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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JUNIOR JACQUENET SAINTIL,

Petitioner,

v.

Christopher LaROSE, Warden, Otay Mesa Detention Center, *et al.*,

Case No.: **26-cv-04635-CAB-GC**

PETITIONER'S TRAVERSE TO RESPONDENTS' RESPONSE TO ORDER TO SHOW CAUSE

I. INTRODUCTION

Petitioner challenges Respondents' decision to revoke his previously granted liberty without prior notice, without an individualized custody determination, and without any meaningful opportunity to be heard before a neutral decisionmaker. On December 1, 2023, DHS affirmatively paroled Petitioner into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A). Petitioner thereafter remained at liberty while the Government continued administering his immigration matters. On May 23, 2024, the Immigration Court terminated the removal proceedings DHS had initiated against him, DHS did not appeal that decision, USCIS subsequently granted Petitioner Temporary Protected Status ("TPS"), and Petitioner pursued affirmative asylum before USCIS while remaining at liberty.

Respondents' Return does not meaningfully dispute the central factual predicate of Petitioner's constitutional claim. Respondents expressly acknowledge that Petitioner "was previously released from immigration custody on parole issued under 8 U.S.C. § 1182(d)(5)." More significantly, Respondents state that they possess "insufficient information regarding termination of that parole, pursuant to 8 C.F.R. § 212.5(e)(2), to provide to the Court." Respondents nevertheless maintain that Petitioner is presently subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

That statutory position does not resolve Petitioner's constitutional claim. Petitioner does not contend that parole constituted an admission or that Respondents forever lost statutory authority to detain him. He challenges Respondents' later decision to take away physical liberty that the Government itself had affirmatively granted and thereafter permitted him to exercise for approximately thirty-two months without providing constitutionally adequate process before doing so.

Respondents' inability to provide information concerning termination of Petitioner's parole is particularly significant. Section 212(d)(5)(A) provides that when "the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served," the noncitizen shall return or be returned to custody. The governing regulation likewise addresses termination of parole and written notice. Yet Respondents identify no pre-deprivation determination that the purposes underlying Petitioner's parole had been served and provide no documentation establishing that Petitioner received written notice terminating his parole before Respondents took him back into custody.

The circumstances following Petitioner's parole further underscore the nature of the liberty Respondents revoked. The Immigration Court terminated the removal proceedings initiated against him, DHS did not appeal that termination, USCIS granted Petitioner TPS, and USCIS continued administering his affirmative asylum application while Petitioner remained at liberty. Thus, Petitioner's circumstances at the time of his re-detention cannot be reduced to the Government's original decision to parole him following his arrival. For approximately thirty-two

months, Petitioner actually exercised the physical liberty DHS had granted while the federal government continued administering his immigration matters.

Respondents nevertheless re-detained Petitioner on August 3, 2026, without prior notice, without a meaningful opportunity to contest the revocation of his liberty before a neutral decisionmaker, and without identifying any individualized pre-deprivation determination that renewed physical custody was necessary. Respondents' present invocation of mandatory detention under § 1225(b)(2) cannot retroactively provide the process that was absent before Petitioner's liberty was taken.

Significantly, Respondents ultimately do not oppose the Petition. Although they preserve their position that § 1225(b)(2) governs Petitioner's detention and contend that Rodriguez *Vazquez v. Bostock* is inapplicable, Respondents acknowledge that this Court's prior decisions will control if the Court adheres to them and expressly "defer[] to the Court on the appropriate relief." The only specific alternative relief Respondents request is that, if the Court orders a bond hearing under § 1226(a), the Government be afforded fourteen days to conduct it.

A future custody hearing, however, cannot retroactively supply the notice, opportunity to be heard, and individualized determination that were absent before Respondents revoked Petitioner's previously granted liberty. Accordingly, Petitioner respectfully requests that the Court grant the unopposed Petition and order his immediate release. In the alternative, and only if the Court declines to order immediate release, Petitioner requests a prompt constitutionally adequate custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear and convincing evidence, that continued detention is necessary.

II. RESPONDENTS' RELIANCE ON § 1225(b)(2) DOES NOT RESOLVE PETITIONER'S CONSTITUTIONAL CLAIM

Respondents maintain that Petitioner's present detention is governed by 8 U.S.C. § 1225(b)(2) and expressly contend that *Rodriguez Vazquez v. Bostock*, No. 25-6842, --- F.4th ---, 2026 WL 2196424 (9th Cir. July 30, 2026), is inapplicable. Petitioner need not establish otherwise to prevail on the constitutional claim presented here. Even assuming that § 1225(b)(2)

supplies the statutory authority for Petitioner's present detention, that conclusion does not answer the separate constitutional question whether Respondents could revoke physical liberty previously granted to Petitioner without constitutionally adequate pre-deprivation process.

Respondents themselves acknowledge the factual predicate underlying that claim. They expressly state that Petitioner "was previously released from immigration custody on parole issued under 8 U.S.C. § 1182(d)(5)." They further acknowledge that they possess "insufficient information regarding termination of that parole, pursuant to 8 C.F.R. § 212.5(e)(2), to provide to the Court." Thus, Respondents do not establish that, before Petitioner's re-detention, DHS provided the written notice contemplated by the governing parole regulation or made an individualized determination that the purposes underlying Petitioner's parole had been served.

That omission is particularly significant because Petitioner's liberty continued against a materially developed immigration posture. After DHS paroled Petitioner into the United States, the Immigration Court terminated the removal proceedings initiated against him, DHS did not appeal, USCIS granted Petitioner TPS, and Petitioner pursued affirmative asylum before USCIS while remaining at liberty. Petitioner's constitutional claim therefore concerns the Government's later revocation of an existing state of physical liberty that it had affirmatively granted and thereafter permitted him to exercise for approximately thirty-two months.

Respondents' statutory argument does not answer that claim. The Petition does not contend that parole constituted an admission or that Petitioner possesses an unconditional right never to be detained. It alleges that Respondents could not take away previously granted physical liberty without constitutionally adequate procedures before the deprivation occurred. Whether § 1225(b)(2) governs Petitioner's present custody and whether the Fifth Amendment constrained the procedures by which Respondents returned him to custody are distinct questions.

Indeed, Respondents ultimately do not oppose the Petition. They acknowledge that this Court's prior decisions will control the result if the Court adheres to those decisions and expressly defer to the Court regarding the appropriate relief. Their only specific remedial request

is that, should the Court order a bond hearing under § 1226(a), Respondents receive fourteen days to conduct it.

Accordingly, Respondents' reliance upon § 1225(b)(2) does not resolve whether Petitioner's previously granted liberty was revoked consistently with the Fifth Amendment. The Court should therefore address Petitioner's pre-deprivation due-process claim on the factual and procedural record presented here

III. PETITIONER'S PREVIOUSLY GRANTED LIBERTY COULD NOT BE REVOKED WITHOUT CONSTITUTIONALLY ADEQUATE PRE-DEPRIVATION PROCESS

The Fifth Amendment protects all "persons" within the United States from the arbitrary deprivation of liberty without due process of law. At the core of that protection is the principle that, once the Government has affirmatively granted an individual physical liberty, it may not revoke that liberty without constitutionally adequate procedures.

This case therefore concerns more than the statutory authority Respondents invoke to justify Petitioner's present detention. It concerns Respondents' decision to revoke physical liberty that the Government itself had previously granted. On December 1, 2023, DHS exercised its discretionary authority under 8 U.S.C. § 1182(d)(5)(A) and paroled Petitioner into the United States. Respondents expressly acknowledge that prior grant of parole in their Return.

The Government's actions did not end with Petitioner's initial parole. On May 23, 2024, the Immigration Court terminated the removal proceedings DHS had initiated against Petitioner, and DHS did not appeal that decision. Petitioner thereafter remained at liberty while pursuing immigration relief and benefits before USCIS. USCIS granted Petitioner TPS on August 27, 2024, accepted his affirmative asylum application, and issued him an Employment Authorization Document valid through February 17, 2030.

Those circumstances are significant to the liberty interest asserted here. Petitioner does not contend that parole constituted an admission or that TPS, termination of his removal proceedings, or his pending affirmative asylum application independently immunized him from

immigration detention. Rather, those governmental actions demonstrate that Petitioner's physical liberty was an existing state of liberty that the Government itself granted and thereafter permitted him to exercise while continuing to administer his immigration matters.

The Supreme Court has repeatedly recognized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The governmental action challenged here did not merely deny Petitioner an opportunity to obtain release from custody; it took away physical liberty that Petitioner had actually exercised for approximately thirty-two months.

Respondents' Return reinforces rather than eliminates the procedural problem. Although Respondents acknowledge that Petitioner was previously paroled under § 1182(d)(5), they state that they possess insufficient information concerning termination of that parole under 8 C.F.R. § 212.5(e)(2). They therefore identify no written notice terminating Petitioner's parole and no individualized pre-deprivation determination that the purposes underlying that parole had been served.

Nevertheless, on August 3, 2026, Respondents deprived Petitioner of his liberty without prior notice, without any meaningful opportunity to be heard before a neutral decisionmaker, and without identifying any individualized pre-deprivation determination that renewed detention was necessary.

Accordingly, the constitutional question before this Court is whether Respondents could revoke Petitioner's previously granted physical liberty without first providing constitutionally adequate process. The answer to that question is governed by the Due Process Clause and the balancing framework established in *Mathews v. Eldridge*, discussed below.

IV. UNDER *MATHEWS*, RESPONDENTS WERE REQUIRED TO PROVIDE CONSTITUTIONALLY ADEQUATE PROCEDURES BEFORE REVOKING PETITIONER'S LIBERTY

The Due Process Clause requires the government to provide constitutionally adequate procedures before depriving an individual of a protected liberty interest. In determining what process is constitutionally required, courts apply the balancing framework established in *Mathews v. Eldridge*, 424 U.S. 319 (1976). That framework considers: (1) the private interest affected by the governmental action; (2) the risk of an erroneous deprivation under the procedures employed, and the probable value of additional procedural safeguards; and (3) the government's interest, including the fiscal and administrative burdens that additional procedures would entail. Id. at 335. Each of those factors weighs decisively in Petitioner's favor.

A. Petitioner's Liberty Interest Is Substantial

Petitioner's liberty interest is especially significant here because it is not merely an expectation of future release. DHS affirmatively paroled Petitioner into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A), after which Petitioner remained free from physical custody for approximately thirty-two months. During that period, the Immigration Court terminated the removal proceedings DHS had initiated against him, DHS did not appeal, USCIS granted Petitioner TPS, and Petitioner pursued affirmative asylum before USCIS while remaining at liberty.

Accordingly, the governmental action challenged here did not deny Petitioner an opportunity to obtain liberty; it revoked physical liberty that already existed and that Petitioner had actually exercised.

B. The Risk of Erroneous Deprivation Is High

The procedures employed by Respondents created a substantial risk of erroneous deprivation because Petitioner's liberty was revoked without any meaningful procedural safeguards. Respondents provided no advance notice that Petitioner's longstanding liberty would be revoked, no opportunity to respond before his detention, and no individualized determination that detention was necessary. Instead, Petitioner's liberty was extinguished immediately upon his arrest.

That absence of process significantly increased the risk of error. Without notice or an opportunity to be heard, Petitioner had no ability to contest the factual or legal basis for Respondents' decision, explain why continued liberty remained appropriate, or challenge whether the circumstances relied upon by Respondents justified revoking the liberty the government had previously granted. Nor was there any neutral decisionmaker to determine whether Respondents possessed an adequate factual basis for depriving Petitioner of his liberty.

Respondents' own Return underscores that risk. Although Respondents acknowledge Petitioner's prior parole, they expressly state that they possess insufficient information concerning termination of that parole under 8 C.F.R. § 212.5(e)(2). Thus, the present record does not establish that Petitioner received written notice terminating his parole or that DHS made an individualized determination before re-detention that the purposes underlying the parole had been served.

Additional procedural safeguards would have substantially reduced that risk. Providing notice, an opportunity to respond, and an individualized determination before revoking Petitioner's liberty would have ensured that Respondents' decision rested upon identified facts rather than the summary revocation of a liberty previously granted by the government itself. Under *Mathews*, the probable value of those safeguards weighs heavily in favor of requiring constitutionally adequate pre-deprivation process.

C. Respondents' Interest Does Not Justify Dispensing With Pre-Deprivation Process

Respondents have identified no governmental interest sufficient to justify dispensing with constitutionally adequate procedures before revoking Petitioner's liberty.

The relevant governmental interest under *Mathews* is not Respondents' generalized interest in enforcing the immigration laws, but their interest in re-detaining Petitioner without first providing constitutionally adequate process.

This case does not involve an individual whose identity or whereabouts were unknown or one who remained continuously detained following his arrival. DHS affirmatively paroled Petitioner into the United States on December 1, 2023. The Government thereafter knew

Petitioner's identity and immigration history while Petitioner remained openly at liberty and continued pursuing immigration relief and benefits. The Immigration Court terminated his removal proceedings, DHS did not appeal, USCIS granted him TPS, and USCIS continued administering his affirmative asylum application.

Nor do Respondents identify any exigent circumstance requiring Petitioner's immediate detention without prior process. More fundamentally, Respondents expressly acknowledge that they possess insufficient information concerning termination of Petitioner's parole under 8 C.F.R. § 212.5(e)(2). They therefore identify no written notice terminating Petitioner's parole and no individualized pre-deprivation determination that the purposes underlying his parole had been served or that immediate physical detention had become necessary.

Under these circumstances, Respondents' generalized interest in enforcing the immigration laws cannot justify dispensing entirely with constitutionally adequate pre-deprivation procedures. Where the Government seeks to revoke physical liberty that it previously granted and permitted Petitioner to exercise for approximately thirty-two months, the Due Process Clause requires more than the summary deprivation of liberty that occurred here.

Accordingly, application of the *Mathews* balancing framework confirms that Respondents were constitutionally required to provide constitutionally adequate pre-deprivation procedures before revoking Petitioner's previously granted liberty. Respondents instead deprived Petitioner of that liberty without prior notice, without any meaningful opportunity to be heard, and without any individualized determination justifying his detention. The Due Process Clause required more.

V. POST-DEPRIVATION CUSTODY HEARING CANNOT REMEDY THE COMPLETED CONSTITUTIONAL VIOLATION

The constitutional violation alleged in this case was complete when Respondents deprived Petitioner of his previously granted liberty without providing the constitutionally required pre-deprivation procedures. The Due Process Clause protects individuals against the arbitrary deprivation of liberty before that deprivation occurs. Once Petitioner's liberty was

revoked without constitutionally adequate process, the constitutional injury had already been inflicted.

For that reason, a later custody hearing cannot fully remedy the constitutional violation. Although a post-deprivation hearing may determine whether continued detention is presently justified, it cannot retroactively provide the notice, opportunity to be heard, and individualized determination that the Constitution required before Respondents deprived Petitioner of his liberty. Constitutional process cannot be supplied after the very deprivation it was intended to prevent has already occurred.

Respondents maintain that Petitioner's present detention is governed by § 1225(b)(2), but ultimately do not oppose the Petition and defer to the Court regarding the appropriate relief. Respondents state only that, to the extent the Court orders a bond hearing under § 1226(a), they request fourteen days to conduct that hearing. The availability of such a post-deprivation hearing, however, does not resolve the constitutional violation alleged in the Petition.

A statutory custody hearing conducted after Petitioner's liberty has already been revoked cannot retroactively provide the process required before that deprivation occurred. Nor can it restore Petitioner to the position he occupied before Respondents deprived him of his previously granted physical liberty.

This Court confronted a materially similar remedial issue in *Rameau v. LaRose*, No. 3:26-cv-01439-CAB-SBC, Doc. 6 at 2 (S.D. Cal. Mar. 19, 2026). There, Respondents did not oppose providing the petitioner a bond hearing but failed to address his argument that he was entitled to immediate release based on the deprivation of his liberty without individualized consideration of his circumstances and an opportunity to contest his detention. The Court rejected that response and ordered the petitioner immediately released. *Id.* Thus, the availability of a future bond hearing does not, by itself, answer a claim that the Government unlawfully revoked previously granted liberty without constitutionally adequate process.

That reasoning carries particular force here because Respondents acknowledge Petitioner's prior parole yet expressly state that they possess insufficient information concerning

termination of that parole under 8 C.F.R. § 212.5(e)(2). Respondents therefore have not established that the procedural steps necessary to terminate Petitioner's prior grant of parole occurred before his physical liberty was revoked.

Accordingly, although a constitutionally adequate custody hearing remains an appropriate alternative remedy if this Court declines to order Petitioner's immediate release, such a hearing cannot fully remedy the constitutional violation already suffered.

VI. IMMEDIATE RELEASE IS THE APPROPRIATE REMEDY

The traditional function of the writ of habeas corpus is to secure release from unlawful custody. Where a petitioner demonstrates that his present detention violates the Constitution, federal courts possess broad equitable authority to fashion relief that restores the petitioner to the position he occupied before the unlawful deprivation occurred.

Respondents do not oppose the Petition and defer to this Court regarding the appropriate relief. Although Respondents maintain that Petitioner's detention is governed by § 1225(b)(2), they acknowledge both that Petitioner was previously released on parole under § 1182(d)(5) and that they possess insufficient information concerning termination of that parole under 8 C.F.R. § 212.5(e)(2). The Return therefore does not establish that Petitioner received written notice terminating his parole or that any individualized pre-deprivation determination preceded the revocation of his physical liberty.

The constitutional violation occurred when Respondents deprived Petitioner of his previously granted liberty without the constitutionally required pre-deprivation procedures. A future custody hearing cannot retroactively provide the omitted process or remedy the constitutional deprivation that has already occurred. Nor would such a hearing restore Petitioner to the position he occupied before Respondents revoked his liberty. Habeas corpus exists to remedy unlawful present detention, not to permit detention to continue while the Government attempts to justify it after the fact.

This Court has previously ordered immediate release where Respondents revoked previously granted physical liberty without constitutionally adequate process. In *Ayala Perez v.*

Noem, No. 3:25-cv-03777-CAB-JLB, Doc. 6 at 2–3 (S.D. Cal. Jan. 14, 2026), this Court held that a petitioner who had previously been released from immigration custody possessed a protected liberty interest in remaining free from detention and that his subsequent re-detention "without notice, an individualized determination, or an opportunity to be heard" violated the Due Process Clause. The Court granted the writ and ordered Respondents to immediately release the petitioner under the same conditions of release that existed immediately before his re-detention.

This Court reached the same remedial result in *Rameau v. LaRose*, No. 3:26-cv-01439-CAB-SBC, Doc. 6 at 2 (S.D. Cal. Mar. 19, 2026). There, Respondents did not oppose providing the petitioner a bond hearing but failed to address his claim that he was entitled to immediate release based upon the deprivation of his liberty without individualized consideration of his circumstances and an opportunity to contest his detention. This Court characterized Respondents' position as a "non sequitur response," granted the writ, and ordered the petitioner immediately released.

Those decisions are particularly persuasive here because they reflect this Court's own recognition that the availability of a later custody hearing does not necessarily answer a claim that Respondents unlawfully revoked previously granted physical liberty without constitutionally adequate process. That conclusion is likewise consistent with equitable habeas relief granted by other courts throughout the Southern District of California in materially similar due process cases. See, e.g., *Nicolas-Jimenez v. LaRose*, No. 26-cv-03720-BJC-VET (Cheeks, J.); *Guifarro-Guerrero v. LaRose*, No. 26-cv-02107-BAS-DEB (Bashant, C.J.); *Point Dujour v. LaRose*, No. 3:26-cv-02207-JES-MSB (Sabraw, J.); *Hidalgo Gonzalez v. LaRose*, No. 26-cv-03561-GPC-GC (Curiel, J.); and Diego *Gonzalez v. Casey*, No. 26-cv-03579-JO-DEB (Ohta, J.).

Petitioner's liberty arose from DHS's affirmative decision to parole him into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A). Following that grant of parole, Petitioner remained at liberty for approximately thirty-two months while the Government continued administering his immigration matters. During that period, the Immigration Court terminated the removal proceedings initiated against him, DHS did not appeal, USCIS granted Petitioner TPS, and

Petitioner pursued affirmative asylum before USCIS. The constitutional significance lies in that actual grant and prolonged exercise of physical liberty: Respondents later revoked that liberty without prior notice, without any meaningful opportunity to be heard, and without identifying an individualized determination justifying renewed detention. Respondents now expressly acknowledge that they possess insufficient information concerning termination of Petitioner's parole under 8 C.F.R. § 212.5(e)(2).

Respondents ultimately do not oppose the Petition and defer to this Court regarding the appropriate relief. Their request for fourteen days to conduct a § 1226(a) bond hearing applies only if the Court elects to order such a hearing. Immediate release, however, more directly remedies the constitutional violation alleged because it restores Petitioner to the physical liberty he possessed before Respondents re-detained him without constitutionally adequate pre-deprivation process.

Accordingly, because Respondents have failed to demonstrate that Petitioner's previously granted liberty was revoked in a manner consistent with the Due Process Clause, the Court should grant the Petition and order Petitioner's immediate release.

In the alternative, and only if the Court declines to order immediate release, Petitioner respectfully requests that the Court order a prompt constitutionally adequate custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner's continued detention is necessary because he presents a danger to the community or a risk of flight, and at which less restrictive alternatives to detention are considered.

VII. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant the Petition for Writ of Habeas Corpus and order Petitioner's immediate release from Respondents' custody.

In the alternative, and only if the Court declines to order immediate release, Petitioner respectfully requests that the Court order Respondents to provide a prompt constitutionally

adequate custody hearing before a neutral decisionmaker at which Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner's continued detention is necessary because he presents a danger to the community or a risk of flight, and at which less restrictive alternatives to detention are considered by the decisionmaker.

Petitioner further requests such other and further relief as the Court deems just and proper.

Respectfully submitted,

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