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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

YVES JUNIOR RODNEY,

Petitioners,

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");
TODD BLANCHE, Attorney General of the United States,
U.S. DEPARTMENT OF HOMELAND SECURITY;
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT;

Respondents.

Case No.: '26CV4666 LEK GC

Agency Number: [redacted]

PETITION FOR WRIT OF HABEUS CORPUS

INTRODUCTION

1. Yves Junior RODNEY ("Mr. Rodney" or "Petitioner") is a 35-year-old man from Haiti and son of a United States Citizen. When he was 9 years old his father made arrangements for him to come to the United States.

2. He entered the United States on August 30, 2000. His father immediately began the process to have Mr. Rodney recognized as his son and become eligible for a green card. His I-130 was received on April 20, 2001. His approval notice was sent on January 21, 2004. Over the years Mr. Rodney has made several attempts to obtain a green card by filing an I-485. He has not yet been successful. However, each application has required that he submit himself for biometrics and an interview with Respondents. At no time before October 1, 2025, did respondents determine that Mr. Rodney had become a flight risk or a danger to the community such that he must be detained.

3. On October 1, 2025, Mr. Rodney was driving to his father's shop. He was pulled over on the highway by an undercover policeman. He announced that petitioner was living illegally in the United States and he was to be detained. He was put in handcuffs and they waited for ICE. When ICE arrived, they searched his vehicle. They then called for a State Trooper. When the Trooper arrived, he was put in his vehicle and they drove to a very remote location. They waited nearly an hour there until an ICE van arrived. He was then put in a new set of shackles,

put in the van and was driven to Martin County holding center where he was booked. He was then driven to Ft. Myers ICE facility. From there he was sent to Alligator Alcatraz. He stayed there for 18 days. I was never presented with a warrant. From there he went to Broward Transition center for seven months and then he was finally sent to Otay Mesa Detention Center where he remains today. Respondents did not conduct a pre-detention hearing. Respondents did not make an individualized determination that the petitioner was a flight risk or a danger to the community. Respondents continue to detain him based not on his personal circumstances or individualized facts, 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.

4. But Respondents cannot evade the law so easily. The law which they purport to detain the petitioners does not authorize their actions and the U.S. Constitution requires the Respondents provide at least the rights available to him when he was continually allowed to live freely in the United States.

5. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for a writ of habeas corpus. The petitioner asks this Court to find that Respondents' attempts to detain him are arbitrary and capricious and in violation of the law, and to immediately issue an order preventing his transfer out of this district.

6. Mr. Rodney also contends that his detention has been unduly prolonged. Mr. Rodney's continued detention without a tenable justification and without a demonstration that removal is significantly likely in the reasonably foreseeable future violates constitutional due process. Zadvydas v. Davis, 533 U.S. 678 (2001); Kydyrali v. Wolf, 499 F. Supp. 3d 768 (S.D. Cal. 2020).

JURISDICTION

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

8. 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).

9. 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

10. Venue is proper because Petitioner is in Respondents' custody in San Diego County, 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).

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

11. 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.*

12. 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).

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

PARTIES

14. Yves Junior Rodney is a 35-year-old citizen of Haiti. He is currently detained at Otay Mesa Detention Center and is present within the state of California as of the time of the filing of this petition.

15. Respondent Christopher LaRose is the warden of the Otay Mesa Detention Center and is the legal custodian of Petitioner.

16. Respondent, Patrick Divver, is the San Diego Field Office Director, Immigration and Customs Enforcement and Removal Operations. 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 area of responsibility includes the Otay Mesa Detention Center. Respondent Patrick Divver is a legal custodian of Petitioners.

17. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent Patrick Divver and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

18. 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.

19. Respondent Acting Attorney General of the United States has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

20. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

21. Respondent U.S. Department of Homeland Security is the federal agency that ha4s authority over the actions of ICE and all other DHS Respondents.

22. This action is commenced against all Respondents in their official capacities.

LEGAL FRAMEWORK

23. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings conducted pursuant to $8 U.S.C. § 1229a or they can be released on Parole.

24. First, 8 U.S.C. § 1226(a) sets out that, upon issuance of a warrant, the Attorney General can detain a noncitizen pending a decision to remove the noncitizen. Certain noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention. See 8 USC§ 1226(a).

25. Second, the INA provides for mandatory detention of noncitizens subject to an Expedited Removal order imposed pursuant to 8 U.S.C. § 1225(b)(1)

and for other noncitizen applicants for admission to the U.S. who are deemed not clearly entitled to be admitted. See 8 U.S.C. § 1225(b)(2).

26. Last, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. See 8 USC § 1231. (a)— (b).

27. Alternatively, noncitizens can be granted parole rather than be detained. 8 U.S.C. § 1226(a)(2)(B). The regulations for granting parole and revocation of parole are found at 8 CFR § 212.5,

27. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and1225(b)(2) and the revocation of parole.

28. 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).

29. Once a determination has been made that a noncitizen should not be detained, they may be released on conditional parole or humanitarian parole. The regulations for revocation of that parole are set out in 8 CFR § 212.5(e). Specifically, this revocation must be

On notice. In cases not covered by paragraph (e)(1) of this section, upon accomplishment of the purpose for which parole was authorized or when in the opinion of one of the officials listed in paragraph (a) of this section, neither

humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States, parole shall be terminated upon written notice to the alien and he or she shall be restored to the status that he or she had at the time of parole. 8 CFR § 212.5(e)(2)(i)

FACTUAL BACKGROUND

30. Yves Junior RODNEY ("Mr. Rodney" or "Petitioner") is a 35-year-old man from Haiti. He was brought here in 2000 by his U.S. Citizen father to become an LPR and eventually a citizen.

31. He entered the United States on August 30, 2000. His father immediately began the process to have Mr. Rodney recognized as his son and become eligible for a green card. His I-130 was received on April 20, 2001. His approval notice was sent on January 21, 2004. Over the years Mr. Rodney has made several attempts to obtain a green card by filing an I-485. He has not yet been successful. However, each application has required that he submit himself for biometrics and an interview with Respondents. At no time before October 1, 2025, did respondents determine that Mr. Rodney had become a flight risk or a danger to the community such that he must be detained.

32. On October 1, 2025, Mr. Rodney was driving to his father's shop. He was pulled over on the highway by an undercover policeman. He announced that petitioner was living illegally in the United States and he was to be detained. He was put in handcuffs and they waited for ICE. When ICE arrived they searched

his vehicle. They then called for a State Trooper. When the Trooper arrived he was put in his vehicle and they drove to a very remote location. They waited nearly an hour there until an ICE van arrived. He was then put in a new set of shackles, put in the van and was driven to Martin County holding center where he was booked. He was then driven to Ft. Myers ICE facility. From there he was sent to Alligator Alcatraz. He stayed there for 18 days. He was never presented with a warrant. From there he went to Broward Transition center for seven months and then he was finally sent to Otay Mesa Detention Center where he remains today. 50. He was not presented with a judicial warrant when he was detained. He was not trying to flee or to cause harm when he was detained. He was not charged with any crime that might lead the officers to have probable cause to detain him. He was not given notice that his parole was being revoked. He was not given a pre-detention hearing to determine if the facts of his release had changed such that he was now a flight risk or that he was a danger to the community. He was deprived of his liberty for no other reason than that the President of the United States had decided that he and millions of others like him should no longer be free.

33. On March 31, 2026, an immigration judge denied Mr. Rodney's I-485 petition and ordered him removed. Mr. Rodney filed a timely appeal on April 10, 2026. There is currently no final order of removal in this case.

34. While in detention Mr. Rodney has attempted numerous times to have his medical conditions treated. In December he was diagnosed with prostate cancer. Since he was moved to Otay Mesa Detention Center he has not had the treatment he requires.

35. 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.

36. The January 2025 Designation does not state that it applies to noncitizens who were in the United States before its effective date.

37. On information and belief, Respondents are using the immigration detention system, including extra-territorial transfer and detention, as a means to punish individuals for asserting rights under the Refugee Act.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

Procedural Due Process

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

39. The government's effective revocation of Petitioner's liberty violated procedural due process. The Fifth Amendment guarantees that "[n]o person shall be ... deprived of life, liberty, or property, without due process of law." U.S. Const. Amend. V. To determine a violation of procedural due process, courts weigh the traditional factors of (1) the private interest at issue, (2) the risk of erroneous deprivation of that interest through the procedures used, and (3) the government's interest. *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976). Here, these factors easily weigh in Mr. Rodney' favor.

40. First, the private interest at issue is the Petitioner's deprivation of liberty—i.e., remaining at liberty, rather than being detained. *See Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("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."). Petitioner has been living freely in the United States, with Respondents' knowledge and assent, for 25 years before his detention. He has

built a community, a family, and a life in the United States with the expectation that his liberty will not be taken from him without Due Process.

41. Second, the procedures the agency used to determine whether to revoke Petitioner's liberty presented a high risk of erroneous deprivation of liberty. To date, the agency's actions surrounding Petitioner's detention have completely failed to comply with the statute, the regulations, and even the agency's own decision. After allowing Petitioner to live at liberty for 25 years, the agency inexplicably revoked this liberty upon his arrest. The agency did not claim that Mr. Rodney had suddenly become a flight risk or a danger to the community. Because consideration of any of these factors should have led to a different result, the risk of erroneous deprivation of Petitioner's liberty without these procedures was high, and this factor weighs heavily in his favor.

42. Finally, any government interest in revoking Petitioner's liberty is minimal. Mr. Rodney has a minor conviction from 2009 and 2013. It defies logic for Respondents to assert now that a minor offense from 13 years ago has suddenly made Mr. Rodney a danger. If Respondents believed that, they would have detained him 13 years ago. Thus, the *Mathews v. Eldrige* factors weigh heavily in Petitioners favor, and this revocation of parole violates procedural due process.

COUNT TWO

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

43. Petitioners restate and reallege all paragraphs as if fully set forth here.

44. 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).

45. 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)).

46. 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).

47. By categorically revoking Petitioner's liberty without a warrant and transferring him to a Detention Center without consideration of his individualized facts and circumstances, Respondents have violated the APA.

48. Respondents had not made a finding that Petitioner was a danger to the community upon his arrest. In fact, the only allegation at that time was that he was a visa overstay.

49. Respondents made no finding that Petitioner was a flight risk.

50. 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 allow him to remain at liberty in the United States that support detention.

COUNT THREE

FIFTH AMENDMENT VIOLATION OF DUE PROCESS

51. Mr. Rodney re-alleges and incorporates by reference, as if fully set forth herein, the allegations in the above paragraphs.

52. The Supreme Court has long recognized that the Fifth and Fourteenth Amendments refer to all "persons," not just "citizens." Aliens, even inadmissible or removable aliens, must be afforded due process protection. *See Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886) ("The Fourteenth Amendment to the Constitution is not confined to the protection of citizens."). As stated by the Court, the provisions of the Fourteenth Amendment "are universal in their application, to all persons within the territorial jurisdiction, without regard to any differences of race, of color, or of nationality" Id. (emphasis added).

53. The Supreme Court has held that "even one whose presence in this country is unlawful, involuntary, or transitory is entitled to that constitutional protection [of the Due Process Clauses of the Fifth and Fourteenth Amendments]" *Mathews v. Diaz.*, 426 U.S. 67, 75 n.7 (1976); see also *Plyler v. Doe*, 457 U.S. 202, 210 (1982) ("Whatever his status under the immigration laws, an alien is surely a 'person' in any ordinary sense of that term."); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896) ("Persons within the territory of the United States... even aliens... [may not]... be deprived of life, liberty or property without due process of law.").

54. As there is no final order of removal, and there doesn't appear to be one in the reasonably foreseeable future, Mr. Rodney may not be removed from the United States. His removal is not reasonably foreseeable, and his detention no longer serves any legitimate purpose under the INA.

55. In *Kydyrali v. Wolf*, 499 F. Supp. 3d 768 (S.D. Cal. 2020), a judge in this District granted habeas relief in a substantially similar case, applying a six-factor balancing test first articulated in *Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D. Wash. 2019), which considers: (1) total length of detention to date; (2) likely duration of future detention; (3) conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings caused by the government; and (6) the likelihood that the removal proceedings will result in a final order of removal. The court determined that prolonged detention,

when considered alongside other due process concerns, can rise to the level of a constitutional violation warranting release. *Kydyrali*, 499 F. Supp. 3d at 773.

56. The final factor—finality—strongly supports the grant of this habeas petition. Mr. Rodney has been languishing in detention for over 10 months with no end in sight.

57. Mr. Rodney has now been detained by ICE for nearly 10 months since his detention. This period is well beyond the presumptively reasonable six-month period set forth in *Zadvydas, 533 U.S.* at 701. Courts consistently find detention beyond this threshold triggers due process scrutiny. *See Kydyrali*, 499 F.Supp. 3d at 774–75.

58. Conditions of confinement also raise constitutional concerns as the medical treatment available at the Otay Mesa Detention Center is not adequate to address Mr. Rodney's health conditions.

ORDERING A BOND HEARING IS NOT THE APPROPRIATE RELIEF

59. Many courts recently have been ordering a bond hearing as an alternative avenue for relief. If Mr. Rodney' detention was unlawful, *ab initio*, he should not be required to post a bond and, in effect, pay a ransom to be released from this illegal detention. Nothing indicates that Mr. Rodney had somehow become a flight risk or a danger to the community. He was not detained on the roadside because he was suddenly a flight risk or a danger to the community.

When ICE put him in handcuffs, they did not assert that they had suddenly determined he was a flight risk or a danger to the community. He was simply swept up in this administrations scheme to lock up all immigrants without green cards.

60. Ordering a bond hearing because he is no not deemed subject to mandatory detention rewards the government's unlawful behavior. First, it legitimizes his detention. Second, it allows the government to detain without a prior determination of a change in individual circumstances regarding flight risk and danger. Third, it requires the petitioner to prove that he is not a flight risk or a danger to the community, something the government already determined when they released him. Fourth, it requires the petitioner to pay a fee to the parties that unlawfully detained him in order to be released from his unlawful detention.

61. Finally, Mr. Rodney has already had a bond hearing earlier this year and he was denied a bond. The Immigration Judge would not authorize a bond because of Mr. Rodney's minor convictions from 13 years prior. Ordering another bond hearing will be futile.

62. Upon release from Otay Mesa it is the custom of ICE to immediately place detainees in Alternative to Detention Programs and affix an ankle monitor to them. As the name of the program indicates, this is just another form of detention that is made without any determination that there has been a change in

circumstances such that Mr. Rodney's movements must now be restricted to a 75-mile radius and monitored with an ankle monitor. Mr. Rodney should be returned to his predetention status. This should also include the return to him of any and all documents and/or identification cards and work authorization cards in his possession when he was detained. This court has authority to order more than just release in a habeas action. See *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). Barring Alternative to Detention and return of documents seized are part and parcel of returning Petitioner to the state he was in when he was detained.

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 Petitioners' detention without a prior individualized determination violates the Due Process Clause of the Fifth Amendment and the Administrative Procedures Act;

(4) Declare that Petitioner's prolonged detention with no final order of removal in sight is also violates the Due Process Clause of the Fifth Amendment.

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

(6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody and all his property seized at his arrest be returned to him;

(7) Issue an Order prohibiting the Respondents from enrolling the Petitioner in an Alternative to Detention program and specifically prohibiting the placement of an ankle monitor upon his release;

(8) Order that the Petitioners may not be re-detained without further order of this court;

(9) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

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

Dated: August 14, 2026

/s/ Brian J. McGoldrick

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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 14th day of August, 2026, in San Diego, California.

/s/ Brian J. McGoldrick

Brian J. McGoldrick, Esq.