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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DORE PATRICK,

Petitioner,

v.

Christopher LaROSE, Warden, Otay Mesa Detention Center;

Markwayne MULLIN, Secretary, U.S. Department of Homeland Security;

David J. VENTURELLA, Senior Official Performing the Duties of the Director, U.S. Immigration and Customs Enforcement;

Todd BLANCHE, Attorney General of the United States, U.S. Department of Justice.

Respondents

Case No.: '26CV4670 JAO BJW

[redacted]

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Petitioner, Dore Patrick, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging the legality of his continued immigration detention and alleges as follows:

INTRODUCTION

2. Petitioner Dore Patrick is a native and citizen of Haiti currently detained at the Otay Mesa Detention Center in San Diego, California.

3. Petitioner brings this action under 28 U.S.C. § 2241 to challenge the legality of his re-detention by the Department of Homeland Security after having been previously paroled into the United States pursuant to INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A), released from federal custody, and permitted to reside at liberty in the United States for more than two years.

4. Petitioner entered the United States on May 1, 2024, pursuant to the Haitian humanitarian parole program and was paroled into the United States pursuant to INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A), as reflected in his Form I-94. Petitioner thereafter pursued asylum relief and remained at liberty in the United States.

5. Following his release, Petitioner remained at liberty in the United States while his asylum application remained pending. During that period, Petitioner pursued asylum relief and initially obtained employment authorization under category C11 based on his parole. USCIS subsequently approved employment authorization under category C08 based on his pending asylum application, valid from October 23, 2025 through October 22, 2030. Throughout this period, Petitioner remained at liberty in the United States while the federal government administered his pending asylum application and authorized his employment.

6. Despite this prior release and the government's subsequent actions recognizing and administering Petitioner's continued presence in the United States, Petitioner was taken into immigration custody in Maryland on August 6, 2026. Respondents provided no prior notice, no opportunity to be heard, and identified no changed circumstances justifying the revocation of his previously granted liberty.

7. Petitioner is presently detained at the Otay Mesa Detention Center in San Diego, California. His removal proceedings remain pending before the Immigration Court.

8. The government's actions violate the Due Process Clause of the Fifth Amendment. By affirmatively exercising its statutory discretion to parole Petitioner into the United States on an individualized basis, thereafter permitting him to remain at liberty for more than two years while he pursued asylum relief, and authorizing his employment through October 22, 2030, the government created a substantial liberty interest in his continued freedom from physical restraint.

9. The Constitution does not permit the government to revoke that liberty interest through re-detention without constitutionally adequate pre-deprivation process, including prior notice and a meaningful opportunity to be heard before a neutral decisionmaker.

10. Absent intervention by this Court, no neutral adjudicator will review the legality of Petitioner's re-detention. Petitioner therefore respectfully requests that this Court declare his re-detention unlawful and order his immediate release.

CUSTODY

11. Petitioner is currently in the legal and physical custody of Respondents and is detained at the Otay Mesa Detention Center in San Diego County, California, within the jurisdiction of this Court.

JURISDICTION AND VENUE

12. This action arises under the United States Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., INA § 101 et seq., to challenge Petitioner's detention under the INA and any inherent or plenary powers the government may claim to continue holding him.

13. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United States Constitution; and 28 U.S.C. § 1331, as Petitioner is presently in Respondents' custody under the United States' color of authority, and such custody violates the Constitution, laws, or treaties of the United States. This Court's jurisdiction is not limited by a petitioner's nationality, status as an immigrant, or any other classification. See *Boumediene v. Bush*, 553 U.S. 723, 747

(2008). This Court may grant relief under U.S. CONST. art. I, § 9, cl. 2; U.S. CONST. amend. V; and 28 U.S.C. § 2241 (habeas corpus).

14. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Petitioner's detention. Federal district courts possess broad authority to issue writs of habeas corpus when a person is held "in custody in violation of the Constitution or laws or treaties of the United States" (28 U.S.C. § 2241(c)(3)), and this authority extends to immigration detention challenges that survived the REAL ID Act's jurisdictional restrictions.

15. Because Petitioner seeks the traditional habeas remedy of release from allegedly unlawful detention rather than additional administrative review of his underlying claims, his petition presents precisely the type of threshold legality-of-detention question that § 2241 was designed to address. See *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); see also *Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh*, 638 F.3d at 1211–12).

16. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because a substantial part of the events or omissions giving rise to this claim have occurred here, Petitioner is detained here, and his custodian resides here. Venue is also proper under 28 U.S.C. § 2243 because Petitioner's immediate custodian resides in this District. See *Rumsfeld v. Padilla*, 542 U.S. 426, 451–52 (2004) (Kennedy, J., concurring).

17. Sections 8 U.S.C. §§ 1252(b)(9) and 1252(g) do not bar this Court's jurisdiction because Petitioner challenges only the legality of his detention, not the adjudication of his pending removal proceedings or underlying claims for relief. Federal courts have consistently recognized that habeas corpus remains available to review the statutory and constitutional basis of immigration detention. Petitioner's claims therefore fall squarely within this Court's habeas jurisdiction under 28 U.S.C. § 2241.

PARTIES

18. Petitioner, Dore Patrick, is a native and citizen of Haiti currently detained at the Otay Mesa Detention Center in San Diego, California.

19. Respondent Christopher LaRose is the Warden of the Otay Mesa Detention Center in San Diego County, California, and is Petitioner's immediate custodian.

20. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security (DHS).

21. Respondent David J. Venturella is the Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement (ICE).

22. Respondent Todd Blanche is the Attorney General of the United States and the head of the U.S. Department of Justice (DOJ).

23. All Respondents are named in their official capacities.

STATEMENT OF FACTS

24. Petitioner is currently detained at the Otay Mesa Detention Center in San Diego, California. Petitioner is a native and citizen of Haiti who entered the United States on May 1, 2024, pursuant to the Haitian humanitarian parole program and was paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A), as reflected in his Form I-94. (*Ex.* 1).

25. Following Petitioner's re-detention on August 6, 2026, DHS placed Petitioner in removal proceedings under INA § 240. Those proceedings were docketed with the Immigration Court on August 7, 2026, and remain pending.

26. Following his parole, Petitioner obtained employment authorization under category C11 based on his parole. (*Ex.* 2). Petitioner subsequently pursued asylum relief and obtained employment authorization under category C08 based on his pending asylum application, valid from October 23, 2025 through October 22, 2030. (*Ex.* 3).

27. Prior to his re-detention, Petitioner continued to reside openly and at liberty in the United States while the federal government administered his pending asylum application and authorized his employment.

28. During this period, Petitioner remained free from physical custody until his re-detention on August 6, 2026.

29. On August 6, 2026, Petitioner was taken into immigration custody in Maryland.

30. Respondents provided Petitioner no prior notice, no opportunity to be heard, and identified no changed circumstances justifying the revocation of his previously granted liberty.

31. Following his arrest, Petitioner was subsequently transferred to the Otay Mesa Detention Center in San Diego, California, where he presently remains detained.

32. Petitioner's removal proceedings remain pending before the Immigration Court.

33. At no point before revoking Petitioner's liberty did DHS provide notice or any meaningful opportunity to be heard before a neutral decisionmaker.

34. At no point has DHS identified any individualized basis for revoking Petitioner's previously granted liberty before his re-detention, nor did it provide Petitioner with constitutionally adequate process before taking him back into custody.

REQUIREMENTS OF 28 U.S.C. § 2243

35. Under 28 U.S.C. § 2243, the Court "must" grant the petition for a writ of habeas corpus or issue an order to show cause ("OSC") "forthwith," unless the petitioner is not entitled to relief. If an OSC is issued, the statute requires that Respondents file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

36. Federal courts have long emphasized the importance of habeas corpus as a protection against unlawful restraint. The Supreme Court has described the Great Writ 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).

37. Congress and the courts have repeatedly reaffirmed that habeas corpus must remain a prompt and expeditious remedy. As the Ninth Circuit has explained, "The statute itself directs courts to give petitions for habeas corpus 'special, preferential consideration to insure expeditious hearing and determination.'" *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted). The court cautioned that delays in habeas proceedings risk creating the

impression "that courts are more concerned with efficient trial management than with the vindication of constitutional rights." *Id.*

EXHAUSTION OF ADMINISTRATIVE REMEDIES

38. In habeas corpus proceedings, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive prudential exhaustion where "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)). Here, exhaustion should be excused because the available administrative process is inadequate to remedy Petitioner's pre-deprivation due-process claim and because his continued detention causes irreparable harm.

39. Petitioner's claim challenges Respondents' failure to provide constitutionally adequate process before revoking his previously granted liberty. Although an administrative custody proceeding may address whether Petitioner should remain detained going forward, it cannot retroactively provide the process required before his re-detention or remedy the deprivation that had already occurred.

40. Moreover, no statutory exhaustion requirement applies to Petitioner's constitutional claim. The claim presents a pure question of constitutional law concerning the procedures required before the government may revoke previously granted liberty through re-detention. That question falls outside the agency's adjudicatory competence and is properly resolved through habeas review.

41. Petitioner suffers irreparable harm for each additional day he remains unlawfully detained. The loss of physical liberty constitutes an injury that cannot be adequately remedied after the fact. Continued incarceration following more than two years during which Petitioner was permitted to remain at liberty in the United States magnifies that ongoing harm. Courts

routinely excuse exhaustion where prolonged or unlawful detention inflicts irreparable injury. Petitioner's ongoing detention therefore further warrants waiver of prudential exhaustion.

LEGAL FRAMEWORK

42. The Immigration and Nationality Act distinguishes between detention at the time of entry and detention following arrest in the interior of the United States. See 8 U.S.C. §§ 1225, 1226.

43. Section 235 governs the inspection and detention of applicants for admission under the statutory circumstances specified in 8 U.S.C. § 1225. By contrast, Section 236(a) governs the arrest and detention of noncitizens on a warrant issued by the Attorney General pending a decision on whether the noncitizen is to be removed from the United States.

44. The INA expressly authorizes DHS, in its discretion, to parole an applicant for admission into the United States "only on a case-by-case basis for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A). Petitioner's release therefore was not merely passive government acquiescence in his presence in the United States. DHS affirmatively exercised its statutory discretion to parole Petitioner into the United States on an individualized basis.

45. Petitioner was paroled into the United States pursuant to § 1182(d)(5)(A) on May 1, 2024, and thereafter permitted to reside at liberty in the United States. His current removal proceedings remain pending before the Immigration Court, and the federal government authorized his employment based on his pending asylum application. Whatever statutory detention authority Respondents may now invoke, that authority does not resolve the separate constitutional question presented here: whether Respondents could revoke Petitioner's previously granted liberty without constitutionally adequate pre-deprivation process. See *Alfred v. LaRose*, No. 26-cv-04366-BAS-GC, Dkt. 8 at 2–3 (S.D. Cal. Aug. 7, 2026) (Bashant, C.J.) (holding that a Haitian noncitizen previously paroled into the United States had a liberty interest in continued liberty and that re-detention without notice or an opportunity to be heard and without changed circumstances violated due process).

46. The Due Process Clause protects all persons within the United States from arbitrary detention. See *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001). Freedom from physical restraint lies at the core of the liberty protected by the Constitution.

47. Immigration detention is civil in nature and is permissible only when justified by legitimate governmental interests, such as ensuring appearance at proceedings or protecting the community. *Id.* at 690–91.

48. Where the government has previously released a noncitizen from custody and permitted him to reside at liberty in the community, that individual possesses a protected liberty interest in remaining free from physical restraint. That liberty interest does not disappear merely because the government later asserts statutory authority to detain him. See *Alfred v. LaRose*, No. 26-cv-04366-BAS-GC, Dkt. 8 at 2–3 (S.D. Cal. Aug. 7, 2026) (Bashant, C.J.). Once that liberty has been granted, it cannot be revoked without constitutionally adequate pre-deprivation process. Accordingly, Respondents may not revoke that liberty through re-detention without prior notice, a meaningful opportunity to be heard before a neutral decisionmaker, and an individualized basis demonstrating that re-detention is necessary.

49. The Administrative Procedure Act prohibits agency action that is arbitrary, capricious, or not in accordance with law. 5 U.S.C. § 706(2)(A). An agency must provide a reasoned explanation for its actions based on the relevant facts and circumstances.

50. Re-detaining a noncitizen after a prolonged period of liberty—without identifying any changed circumstances, without providing an individualized justification, and without constitutionally adequate pre-deprivation process—constitutes arbitrary and unlawful agency action.

CLAIM FOR RELIEF

COUNT 1

Violation of Due Process U.S. Constitution Amendment V

51. Petitioner re-alleges and incorporates by reference, as if fully set forth herein, all preceding paragraphs.

52. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. CONST. amend. V. This protection applies to all persons within the United States, including noncitizens, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

53. Petitioner was paroled into the United States pursuant to INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A), on May 1, 2024. He thereafter remained at liberty in the United States while his asylum application remained pending, pursued asylum relief, and obtained employment authorization based on his pending asylum application. On August 6, 2026, Petitioner was taken into immigration custody in Maryland without prior notice, without any explanation, and without any identified change in circumstances. Respondents made no individualized pre-deprivation determination that Petitioner posed a danger to the community or a risk of flight.

54. Having previously released Petitioner from custody and thereafter permitted him to remain at liberty for more than two years while his asylum application remained pending and the federal government authorized his employment, the government created a substantial liberty interest in Petitioner's continued freedom from detention. By re-detaining Petitioner without constitutionally adequate pre-deprivation process, including prior notice, an individualized determination, and a meaningful opportunity to be heard before a neutral decisionmaker, Respondents arbitrarily deprived Petitioner of that liberty in violation of the Due Process Clause. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

55. Application of the *Mathews* factors confirms that constitutionally adequate process was required before Respondents revoked Petitioner's liberty. Petitioner's interest in freedom from physical detention is substantial; the risk of erroneous deprivation is significant where liberty is revoked without prior notice, an opportunity to respond, or an individualized determination by a neutral decisionmaker; and the government's interest in dispensing with pre-deprivation process is minimal where custody proceedings are routinely available. See Mathews,

424 U.S. at 335; *Alfred v. LaRose*, No. 26-cv-04366-BAS-GC, Dkt. 8 at 2–3 (S.D. Cal. Aug. 7, 2026) (Bashant, C.J.). Respondents therefore were required to provide constitutionally adequate procedures before re-detaining Petitioner. Their failure to do so violated the Due Process Clause.

56. Immediate release is the appropriate remedy for that constitutional violation. The violation occurred when Respondents revoked Petitioner's previously granted liberty without the constitutionally required pre-deprivation process, and a later custody hearing cannot retroactively provide the process required before that deprivation occurred. Courts in this District have therefore ordered immediate release where the Government re-detained a previously released noncitizen without constitutionally adequate pre-deprivation process. See *Alfred v. LaRose*, No. 26-cv-04366-BAS-GC, Dkt. 8 at 2–3 (S.D. Cal. Aug. 7, 2026) (Bashant, C.J.) (ordering release on the same terms and conditions of the petitioner's prior parole); *Castillo-Toruno v. LaRose*, No. 26-cv-03977-BAS-VET, Dkt. 6 at 3–4 (S.D. Cal. July 22, 2026) (Bashant, C.J.) (ordering release on the same terms and conditions of the petitioner's previous release).

COUNT 2

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

(Agency Action Not in Accordance with Law)

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

58. Under the Administrative Procedure Act, a court shall "hold unlawful and set aside agency action" that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A).

59. Agency action is arbitrary and capricious where the agency fails to consider relevant factors, offers an explanation that runs counter to the evidence, or fails to articulate a rational connection between the facts found and the decision made. *Motor Vehicle Mfrs. Ass'n v. State Farm*, 463 U.S. 29, 43 (1983).

60. An agency must provide a reasoned explanation for its actions based on the facts and circumstances of the individual case. *Dep't of Com. v. New York,* 139 S. Ct. 2551, 2569 (2019).

61. Here, Respondents re-detained Petitioner after previously exercising their statutory discretion to parole him into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A) and permitting him to remain at liberty in the United States for more than two years. During that period, Petitioner pursued asylum relief, and the federal government authorized his employment based on his pending asylum application. Respondents have provided no reasoned explanation for this re-detention and have identified no changed circumstances that would justify revoking Petitioner's liberty.

62. Respondents have further failed to provide any individualized assessment justifying Petitioner's detention. They have not identified any facts indicating that Petitioner poses a danger to the community or a risk of flight.

63. By re-detaining Petitioner in the interior of the United States, without explanation, without identifying any changed circumstances, without providing any individualized justification, and without constitutionally adequate pre-deprivation process, Respondents have acted arbitrarily and capriciously and not in accordance with law.

64. Accordingly, Respondents' decision to detain Petitioner must be set aside under 5 U.S.C. § 706(2)(A).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A) Assume jurisdiction over this matter;

B) Issue the writ of habeas corpus or, in the alternative, an order to show cause directing Respondents to show cause, within three days of the filing of this Petition, why the relief requested should not be granted, and set a hearing within five days of Respondents' return, consistent with 28 U.S.C. § 2243;

C) Pending adjudication of this action, enjoin Respondents from transferring Petitioner outside the Southern District of California or removing Petitioner from the United States absent prior authorization from this Court, in order to preserve this Court's jurisdiction;

D) Declare that Petitioner's re-detention without constitutionally adequate pre-deprivation process violated the Due Process Clause of the Fifth Amendment;

E) Declare that Respondents lack lawful authority to re-detain Petitioner without constitutionally adequate pre-deprivation process after previously releasing him into the United States and permitting him to reside at liberty for more than two years;

F) Declare that Respondents' actions re-detaining Petitioner without constitutionally adequate pre-deprivation process, individualized justification, or a reasoned explanation were arbitrary, capricious, an abuse of discretion, and not in accordance with law, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A);

G) Set aside Respondents' unlawful action under the Administrative Procedure Act, pursuant to 5 U.S.C. § 706(2)(A);

H) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody;

I) Order Respondents to restore Petitioner to the status quo ante, including releasing him under the same conditions that existed prior to his re-detention and returning all of his documents and personal belongings at the time of release;

J) Enjoin Respondents from re-arresting or re-detaining Petitioner absent compliance with constitutional requirements, including constitutionally adequate notice, identification of any changed circumstances, and a meaningful pre-deprivation hearing before a neutral decisionmaker;

K) In the alternative, 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 the neutral decisionmaker must consider alternatives to detention and Petitioner's ability to pay any bond imposed;

L) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other basis authorized by law; and

M) Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

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Counsel for Petitioner

Dated: August 17, 2026

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I submit this verification as counsel for Petitioner in this action. The factual allegations contained in this Petition are based on information provided to me directly by Petitioner during an in-person attorney-client interview at the Otay Mesa Detention Center on August 14, 2026, as well as my review of available immigration records and supporting documents, including, but not limited to, Petitioner's Form I-94, records concerning his pending removal proceedings, and employment authorization documentation.

Based on my review of that information, and to the best of my knowledge, information, and belief, I declare that the factual statements contained in this Petition are true and correct and accurately reflect Petitioner's circumstances and the procedural history of his detention.

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Dated: August 17, 2026