

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Miguel Angel Tercero Briones v. Christopher J. LaRose, Senior
Warden, Otay Mesa Detention Center, et al.

Tercero Briones v. LaRose · No. 3:25-cv-03421-RBM-AHG · Decided January 2, 2026

SUMMARY

The United States District Court for the Southern District of California grants Miguel Angel Tercero Briones’s petition for a writ of habeas corpus under 28 U.S.C. § 2241. The court holds that immigration officials unlawfully detained Briones by revoking his release without providing notice of the revocation or the required informal interview, violating applicable regulations and due process. Respondents are ordered to immediately release him subject to his preexisting Order of Supervision.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Ruth Bermudez Montenegro
JURISDICTION	United States District Court for the Southern District of California
DECIDED	January 2, 2026
DOCKET	3:25-cv-03421-RBM-AHG
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petitioner sought habeas relief under 28 U.S.C. § 2241 challenging the lawfulness of his immigration detention. The district court granted the petition and ordered his immediate release subject to his preexisting Order of Supervision.
STANDARD OF REVIEW	The court considered whether Petitioner was in custody in violation of the Constitution or laws of the United States under 28 U.S.C. § 2241(c)(3).
PRECEDENTIAL VALUE	Unpublished district court order; precedential status unknown
PARTIES	Miguel Angel Tercero Briones v. Christopher J. LaRose, Senior Warden, Otay Mesa Detention Center, et al.

TOPICS

federal habeas corpus

immigration detention

procedural due process

due process

administrative law

PRACTICE AREAS

Immigration detention

Federal habeas corpus

Administrative law

Constitutional law

QUESTIONS PRESENTED

1. Whether 8 U.S.C. § 1252(g) or § 1252(b)(9) barred the district court's jurisdiction over Petitioner's challenge to the legality of his continued detention.
2. Whether ICE's failure to provide notice of revocation and an informal interview before revoking Petitioner's release violated due process and rendered his detention unlawful.
3. Whether Petitioner was prejudiced by ICE's failure to comply with its own regulations governing revocation of release.

HOLDINGS

1. Sections 1252(g) and 1252(b)(9) did not bar jurisdiction because Petitioner challenged the legality of his detention rather than the validity of his removal order, the commencement of removal proceedings, or an act to execute a removal order.
2. ICE's failure to provide Petitioner with notice of revocation and an informal interview before revoking his release violated his due process rights and rendered his detention unlawful.
3. Petitioner was prejudiced by ICE's failure to comply with its own regulations because he was deprived of due process protections, including sufficient notice and a prompt interview to respond to the reasons for revocation.

KEY QUOTATIONS

“The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody.” (at 2)

“For those same reasons, ICE’s failure to comply with its regulations in revoking Petitioner’s release violated Petitioner’s due process rights and rendered his detention unlawful.” (at 4)

FACTUAL BACKGROUND

Petitioner, a Honduran citizen, entered the United States in 1991 and was placed in removal proceedings. After returning in 1995 pursuant to advance parole, he was placed on an Order of Supervision in 1999 and complied with its conditions for more than twenty-six years. He had no criminal record, maintained employment authorization, had an approved Form I-130 petition filed by his United States citizen daughter, and had a motion to reopen pending before the BIA. DHS detained him during an October 16, 2025 check-in, stating that his Temporary Protected Status had expired, but did not provide a notice of revocation or an informal interview.

PROCEDURAL HISTORY

Petitioner filed a verified § 2241 habeas petition after DHS detained him during an annual check-in. Respondents opposed the petition, arguing that the claims were jurisdictionally barred, that the detention was within the presumptively reasonable period recognized in *Zadvydas*, and that any regulatory violations caused no prejudice. The court rejected those arguments, found that ICE failed to comply with required procedures for revoking Petitioner's release, and granted the petition.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

Respondents were ordered to immediately release Petitioner from custody, subject to his preexisting Order of Supervision.

CASES CITED

- *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004)
- *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973)
- *Rasakhamdee v. Noem*, 2025 WL 3102037 (S.D. Cal. Nov. 6, 2025)
- *Ghafouri v. Noem*, 2025 WL 3085726 (S.D. Cal. Nov. 4, 2025)
- *Alatorre Rodriguez v. LaRose*, 2025 WL 3456475 (S.D. Cal. Dec. 2, 2025)
- *Touch v. Noem*, 2025 WL 3278019 (S.D. Cal. Nov. 25, 2025)
- *Touch v. Noem*, 2025 WL 3296280 (S.D. Cal. Nov. 26, 2025)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF CALIFORNIA 10 11 MIGUEL ANGEL TERCERO BRIONES, Case No.: 3:25-cv-03421-RBM-AHG 12 Petitioner, ORDER GRANTING HABEAS 13 v. PETITION 14 CHRISTOPHER J. LaROSE, Senior Warden [Doc. 1] Otay Mesa Detention Center, et al., 15 Respondents. 16 17 18 Pending before the Court is Petitioner Miguel Angel Tercero Briones’s 19 (“Petitioner”) Verified Petition for Writ of Habeas Corpus (“Petition”) pursuant to 28 20 U.S.C. § 2241 challenging the lawfulness of his detention by the United States Department 21 of Homeland Security (“DHS”).

(Doc. 1.) For the reasons set forth below, the Petition is 22 GRANTED. 23 I. BACKGROUND 24 Petitioner is a citizen of Honduras who entered the United States in 1991 without 25 inspection. (Doc. 1 ¶ 21.)1 Although Petitioner was detained upon entry, the former 26 27 1 The Court cites the paragraph numbers of the Petition and the CM/ECF electronic 28 1 Immigration and Naturalization Service (“INS”) released him on his own recognizance and 2 commenced removal proceedings.

(Id. ¶ 22.) An immigration judge denied Petitioner’s 3 asylum application in March 1992 and Petitioner appealed the denial. (Id. ¶ 23.)² The INS 4 approved an advanced parole travel document for Petitioner in June 1995 which allowed 5 him to depart the United States to visit his sick child. (Id. ¶ 24.)

In July 1995, Petitioner 6 re-entered using his advanced parole document and has not departed since. (Id.) The Board 7 of Immigration Appeals (“BIA”) denied his appeal in February 1999 and Petitioner was 8 placed on an Order of Supervision in May 1999. (Id. ¶ 25.)

In or around 2001, Petitioner 9 was granted Temporary Protected Status (“TPS”). (Id.) 10 From May 1999 to October 2025, Petitioner reported to his check-ins as directed in 11 his Order of Supervision and complied with all the conditions of his release. (Id. ¶ 26.) He 12 has also been regularly employed with a valid work authorization and has no criminal 13 record.

(Id. ¶ 27.) Additionally, “Petitioner is the beneficiary of an approved Form I-130, 14 Petition for Alien Relative, filed by his United States citizen daughter.” (Id. ¶ 28.) 15 Petitioner alleges that he is not subject to any apparent ground of inadmissibility and 16 therefore qualifies for a “straightforward adjustment of status” based on the approved Form 17 I-130 and an “old, approved labor certification.” (Id.)

As a result, Petitioner filed a Motion 18 to Reopen with the BIA on September 2, 2025, which remains pending. (Id. ¶ 29.) 19 On October 16, 2025, Petitioner was detained while attending his annual check-in 20 with DHS. (Id. ¶ 30.) He was informed that he was detained “because his TPS had 21 expired.” (Id.) Petitioner remains in custody at the Otay Mesa Detention Center.

(Id.) 22 II. LEGAL STANDARD 23 A writ of habeas corpus is “available to every individual detained within the United 24 States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art. I, § 9, cl. 25 2). “The essence of habeas corpus is an attack by a person in custody upon the legality of 26 27 2 The Petition contains a duplicate paragraph numbered 23.

(See Doc. 1 ¶ 23.) The Court 28 1 that custody, and... the traditional function of the writ is to secure release from illegal 2 custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). “Writs of habeas corpus may 3 be granted by the Supreme Court, any justice thereof, the district courts and any circuit 4 judge within their respective jurisdictions.” 28 U.S.C. § 2241(a).

The petitioner bears the 5 burden of demonstrating that “[h]e is in custody in violation of the Constitution or laws or 6 treaties of the United States.” Id. § 2241(c)(3). 7 III. DISCUSSION 8 Petitioner claims his current detention violates the Administrative Procedure Act and 9 the Fifth Amendment’s Due Process Clause. (Doc. 1 ¶¶ 1, 30–47.) Respondents argue 10 that: (1) Petitioner’s claims are jurisdictionally barred under 8 U.S.C. § 1252(g) and 11 § 1252(b)(9); (2) Petitioner’s detention is within the six-month presumptively reasonable 12 detention period under

Zadvydass; and (3) even if ICE failed to comply with the regulatory 13 requirements, Petitioner cannot show prejudice from such violations.

(Doc. 5 at 3–12.) 14 Respondents’ arguments are similar to those recently addressed by the undersigned. 15 As a threshold matter, this Court has consistently rejected Respondents’ argument that 16 similarly situated petitioners’ claims are jurisdictionally barred under 8 U.S.C. § 1252(g) 17 and § 1252(b)(9). See *Rasakhamdee v. Noem*, Case No.: 3:25-cv-02816-RBM-DEB, 2025 18 WL 3102037 at *2 (S.D.

Cal. Nov. 6, 2025) (finding § 1252(g) did not bar the Court 19 exercising jurisdiction over the petitioner’s claims where he challenged the legality of his 20 detention, not the legitimacy of his order of removal); *Ghafouri v. Noem*, No. 3:25-cv- 21 02675-RBM-BLM, 2025 WL 3085726, at *3 (S.D. Cal. Nov. 4, 2025) (same); *Alatorre 22 Rodriguez v. LaRose*, Case No.: 3-25-cv-02940-RBM-JLB, 2025 WL 3456475, at *2–5 23 (S.D.

Cal. Dec. 2, 2025) (holding § 1252(g) and § 1252(b)(9) did not bar jurisdiction where 24 the petitioner challenged the legality of his continued detention rather than the decision to 25 commence removal proceedings or any act to execute a removal order). 26 This Court has also granted several habeas petitions filed by similarly situated 27 petitioners based on ICE’s failure to follow its own regulations in revoking the petitioner’s 28 release.

For example, in *Rasakhamdee*, the Court concluded that ICE failed to follow its 1 regulations because: (1) the petitioner did not receive adequate notice of the reasons for the 2 revocation of his release; and (2) ICE did not conduct the required interview when it had 3 over six weeks to do so. 2025 WL 3102037, at *4–5; see also *Ghafouri*, 2025 WL 4 3085726, at *4–5.

The Court reached the same conclusion in *Touch v. Noem*, where the 5 petitioner was differently situated than the petitioner in *Rasakhamdee*. Case No.: 3:25-cv- 6 03118-RBM-AHG, 2025 WL 3278019 at *3, *6 (S.D. Cal. Nov. 25, 2025), adopted, Case 7 No.: 3:25-cv-03118-RBM-AHG, 2025 WL 3296280 (S.D. Cal. Nov. 26, 2025).

Although 8 Respondents had obtained travel documents for the petitioner’s removal and provided 9 adequate notice, the Court nonetheless found that ICE failed to comply with the required 10 procedures when it failed “to provide [the petitioner] with an informal interview in the 11 month since he was taken into custody.” *Id.* at *6. 12 The Court has also rejected Respondents’ arguments concerning prejudice and held 13 that petitioners were “prejudiced by ICE’s failure to comply with its own regulations” 14 where they were deprived of “due process protections when [ICE] failed to provide [them] 15 with sufficient notice or a prompt interview to respond to the reasons for revocation of his 16 release.” *Rasakhamdee*, 2025 WL 3102037, at *5; see also *Ghafouri*, 2025 WL 3085726, 17 at *6 (“ICE deprived [the petitioner] of his due process rights and prejudiced his interests 18 by failing to afford him the procedural safeguards the regulations were designed to 19

protect.”); Touch, 2025 WL 3296280, at *1 n.1 (finding the petitioner was prejudiced because “ICE violated regulations intended to provide due process protections.”).

21 In this case, it is undisputed that Respondents did not provide Petitioner with a notice 22 of revocation or an informal interview. (See Doc. 5-1, Declaration of Daniel Negrin 23 [“Negrin Decl.”] ¶ 12.) The Court therefore adopts its reasoning in the cases discussed 24 above and applies it here.

For those same reasons, ICE’s failure to comply with its 25 regulations in revoking Petitioner’s release violated Petitioner’s due process rights and 26 rendered his detention unlawful. 27 // 28 // 1
IV. CONCLUSION 2 Based on the foregoing reasons, the Court finds Petitioner’s detention is unlawful 3 GRANTS the Petition. Respondents are ORDERED to immediately release 4 // Petitioner from custody, subject to his preexisting Order of Supervision.

5 IT IS SO ORDERED. 6 // DATE: January 2, 2026 Cet Bernucls, Moitingys D ON. RUTH BERMUDEZ! MONTENEGRO UNITED STATES DISTRICT JUDGE 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28