable, yet Respondents allegedly deprived Petitioner of liberty without any meaningful pre-deprivation procedure and without any prompt opportunity to challenge that determination. Here, 'the petitioner has not received any bond or custody hearing,' 'the risk of an erroneous deprivation of liberty is high' because neither the government nor [Petitioner] has had an opportunity to determine whether there is any valid basis for [his] detention." *Pinchi,* 2025 WL 2084921 at *5 (cleaned up).

Third, the Government's interest in detaining Mr. Echenique without proper notice and reasoning or a hearing is "low." *Id*; *see also Matute*, 2025 WL 2817795 at *6; *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. Nov. 22, 2019) ("If the government wishes to re-arrest [Petitioner] at any point, it has the power to take steps toward doing so; but its interest in doing so without a hearing is low."). Respondents do have legitimate interests in enforcing the immigration laws and efficiently administering custody determinations. But requiring basic

process before re-detaining a previously paroled, compliant noncitizen would impose only modest administrative burdens.

Thus, Mr. Echenique's detention is unlawful. *See, e.g., Alegria Palma v. Larose et al.*, No. 25-cv-1942 BJC (MMP), slip op. at 14 (S.D. Cal. Aug. 11, 2025) (granting a TRO based on a procedural due process challenge to a revocation of parole without a pre-deprivation hearing); *Navarro Sanchez*, 2025 WL 2770629, at *5 (granting a writ of habeas corpus releasing petitioner from custody to the conditions of her preexisting parole on due process grounds).

II. This Court has jurisdiction to consider Mr. Echenique's claim.

In cases raising similar claims, the government has argued that this Court lacks jurisdiction to consider or grant relief under 8 U.S.C. §§ 1252(g) and 1252(b)(9). This argument fails here.

Courts have jurisdiction to "decide a purely legal question that does not challenge the Attorney General's discretionary authority." *Ibarra-Perez v. United States*, 154 F.4th 989, 996 (9th Cir. 2025) (quotations omitted). In *Ibarra-Perez*, the Ninth Circuit squarely held that "§ 1252(g) does not prohibit challenges to unlawful practices merely because they are in some fashion connected to removal orders." *Id.* at 997. Accordingly, the question is whether Petitioner's claim "challenge[s] the Attorney General's discretionary authority." *Id.* at 996.

They do not. First, Petitioner claim relates to the government's authority to

detain him, and courts have widely held that review of issues related to detention is not barred by § 1252(g) or (b)(9). *See, e.g., Flores–Torres v. Mukasey,* 548 F.3d 708, 711 (9th Cir. 2008) (holding that habeas jurisdiction exists to review a challenge to immigration detention based on a citizenship claim); *Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023) (holding that "assertions of illegal detention [were] plainly collateral to ICE's prosecutorial decision to execute [a detainee's removal" and thus not subject to § 1252's jurisdictional bars); *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000) ("[S]ection 1252(g) does not bar courts from reviewing an alien detention order[.]"); *Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999) (§ 1252(g) did not apply to a "claim concern[ing] detention").

As a result, in *Noori v. Larose*, 2025 WL 2800149 at *1, Judge Curiel explained that he had jurisdiction over a similar claim. He explained, "Petitioner challenges the legality of the revocation of humanitarian parole in violation of the law and dismissal of ongoing removal proceedings without due process." *Id.* So even assuming the agency's revocation of parole "constitutes a decision or action to adjudicate cases," that action is not "in the discretion" of the agency under § 1252(g) where it was "'not performed in accordance with the mandatory procedures.'" *Id.* (quoting *Sharkey v. Quarantillo*, 541 F.3d 75, 86 (2d Cir. 2008) (alterations omitted)). So too here.

CLAIM AND PRAYER FOR RELIEF

For the reasons just given, the statute, the regulations, and the Fifth

Amendment Due Process Clause prohibits the government from continuing to detain Petitioner.

Accordingly, Petitioner respectfully requests that this Court:

1. Order Respondents to immediately release Petitioner from custody under the same conditions of humanitarian parole;
2. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing within seven days where the Government bears the burden of establish risk of fight and dangerousness;
3. Order that Petitioner shall not be transferred outside the Southern District of California.
4. Order that Respondents shall not re-detain or continue to detain Petitioner absent a material change in circumstances;
5. Order that Respondents shall provide Petitioner's counsel with advance written notice of their position in advance of any bond hearing; and
6. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: August 8, 2026

s/ Tina Malek

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