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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

CARLOS RIOS,  
  
Petitioner,  
  
v.  
  
KRISTI NOEM, Secretary, U.S.  
Department of Homeland Security;  
PAMELA BONDI, Attorney General of  
the United States; TODD M. LYONS,  
Acting Director, Immigration and  
Customs Enforcement; JESUS ROCHA,  
Acting Field Office Director, San Diego  
Field Office; and CHRISTOPHER J.  
LAROSE, Senior Warden, Otay Mesa  
Detention Center,  
  
Respondents.

Case No.: 25-cv-2866-JES-VET

**ORDER GRANTING PETITION  
FOR WRIT OF HABEAS CORPUS**

**[ECF No. 1]**

Before the Court is Petitioner Carlos Rios’ (“Petitioner”) petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 against United States immigration officials Kristi Noem, Pamela Bondi, Todd M. Lyons, Jesus Rocha, and Christopher LaRose (“Respondents”) in their official capacities. ECF No. 1 (“Pet”). Petitioner seeks relief from his re-detention and potential removal to a third country. For the reasons set forth below, the petition and prayer for release is **GRANTED** on grounds of due process and

1 Administrative Procedure Act (“APA”) violations. Petitioner’s remaining claims are  
2 **DENIED** as moot or as pleading relief unavailable on habeas.

3 **I. BACKGROUND**

4 Petitioner is a citizen of Cuba who has lived in the United States since 1988. Pet. at  
5 4. He is married to a U.S. Citizen and has worked various jobs during his time in the U.S.  
6 *Id.*

7 In 2021, an immigration judge ordered Petitioner removed to Cuba after he served a  
8 27 year sentence for murder. *Id.*; ECF No. 10 (“Opp.”) at 2. Petitioner was placed in  
9 immigration detention pending removal for two months. Pet. at 4. When the government  
10 was unable to effectuate Petitioner’s removal to Cuba, Petitioner was granted supervised  
11 release. *Id.* During his supervised release, Petitioner conformed with the terms of his  
12 release and attended all of his appointments. *Id.*

13 On September 22, 2025, at his yearly check-in with immigration officials, Petitioner  
14 was re-detained and sent to Otay Mesa Detention Center. *Id.* Petitioner initially stated that  
15 he was given no notice of the revocation of his release; however, Respondents produced a  
16 Form I-200, Warrant for Arrest of Alien, and a formal Notice of Revocation of Release  
17 given to Petitioner at the time he was redetained. *Id.*; Opp. at 2; ECF Nos. 10-3, 10-4; ECF  
18 No. 11 at 2. The Notice of Revocation of Release stated that Petitioner’s revocation had  
19 been revoked based on a determination that there were changed circumstances in his case.  
20 ECF No. 10-4 at 2. The Notice of Revocation of Release incorrectly stated that Petitioner  
21 was granted a withholding of removal from Cuba (ECF No. 11 at 2), despite Petitioner  
22 never being granted such a withholding. ECF No 10-4 at 2.

23 On October 1, 2025, immigration officers attempted to remove Petitioner to Mexico  
24 by driving him to the border. Pet. at 4. Petitioner claims that the officers told him that if he  
25 did not cross into Mexico, he would later be placed on a plane to Africa. *Id.* Respondents  
26 deny that such a statement was made. ECF No. 13-1 ¶ 11. Petitioner refused to cross the  
27 border and asked to speak to a supervisor. Pet. at 4. He was driven back to the detention  
28 center. *Id.*

1 While Respondents initially claimed Petitioner was given notice before his third  
2 country removal to Mexico, when the Court asked for further information Respondents  
3 submitted a sworn declaration stating that although it is ICE’s practice to provide notice,  
4 “[a]t this time, Petitioner’s file does not contain a copy of a Notice of Third Country  
5 Removal.” ECF No. 13-1 ¶ 10. Respondents make no claims that Petitioner was given  
6 proper notice of third country removal that was somehow not filed. Respondents state that  
7 “[a]s removal to Mexico was unsuccessful, ICE no longer intends to seek to remove  
8 Petitioner to Mexico. ICE is continuing to seek to identify a third country for repatriation.”  
9 *Id.* ¶ 12.

## 10 II. LEGAL STANDARD

11 A writ of habeas corpus is “available to every individual detained within the United  
12 States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art. I, § 9, cl.  
13 2). “The essence of habeas corpus is an attack by a person in custody upon the legality of  
14 that custody, and ... the traditional function of the writ is to secure release from illegal  
15 custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). A court may grant a writ of  
16 habeas corpus to a petitioner who demonstrates to be in custody in violation of the  
17 Constitution or federal law. 28 U.S.C. § 2241(c)(3). Traditionally, “the writ of habeas  
18 corpus has served as a means of reviewing the legality of Executive detention, and it is in  
19 that context that its protections have been strongest.” *I.N.S. v. St. Cyr*, 533 U.S. 289, 301  
20 (2001). Accordingly, challenges to immigration-related detention are within the purview  
21 of a district court’s habeas jurisdiction. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *see*  
22 *also Demore v. Kimi*, 538 U.S. 510, 517 (2003).

## 23 III. DISCUSSION

### 24 A. Procedural Due Process

25 Petitioner argues that Respondents violated Petitioner’s rights under the Fifth  
26 Amendment by re-detaining him without adequate notice, evidentiary findings, or an  
27 opportunity to be heard. Pet. at 9. The Court agrees.  
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1 “A procedural due process claim has two elements: (1) a deprivation of a  
2 constitutionally protected liberty or property interest, and (2) a denial of adequate  
3 procedural protections.” *Miranda v. City of Casa Grande*, 15 F4th 1219, 1225 (9th Cir.  
4 2021) (internal quotations and citation omitted).

5 Petitioner was deprived of a constitutionally protected liberty interest when  
6 Respondents revoked his supervised release. “Freedom from imprisonment—from  
7 government custody, detention, or other forms of physical restraint—lies at the heart of the  
8 liberty that the [Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. at 690.  
9 Although immigration detention is administrative, it is still subject to due process clause  
10 review. *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) (“the government’s  
11 discretion to incarcerate non-citizens is always constrained by the requirements of due  
12 process.”) When the government grants an alien supervised release into the country, it  
13 creates a liberty interest intimately tied to freedom from imprisonment. *Alegria Palma v.*  
14 *LaRose*, 25-cv-1942, ECF No.14 (S.D. Cal. Aug. 11, 2025) (finding that “continued  
15 freedom after release on own recognizance” was a core liberty interest). Here, Petitioner  
16 was deprived of his liberty interest in his supervised release when Respondents re-detained  
17 him.

18 Respondents are required to give Petitioner adequate procedural protections in the  
19 revocation of his supervised release. “The essence of due process is the requirement that ‘a  
20 person in jeopardy of a serious loss [be given] notice of the case against him and the  
21 opportunity to meet it.’” *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (quoting *Joint Anti-*  
22 *Fascist Comm. v. McGrath*, 341 U.S. 123, 171-72 (Frankfurter, J., concurring). In the  
23 immigration context, “the Constitution requires the government to afford notice of any  
24 action against an alien [and] requires an opportunity for the alien to be heard. [] The  
25 opportunity to be heard must be meaningful, that is, an opportunity granted at a meaningful  
26 time and in a meaningful manner.” *Ying Fong v. Ashcroft*, 317 F.Supp.2d 398, 403  
27 (S.D.N.Y. 2004) (internal quotations and citations omitted).

28

1 An alien’s opportunity to be heard regarding a change in his status is only  
2 meaningful if the government comports with its own internal standards regarding parole  
3 revocation. DHS has the authority to revoke an alien’s supervised release “at any time” on  
4 a discretionary, but not unlimited, basis. *See* 8 U.S.C. § 1226(b); *Mohammed H. v. Trump*,  
5 No. 25-1576 (JWB/DTS), 2025 WL 1692739, at \*5 (D. Minn. June 17, 2025) (“The  
6 Government has wide—but not unlimited—discretion in the immigration realm.”) The  
7 Board of Immigration Appeals (“BIA”) has held that DHS may change the conditions of  
8 an alien’s parole or supervised release only when there is a sufficient change of  
9 circumstances to justify that change. *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (BIA 1981)  
10 (as cited in *Alegria Palma*, No. 25-cv-1942-BJC-MMP, ECF No.14 at 3). “In practice, the  
11 DHS re-arrests individuals only after a ‘material’ change in circumstances.” *Ortega v.*  
12 *Bonnar*, 415 F.Supp.3d 963, 968 (N.D. Cal. 2019). To satisfy due process, those changed  
13 circumstances must represent individualized legal justification for detention. *Mohamed H.*,  
14 2025 WL 1692739 at \*5 (granting a writ of habeas corpus on due process grounds due to  
15 a lack of individualized legal justification for changing the petitioner’s status).

16 Here, Respondents vested a protected liberty interest in Petitioner when it granted  
17 him supervised release. *See* Pet. at 2. Although Respondents provided Petitioner with a  
18 Notice of Revocation of Release at the time of his arrest, that notice was insufficient  
19 because it did not contain individualized legal justification for the revocation of his  
20 supervised parole. ECF 10-4; *see Salim Nizar Esmail v. Kristi Noem, et al.*, No. 2:25-CV-  
21 08325-WLH-RAO, 2025 WL 3030590, at \*5 (C.D. Cal. Sept. 12, 2025) (“As the Notice  
22 does not identify any specific changed circumstances, it is insufficient to put Petitioner on  
23 notice as to what led to the revocation of his [supervised release].”) (internal quotations  
24 and citations omitted)). In fact, the information in the document regarding Petitioner’s case,  
25 stating that he was granted a withholding of removal to Cuba, was factually incorrect. *Id.*  
26 It would be impossible for Respondent to meaningfully contest the materiality of any  
27 changed circumstances in his case, because the government provided only general and  
28 inaccurate information. *See Ying Fong v. Ashcroft*, 317 F.Supp.2d at 403; *Matter of Sugay*,

1 17 I. & N. Dec. at 640. Thus, Respondents violated Petitioner’s due process rights in their  
2 revocation of his supervised release. The petition for writ of habeas corpus on due process  
3 grounds is **GRANTED**.

4 **B. Administrative Procedure Act**

5 The Court need not reach Petitioner’s claims arising under the APA, because it  
6 grants his petition on due process grounds. However, to preserve Petitioner’s rights on  
7 appeal, the Court briefly finds that the APA also provides separate and adequate grounds  
8 to grant this petition for writ of habeas corpus regarding both the revocation of his  
9 supervised release and Respondents’ attempt to remove him to the third country of Mexico.

10 The APA requires courts to hold challenged final agency actions unlawful when the  
11 actions are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance  
12 with law.” 5 U.S.C. § 706(2)(A). Agency action is arbitrary and capricious when the agency  
13 fails to “examine the relevant data and articulate a satisfactory explanation for its action  
14 including a ‘rational connection between the facts found and the choice made.’” *Motor*  
15 *Vehicle Mfrs. Ass’n of the U.S., Inc. v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983)  
16 (quoting *Burlington Truck Lines v. United States*, 371 U.S. 156, 168 (1962)). ICE, like  
17 other agencies, is required to follow its own regulations. *Alcaraz v. INS*, 384 F.3d 1150,  
18 1162 (9th Cir. 2004) (“The legal proposition that agencies may be required to abide by  
19 certain internal policies is well-established.”) When an agency changes its policies, it also  
20 “must be cognizant that longstanding policies may have engendered serious reliance  
21 interests that must be taken into account.” *Dept. of Homeland Security v. Regents of the*  
22 *Univ. of Calif.*, 591 U.S. 1, 30 (2020) (internal quotations and citations omitted). A  
23 government agency terminating an alien’s status is subject to review under the APA as a  
24 final agency action when the termination has lasting consequences that would not be cured  
25 even if the agency reinstated status through its internal processes. *Jie Fang v. Dir. U.S.*  
26 *Immigr. & Customs Enf’t*, 935 F.3d 172,183 (3rd Cir. 2019); *Doe v. Noem*, 778 F.Supp.3d  
27 1151, 1159 (W.D. Wash. April 17, 2025). In any agency action “[w]here the rights of  
28

1 individuals are affected, it is incumbent upon agencies to follow their own procedures.”  
2 *Morton v. Ruiz*, 415 U.S. 199, 235 (1974).

3 Here, given Respondents’ diligent efforts to remove Petitioner after revoking his  
4 release (Opp. at 2), their termination of his supervised release is reviewable as a final  
5 agency action that will have lasting incurable consequences. As explained above, the  
6 record here shows that Respondents did not articulate a satisfactory explanation including  
7 a “rational connection between the facts found and the choice made” for the change to  
8 Petitioner’s status. *See Motor Vehicle Mfrs. Ass’n.*, 463 U.S. at 43; ECF No. 10-4.  
9 Respondents also do not show any consideration of the “serious reliance interests” that they  
10 have engendered in Petitioner by granting him supervised release prior to their change in  
11 policy. *See Dept. of Homeland Security v. Regents of the Univ. of Calif.*, 591 U.S. at 30.  
12 Because Respondents revoked Petitioner’s supervised release and detained him without  
13 any rational individualized fact-finding or consideration of the effects of altering their prior  
14 decisions, Respondents acted arbitrarily and capriciously in violation of the APA.

15 Because Respondents have stated an unequivocal intention to remove Petitioner to  
16 a third country, that decision and subsequent attempts to remove him are also reviewable  
17 as final agency action which are reviewable on habeas only as they pertain to his re-  
18 detention. Respondents failed to follow their own regulations in attempting to remove  
19 Petitioner to a third country. In their opposition, Respondents stated that Petitioner was  
20 given notice that he was to be removed to Mexico. Opp. at 2. However, when the Court  
21 asked for further briefing on that notice, Respondents stated that ICE’s standard practice is  
22 to give notice before third country removals, but, “[a]t this time, Petitioner’s file does not  
23 contain a copy of a Notice of Third Country Removal, with Mexico identified as the  
24 country of removal.” ECF No. 13-1 at 3. Respondents do not allege that the notice was  
25 actually given and simply missing from the file. Nonetheless, ICE attempted to effectuate  
26 third country removal to Mexico. *Id.* Respondents effectively admit to having failed to  
27 follow their own procedures in their attempt to remove Petitioner to a third country. In light  
28 of that troubling revelation, the Court is persuaded that Respondents did not engage in

1 rational decision making regarding Petitioner's case or the effects of their policy change  
2 on his interests before attempting to effectuate his third country removal. *See Motor*  
3 *Vehicle Mfrs. Ass'n.*, 463 U.S. at 43; *Dept. of Homeland Security v. Regents of the Univ.*  
4 *of Calif.*, 591 U.S. at 30. Thus, Respondents acted arbitrarily and capriciously in attempting  
5 to remove Respondent to a third country without notice.

6 Respondents' violation of the APA in their decision to revoke Respondent's  
7 supervised release and their attempt to remove him to Mexico constitute adequate and  
8 independent grounds by which his confinement is unlawful. This Court also **GRANTS**  
9 Petitioner's petition for writ of habeas corpus on this basis.

### 10 **C. Injunctive Relief on Habeas**

11 In his prayer for relief, Petitioner requests three forms of injunctive relief requiring  
12 Respondents to comply with the law. Pet. at 22. The habeas statute, 28 U.S.C. § 2241,  
13 grants federal courts the power to enforce the right of personal liberty by granting release  
14 or order of bond hearing, but does not create other injunctive powers in the federal courts.  
15 *Fay v. Noia*, 372 U.S. 391, 430-31 (1963). While courts have on occasion construed  
16 petitions for writ of habeas corpus by pro se prisoner litigants as petitions for writ of  
17 mandamus, or generously interpreted mentions of the All Writs Act (*see, e.g., Stevens v.*  
18 *Sheriff of El Paso, Colorado*, 15 Fed. App'x. 740, 742; *Darden v. Davis*, 2016 WL 7803249  
19 (N.D. Tex.) at \*2; *Noori v. LaRose*, No. 3:25-cv-1824-GPC-MSB, ECF No. 15 at 26), the  
20 Court declines to do so where, as here, Petitioner is represented by competent counsel and  
21 pleads only a cause of action that cannot give rise to the requested relief.

### 22 **IV. CONCLUSION**

23 For the reasons set forth above, the petition for writ of habeas corpus is **GRANTED**  
24 on due process and APA grounds. The Court **DENIES AS MOOT** Petitioner's remaining  
25 claims regarding his present detention as the requested relief of release is granted.  
26 Petitioner is to be released subject to the terms of his previous release.

1 Having ruled on the Petition on the merits, the Court declines to apply the *Winter*  
2 factors to determine whether to issue a TRO. Thus, the Court **DENIES AS MOOT** the  
3 Motion for Temporary Restraining Order. ECF No. 2.

4 **IT IS SO ORDERED.**

5  
6 Dated: November 10, 2025



7  
8 Honorable James E. Simmons Jr.  
United States District Judge

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