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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FARZAD KARAMI,

Petitioner,

v.

CHRISTOPHER LAROSE, warden of Otay Mesa Detention Center
SIDNEY AKI, San Diego Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO");
TODD LYONS, Acting Director of Immigration Customs Enforcement ("ICE");
KRISTI NOEM, Secretary of the Department of Homeland Security ("DHS");
PAMELA BONDI, Attorney General of the United States,
U.S. DEPARTMENT OF HOMELAND SECURITY;
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT;

Respondents.

Case No.: 3:25-cv-02983-BJC-BJW

PETITIONER'S TRAVERSE TO PETITION FOR HABEAS CORPUS AND APPLICATION FOR TEMPORARY RESTRAINING ORDER

INTRODUCTION

Farzad Karami is a citizen of Iran who was granted parole on September 25, 2023, to seek asylum in the United States. He was also issued an NTA upon his entry which commenced removal proceedings. Mr. Karami filed his asylum application with EOIR on September 5, 2024. Mr. Karami appeared at all his scheduled immigration court hearings and, on June 27, 2025 appeared yet again seeking an individual hearing on the merits of his asylum application. However, at that hearing the government moved to dismiss that proceeding with the intent to subject Mr. Karami to expedited removal proceedings and remove him from the country. Counsel opposed the motion and the court granted counsel the 10 days required by the Immigration Court Practice Manual. When Mr. Karami and counsel exited the courtroom, they were surrounded by masked armed agents that took Mr. Karami into custody. Respondents allege that Mr. Karami WAS put into expedited removal on June 27, 2025. ECF 8 p 2. They use this to justify his detention on June 27, 2025. ECF 8 p. 2 However, this is impossible. Mr. Karami's 240 removal proceedings had not been terminated. He cannot be in both 240 and 235 proceedings at the same time. This alone makes his detention on June 27, 2025 unlawful. After his arrest at the courthouse, he was transported to Otay Mesa Detention Center where he has been held ever since.

Mr. Karami filed a habeas petition on November 3, 2025 to contest his unlawful arrest and detention on June 27, 2025. His arrest and detention are unlawful as they occurred without due process guaranteed by the Fifth Amendment to the Constitution and because they violate the Administrative Procedures Act and for other reasons as set out more fully below.

This Court has jurisdiction to consider the claims asserted in Mr. Karami's habeas petition, for three reasons. First, Mr. Karami's claims are inextricably intertwined with the government's authority to detain him, which this Court has jurisdiction to review. Second, this Court has jurisdiction to consider whether the

agency has complied with due process and its mandatory, nondiscretionary duties. Finally, even if Mr. Karami's claims *were* precluded by the Immigration and Nationality Act, which they are not, this Court could review them under the Suspension Clause. Thus, no jurisdictional bars prevent this Court from reviewing Mr. Karami's claims.

Mr. Karami's claims also succeed on the merits. The government has not formally revoked Mr. Karami's parole which renders the government's actions unlawful. If the agency did not revoke his parole, then it violated that parole by detaining him. However, if the agency claims they *did* revoke his parole, then it did so in violation of the statute and regulations, which require written notification and a determination that the purposes of the parole have been served. Either way, the agency's actions violated the Administrative Procedures Act and procedural due process. Thus, this Court should order the release of Mr. Karami, bar his re-detention without further order of this court, bar his removal from this district and reinstate his parole status.

STATEMENT OF FACTS

I. Mr. Karami does not contest the government's authority to commence, adjudicate or execute removal proceedings.

The government's first argument against the petition is that his claim is barred because he contests the government's right to initiate, adjudicate or execute removal proceedings. This completely misstates the argument. Mr. Karami does not contest the government's ability to initiate, adjudicate or execute his removal proceedings. Mr. Karami contends that his detention was unlawful at its commencement. He was paroled into the United States so was here lawfully for the duration of his parole or until such time that his parole had expired or his parole had been properly revoked. Neither of those conditions had been met when he was arrested on June 27, 2025. The government completely dismisses this unlawful arrest and detention on June 27, 2025 by erroneously asserting that Mr.

Karami was somehow subject to expedited removal. The government's contention seems to be that whatever actually happened at the hearing on June 27, 2025 doesn't matter because they have a new mandatory detention policy. Based on this new policy, they assert the Constitution is meaningless. It doesn't appear to matter that the Government had already released Mr. Karami from detention – in direct opposition to this belief he is subject to mandatory detention. There are processes for revocation of parole and for lawfully detaining someone. The government asserts they are not bound by any of this. This is nothing short of lawlessness.

I. Mr. Karami was paroled into the United States and allowed to apply for asylum and work authorization.

Mr. Karami wanted to wait for a CBP One appointment to enter the United States. However, those bringing him to the border did not want to wait and at gunpoint forced him to cross the border. He was detained for a brief period but then was granted parole. This means, of course, that the government made a particularized determination that Mr. Karami was not a flight risk and not a danger to society. Further, the document itself reads "**NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by the Department of Homeland Security**" ECF 8-2 p.7. This sets out the conditions necessary for his arrest and detention: The government must show he has violated the terms of his release. No such showing has ever been offered by the government. He was also issued a Notice to Appear and placed in removal proceeding.

After his release, Mr. Karami complied with all his check-in requirements and submitted his asylum application to EOIR. As Mr. Karami exited his regularly scheduled court hearing, he was arrested and subsequently detained at Otay Mesa Detention Center.

The masked men who arrested him did not allege that he had violated the

conditions of his parole or that his parole was being revoked. Instead, they simply handcuffed him and eventually took him to the Otay Mesa Detention Center. The government does not present any evidence that they somehow properly revoked his parole. They provide no evidence or argument that the actions of the masked men on June 27, 2025 were lawful.

LEGAL ANALYSIS

In his habeas petition, Mr. Karami challenges the detention that violated his simply handcuffed parole and his right to his continued liberty. There are two pertinent legal questions in this analysis: 1) whether the Court has jurisdiction to consider these claims; and 2) whether these claims succeed on the merits. The answer to both is yes.

I. This Court has jurisdiction to consider Mr. Karami's claims.

In cases raising similar claims, the government has argued that this Court lacks jurisdiction to consider or grant relief under 8 U.S.C. §§ 1252(g) and 1252(b)(9). This argument fails here for at least three independent reasons. First, Mr. Karami's claims are inextricably intertwined with the government's authority to detain him, which this Court has jurisdiction to consider. Second, this Court has jurisdiction to review whether the agency has complied with due process and its mandatory, nondiscretionary duties. Finally, even if Mr. Karami's claims *were* precluded by the statute, which they are not, this Court could review them under the Suspension Clause.

A. Mr. Karami's claims challenge the government's authority to detain him.

Courts have jurisdiction to "decide a purely legal question that does not challenge the Attorney General's discretionary authority." *Ibarra-Perez v. United States*, 154 F.4th 989, 996 (9th Cir. 2025) (quotations omitted). In *Ibarra-Perez*, the Ninth Circuit squarely held that "§ 1252(g) does not prohibit challenges to unlawful practices merely because they are in some fashion connected to removal

orders." *Id.* at 997. Accordingly, the question is whether Mr. Karami's claims "challenge the Attorney General's discretionary authority." *Id.* at 996.

They do not. First, Mr. Karami's claims relate to the government's authority to detain him, and courts have widely held that review of issues related to detention is not barred by § 1252(g) or (b)(9). *See, e.g., Flores–Torres v. Mukasey,* 548 F.3d 708, 711 (9th Cir. 2008) (holding that habeas jurisdiction exists to review a challenge to immigration detention based on a citizenship claim); *Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023) (holding that "assertions of illegal detention [were] plainly collateral to ICE's prosecutorial decision to execute [a detainee's removal" and thus not subject to § 1252's jurisdictional bars); *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000) ("[S]ection 1252(g) does not bar courts from reviewing an alien detention order[.]"); *Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999) (§ 1252(g) did not apply to a "claim concern[ing] detention"). To undersigned counsel's knowledge, every judge in this district has held that it has jurisdiction to consider claims that an individual is unlawfully detained.

Importantly, all of the claims Mr. Karami asserts in his habeas petition relate to the government's authority to detain him. In his habeas, Mr. Karami's asks this Court to find that the denial of his liberty interest granted to him though his parole violated procedural due process and the Administrative Procedures Act.

The government paroled Mr. Karami into the United States on September 25, 2023. EFC 8-2. Mr. Karami's parole document states that this parole does not expire on a particular date but that it can be revoked if he does not meet the conditions set out in the document. *See id.* The government never claimed before his detention that it revoked this parole, nor has it provided evidence that it was revoked. Yet ICE detained Mr. Karami as though it *had* been revoked.

Importantly, a person shall only be "returned to the custody from which he was paroled" when "the purposes of such parole . . . have been served." 8 U.S.C.

§ 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e) (parole may only be terminated "upon accomplishment of the purpose for which parole was authorized"); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *12 (D. Or. July 9, 2025) (noncitizen should not be returned to custody unless the purposes of the parole have been served). Additionally, parole shall only be "terminated upon written notice to the alien." 8 C.F.R. § 212.5(e)(2)(i). So under the statute and the regulations, parole revocation (and thus the noncitizen's re-detention) only occurs when the parole's purpose is served and the noncitizen receives written notice of the revocation.

Here, neither occurred. Mr. Karami was paroled into the United States to apply for asylum, and "the purposes of such parole" have not yet "been served" because his asylum claim has not been adjudicated. 8 U.S.C. § 1182(d)(5)(A). Moreover, there is no indication that Mr. Karami's parole had been revoked, nor did he receive any written notification of a revocation, as the regulations and the document itself require. 8 C.F.R. § 212.5(e). So, by arresting and placing Mr. Karami in detention, the government violated its own parole order, in violation of statutory and regulatory authority. By these actions, this Court has jurisdiction to review the status of Mr. Karami's parole and the government's authority to detain him.

In sum, Mr. Karami's unlawful arrest affected the government's authority to detain him by 1) effectively revoking his parole, in violation of the statute and regulations, and 2) attempting to subject him to mandatory detention. The Supreme Court recently clarified that when petitioners' claims for relief "necessarily imply the invalidity of their confinement and removal," such claims "fall within the core of the writ of habeas corpus." *Trump v. J. G. G.*, 672 (2025) (quotations omitted). Because the government's authority to detain Mr. Karami is thus inextricably intertwined with the claims in his habeas petition, this Court has jurisdiction to consider them.

B. **This Court has jurisdiction to consider claims alleging that the government failed to comply with its mandatory duties and due process.**

Even if Mr. Karami's claims were *not* inextricably intertwined with the government's authority to detain him, they would still not be jurisdictionally barred. That is because the jurisdictional bars of § 1252 do not bar review of claims that ICE is "failing to carry out non-discretionary statutory duties and provide due process." *J.R. v. Bostock*, No. 2:25-CV-01161-JNW, 2025 WL 1810210, at *3 (W.D. Wash. June 30, 2025); *see also D.V.D. v. U.S. Dep't of Homeland Sec.*, 778 F. Supp. 3d 355, 377–78 (D. Mass. 2025) (§ 1252(g) did not bar review of "the purely legal question of whether the Constitution and relevant statutes require notice and an opportunity to be heard").

That is precisely what Judge Curiel recently held in a similar case. In *Sayed Nasser Noori v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *1 (S.D. Cal. Oct. 1, 2025) the petitioner was an asylum seeker from Afghanistan who "presented himself at the U.S. Port of Entry in San Ysidro, California and applied for admission with a CBP One application." Immigration officials "paroled him into the United States" under a similar type of parole as Mr. Karami. *Id.* But after the government cancelled the petitioner's removal proceedings and placed him in expedited removal, he filed a habeas petition, and the government argued that §§ 1252(g) and (b)(9) stripped the court of jurisdiction to hear his claims. *Id.* at *5.

Nevertheless, Judge Curiel found that he had jurisdiction to hear the claims, noting that "Petitioner does not challenge the decision to commence proceedings." *Id.* at *6. Instead, "Petitioner challenges the legality of the revocation of humanitarian parole in violation of the law and dismissal of ongoing removal proceedings without due process." *Id.* So even assuming the agency's revocation of parole "constitutes a decision or action to adjudicate cases," that action is not "in the discretion" of the agency under § 1252(g) where it was "'not performed in

accordance with the mandatory procedures.'" *Id.* (quoting *Sharkey v. Quarantillo*, 541 F.3d 75, 86 (2d Cir. 2008) (alterations omitted)).

Other courts have held the same. In *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1907 (2020), the Supreme Court held that § 1252(b)(9) "does not present a jurisdictional bar" where those bringing suit "are not asking for review of an order of removal," "the decision to seek removal," or "the process by which removability will be determined." (quotations and alterations omitted). And in *Vasquez Garcia v. Noem*, 25-cv-02180-DMS-MMP, 2025 WL 2549431, Dkt. 7 at *8 (S.D. Cal. Sept. 3,2025), Judge Sabraw held that "§ 1252(g) does not limit the Court's jurisdiction in the present case" because the petitioners were "enforcing their constitutional rights to due process in the context of the removal proceedings—not the legitimacy of the removal proceedings or any removal order."

Here, Mr. Karami similarly challenges the legality of the government's arbitrary decision to cancel his parole and declare him subject to mandatory detention. Because these actions were "not performed in accordance with the mandatory procedures," they were not undertaken "in the discretion" of the agency. *Noori*, 2025 WL 2800149, at *6; *see also United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265–68 (1954) (holding that agencies must adhere to their own binding regulations, both substantively and procedurally). Accordingly, this Court is not jurisdictionally barred from reviewing them.

C. Mr. Karami's claims do not fall within the plain language of § 1252 and if they did, the statute would violate the Suspension Clause and Due Process.

Finally, Mr. Karami's claims do not fall within the plain language of the § 1252(g) and § 1252(b)(9) jurisdictional bars. And even if they did, this Court could still review them under the Suspension Clause.

Section 1252(g) precludes judicial review of an agency decision to

"commence proceedings, adjudicate cases, or execute removal orders." "The Supreme Court has instructed that we should read § 1252(g) narrowly." *Ibarra-Perez v. United States*, 154 F.4th 989, 991 (9th Cir. 2025) (citing *Reno v. Am.-Arab Anti-Discrimination Comm.* (*AADC*), 525 U.S. 471, 487 (1999); *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020). That is because, as a general matter, establishing unreviewability is a "heavy burden," and "where substantial doubt about the congressional intent exists, the general presumption favoring judicial review of administrative action is controlling." *Block v. Cmty. Nutrition Inst.,* 467 U.S. 340, 351 (1984).

Here, Mr. Karami's challenge does not fall within any of the three categories of § 1252(g). He does not challenge the agency's decision to "commence proceedings" under § 1252(g) because his asylum proceedings had already "commenced". Nor does he challenge the agency's decision to "adjudicate" his case—only the arbitrary decision to detain him. And Mr. Karami could not challenge the agency's ability to "execute [his] removal order" given that he doesn't have one. Reading § 1252(g) "narrowly," *Ibarra-Perez*, 154 F.4th at 991, thus shows that Mr. Karami's claims do not fall within any of these three categories.

The same is true of § 1252(b)(9). This section bars "[j]udicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States[.]" 8 U.S.C. § 1252(b)(9). But the Ninth Circuit holds that this statute, by its plain language, applies only to "judicial review of an order of removal" and does not eliminate the ability of a court to review claims that are "independent of challenges to removal orders." *Singh v. Gonzales,* 499 F.3d 969, 978 (9th Cir. 2007) (quotations omitted). Rather, § 1252(b)(9) was designed to limit noncitizens to "one bite of the apple with regard to challenging an order of removal," precluding, for

instance, claims that the BIA erred in finding an individual "ineligible for asylum, withholding of removal, and relief under the [Convention Against Torture]." *Martinez v. Napolitano*, 704 F.3d 620, 622–23 (9th Cir. 2012). Thus, determining jurisdiction under § 1252 "requires a case-by-case inquiry turning on a practical analysis" of the noncitizen's circumstances. *Singh v. Holder*, 638 F.3d 1196, 1211 (9th Cir. 2011).

Here, Mr. Karami does not challenge any decision that the BIA or a circuit court could review as part of a final order of removal. Nor could he, since the agency has yet to issue a decision regarding his removal. Rather, he seeks review of the agency's parole revocation which does not relate to the substance of his removal proceedings. Thus, neither provision in § 1252 strips this Court of jurisdiction to hear his claims.

But even if the government's expansive reading of § 1252 *were* correct, this Court could still hear Mr. Karami's claims under the Suspension Clause. Under the Suspension Clause, "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. Art. I ¶ 9, cl. 2. Courts have held that even when "Congress intended to strip all courts of jurisdiction over [a petitioner's] claim, the Suspension Clause of the Constitution nonetheless requires that [he] may bring his challenge through the writ of habeas corpus." *Ragbir v. Homan*, 923 F.3d 53, 57–58 (2d Cir. 2019), *cert. granted, judgment vacated sub nom. Pham v. Ragbir*, 141 S. Ct. 227 (2020). In determining the reach of the Suspension Clause, courts are required to consider "(1) the citizenship and status of the detainee and the adequacy of the process through which that status determination was made; (2) the nature of the sites where apprehension and then detention took place; and (3) the practical obstacles inherent in resolving the prisoner's entitlement to the writ." *Boumediene v. Bush*, 553 U.S. 723, 766 (2008).

In *Noori,* Judge Curiel applied these factors to hold that review was also

available under the Suspension Clause. *See* 2025 WL 2800149, at *9. Judge Curiel explained that "although Petitioner is not a citizen, he was paroled into the United States upon a finding that he was not a flight risk or a danger to the community," and has "remained here for more than a year," "received a work authorization," and "developed ties to the community." *Id.* Judge Curiel also noted that the petitioner was "apprehended and detained within the United States," and there was "no evidence that Petitioner is a danger to the community or a flight risk—in fact, Respondents decided to parole Petitioner when he arrived without ties to the community after determining that he did not have any criminal history and then approved a work authorization." *Id.* Judge Curiel thus concluded that "even if Section 1252 precluded the Court from reviewing Respondents' decision to terminate Petitioner's parole and detain him, the Court would have jurisdiction to review this decision under the Suspension Clause." *Id.*

Here, the facts in Mr. Karami's case are materially identical to those in *Noori*. Mr. Karami was "paroled into the United States upon a finding that he was not a flight risk or a danger to the community," has "remained here for nearly a year," and "developed ties to the community." *Id.* Thus, as in *Noori*, the *Boumediene* factors weigh in his favor, and at a minimum, this Court has jurisdiction to review his claims under the Suspension Clause.

II. On the merits, the government's actions violated the Administrative Procedures Act and due process.

Moving to the merits, Mr. Karami argues that the agency's effective revocation of his parole violated the Administrative Procedures Act and procedural due process.

A. Revoking Mr. Karami's parole and subjecting him to detention violates the Administrative Procedures Act and Due Process.

As recounted above, the government paroled Mr. Karami into the United States to allow him to apply for asylum. According to Mr. Karami's parole document this parole did not expire. ECF 8-2. But when ICE detained Mr. Karami

on June 27, 2025, it did not say whether it was revoking his parole or not. Either way, the government's actions violate the Administrative Procedures Act and Due Process.

1. The government's actions violated the Administrative Procedures Act.

Under the Administrative Procedures Act (APA), an agency action may be held unlawful and set aside if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). 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*, 551 U.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)). For a challenged agency action to be upheld, the agency "must explain the evidence which is available, and must offer a rational connection between the facts found and the choice made." *Motor Vehicle Mfrs,* 463 U.S. at 52 (1983) (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)).

Here, regardless of whether the agency formally revoked Mr. Karami's parole or not, it violated the APA. If the agency did *not* revoke his parole, then it inexplicably violated its own parole decision by detaining Mr. Karami in June 2025. Doing so violated the APA because the agency did not provide notice in which it "offered a rational connection between the facts found and the choice made"—i.e., the fact that Mr. Karami was still on parole, yet the agency decided to detain him. *Motor Vehicle Mfrs,* 463 U.S. at 52. And nothing suggests that there *was* a "rational" reason for this choice, given that Mr. Karami had filed an asylum application, complied with all the conditions or his parole, and had no

criminal history. This was the epitome of an "arbitrary" and "capricious" act under the APA. 5 U.S.C. § 706(2)(A).

But assuming the agency *had* revoked his parole, it also violated the APA. As explained, a person shall only be "returned to the custody from which he was paroled" when "the purposes of such parole . . . have been served." 8 U.S.C. § 1182(d)(5)(A); s*ee also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be terminated "upon accomplishment of the purpose for which parole was authorized"); *Y-Z-L-H*, 2025 WL 1898025, at *12 (same). Alternatively, the regulations permit revocation of parole when "neither humanitarian reasons nor public benefit warrants the [noncitizen's] continued presence." 8 C.F.R. § 212.5(e)(2)(i). But under either scenario, parole shall only be "terminated upon written notice to the alien." 8 C.F.R. § 212.5(e)(2)(i). So, under the statute and the regulations and pursuant to the parole document given to Mr. Karami upon his release, the agency may only revoke parole and re-detain a noncitizen when the parole's purpose is served or no humanitarian reasons warrant it *and* the noncitizen receives written notice.

None of this occurred here. Because "the purpose[ ] of [Mr. Karami's] parole" was to allow him to apply for asylum, that purpose has not yet "been served" because his asylum claim has not been adjudicated. 8 U.S.C. § 1182(d)(5)(A). Moreover, the "humanitarian reasons" for Mr. Karami's parole—to allow him to seek protection from the government of Iran—have not changed. 8 C.F.R. § 212.5(e)(2)(i). What's more, Mr. Karami never received any written notification of a revocation under 8 C.F.R. § 212.5(e). So, if the agency revoked his parole, this decision violated both the statute and the regulation and was "not in accordance with law" under the APA. 5 U.S.C. § 706(2)(A).

That is precisely what Judge Curiel concluded in *Noori*, 2025 WL 2800149, at *13. Relying on the same authority cited above, *Noori* concluded that "to meet statutory and regulatory requirements, revocation should only occur when (1) the

parole's purpose is served or (2) when humanitarian reasons and public benefit are no longer warranted, and the noncitizen is provided written notice." *Id.* The first requirement was not met because the petitioner "applied for asylum and was still in the middle of those proceedings when Respondents issued and executed the revocation." *Id.* So, the second requirement was not met because "humanitarian reasons still warrant the Petitioner's presence in the country." *Id.* At a minimum, Judge Curiel held, parole revocation "requires an individualized determination," which the government had not provided because it failed to explain "why the Petitioner would now be considered a flight risk or danger to the community." *Id.*

Here, as in *Noori* the government failed to meet the statutory and regulatory requirements for parole revocation. In fact, the government here did not even provide Mr. Karami a "generic notification" of revocation, as it did in *Noori*. *Id.* Thus, the government here "has acted arbitrarily and capriciously in violation of the APA." *Id.*

2. The government's actions violated procedural due process.

Not only did the government's effective revocation of parole violate the APA, it also 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. Karami's favor.

First, the private interest at issue is Mr. Karami's deprivation of liberty—i.e., remaining on parole, 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."). Not only is Mr. Karami's general liberty interest substantial, he has an added interest in remaining out of custody so he can work with his attorney to prepare his asylum case. What's more, Mr. Karami's work authorization is contingent on his parole status, and revocation of his parole will directly impact his ability to provide for himself and his family. Thus, the first factor weighs heavily in Mr. Karami's favor.

Second, the procedures the agency used to determine whether to revoke Mr. Karami's parole presented a high risk of erroneous deprivation of liberty. To date, the agency's actions surrounding Mr. Karami's parole have completely failed to comply with the statute, the regulations, and even the agency's own decision. After granting Mr. Karami parole in September 2023, the agency inexplicably revoked this parole. It did so even though Mr. Karami had attended all his check-in appointments, had no criminal history, and had timely filed an asylum application. The agency did not claim that "the purposes of such parole . . . have been served," 8 U.S.C. § 1182(d)(5)(A), nor that the "humanitarian reasons" for his parole no longer existed, 8 C.F.R. § 212.5(e)(2)(i). Because consideration of any of these factors should have led to a different result, the risk of erroneous deprivation of Mr. Karami's parole without these procedures was high, and this factor weighs heavily in his favor.

Finally, any government interest in revoking Mr. Karami's parole is minimal. Mr. Karami has complied with all his check-in requirements, has no criminal history, has timely applied for asylum, and does not represent a danger or a flight risk. All the government need do is comply with its *own decision* to grant Mr. Karami parole. Thus, the *Mathews v. Eldrige* factors weigh heavily in Mr. Karami's favor, and his revocation of parole violates procedural due process.

III. The request for Injunctive Relief is proper

The requirements for granting a Temporary Restraining Order are "substantially identical" to those for granting a preliminary injunction. *Stuhlbarg Int'l Sales Co. v John D. Brush & Co.,* 240 F.3d 832, 839 n.7 (9th Cir. 2001).

Petitioner must demonstrate that (1) he is likely to succeed on the merits of his claims; (2) he is likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008). A sliding scale test may be applied and an injunction should be issued when there is a stronger showing on the balance of hardships, even if there are "serious questions on the merits … so long as the plaintiff also shows a likelihood of irreparable harm and the that the injunction is in the public interest." *All. For the Wild Rockies v. Cottrell,* 632 F.3d 1127, 1135 (9th Cir. 2011); see also *Flathead-Lolo-Bitterroot Citizen Task Force v. Montana,* 98 F.4th 1180, 1190 (9th Cir. 2024)

Petitioner satisfies the criteria and a TRO should be granted.

A. Petitioner is Likely to Succeed on the merits of His Claims.

Petitioner is likely to succeed on the merits of his underlying petition because the arrest and re-detention violates his Fifth Amendment right to Due Process before his liberty is restrained and the APA because Respondents' actions are arbitrary, capricious, and a violation of the Constitution and immigration law.

Petitioner's arrest violates the Fifth Amendment Due Process Clause because he was deprived of liberty without due process of law. "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." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Petitioner developed significant liberty interests in the two years he remained free from immigration custody. *See Morrissey v. Brewer,* 408 U.S. 471, 482 (1972)

(reasoning that the Government's decision to release an individual carries an implicit promise they will not be re-detained absent a violation of the conditions of their release). Here, the Government released Petitioner two years ago. He as complied with conditions of release and appeared at immigration proceedings. Likewise, Petitioner has integrated himself in the community by attending and volunteering at his church and in the community.

When the Government releases and individual pending civil removal proceedings, that person has a protected liberty interest in remaining free from Government custody. *See, e.g. Zinermon v. Burch* 494 U.S. 113, 127 (1990) ("the Constitution requires some kind of hearing *before* the State deprives a person of liberty or property" (emphasis in the original)); *see also Pinchi v. Noem*, No. 5:25-cv-05632-PCP, ___ F. Supp. 3d ___, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025) (finding due Process violation in Government's re-detaining noncitizen it previously released on parole without notice and hearing); see also *Pablo Sequen v. Albarran,* No. 25-cv-06487-PCP, 2025 WL 2935630, at *5 (N.D. Cal Oct. 15, 2025) (re-iterating that if DHS has released a noncitizen pending civil removal proceedings, the noncitizen has a protected liberty interest in remaining out of immigration custody); *see also Mohammad H. v Trump,* No cv-25-1576 (JWB/DTS), 2025 WL 1692739, at *5 (D. Minn. June 17, 2025) ("At its foundation, due process prohibits detaining an individual without justification.").

In a similar matter in this District regarding a petitioner detained at the Otay Mesa Detention Center, this Court found a violation of Due Process where the petitioner was re-detained without notice or a pre-detention hearing after being released a year earlier on parole. *See Noori, supra* (finding "[p]etitioner has a private interest in remaining free, which developed over the year he resided in the United State.") In *Noori*, petitioner was paroled into the U.S., and the Government terminated his parole, requested his removal proceeding be terminated for an "improvidently issued NTA", arrested petitioner after he appeared at his removal

proceedings in immigration court, and placed petitioner in expedited removal proceedings. *Id.* at *2.

In this case, Petitioner has an even stronger liberty interest than Noori. He was admitted two years ago, paroled because he was determined not to be a flight risk or a danger to society. He has developed ties to the community. He is also returned to 240 removal proceedings so is not subject to mandatory detention. His arrest and re-detention without a pre-detention hearing violates the Fight Amendment Due Process Clause.

Petitioner's arrest and detention also violate the APA as set out earlier in this brief. Under the APA a court must "hold unlawful and set aside agency action "that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law"; that is contrary to constitutional right [or] power"; or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory jurisdiction, authority, or limitation, or short of statutory right." 5 U.S.C. §§ 706(2)(A)-(C). Re-detaining Petitioner is arbitrary, capricious, and contrary to law. Detention is only authorized for the purposes of removal. *Zadvydas, supra at* 690 (clarifying that detention pending removal has "two regulatory goals" – ensuring future appearances and preventing danger to the community). In addition, Petitioner's release two years ago "reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk." *Saravia v. Sessions,* 280 F. Supp. 3d 1136, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions,* 905 F.3d 1137 9th Cir. 2018). There have been no changed circumstances, and Respondents have not provided any explanation to "justify their current departure from their prior decisions[s]" *Y-Z-L-H v. Bostock*, No. 3:25-c-965-SI, 2025 WL 1898025, at *13 (D. Or. July 9, 2025) (finding violation of APA where Government re-detained petitioner released on parole where no reasoned explanation or change of circumstances).

Here, ICE's action violated Petitioner's Fifth Amendment rights, and the

APA by violating the order of release and was arbitrary and capricious. The Petitioner is likely to prevail on the merits.

B. Petitioner Will Suffer Irreparable Harm in the Absence of a TRO.

The violation of Petitioner's constitutional rights unquestionably constitutes irreparable harm. *See Hernandez v. Session*, 872 F.3d 976, 994 (9th Cir. 2017) ("It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury.") (internal quotations omitted). In the absence of a TRO, Petitioner's unlawful deprivation of liberty in violation of the Constitution and immigration law continues.

C. The Balance of Equities tips in Petitioner's Favor, and a TRO is in the Public Interest.

Because the Government is a party, these two factors are considered together. *Nken v. Holder*, 556 U.S. 428, 435 (2009). Petitioner has established that the public interest factor weighs in his favor because his claims assert that the Government has violated federal laws in several respects. *See Valle del Sol Inc. v. Whiting,* 732 F.3d 12006, 1029 (9th Cir. 2013). The Ninth Circuit has also stated that "[a] plaintiff's likelihood of success on the merits of a constitutional claim also tips the merged third and fourth factor decisively in his favor." Baird v. Bonta, 81 F.4th 1036, 1042 (9th Cir. 2023).

Conclusion

Because this Court has jurisdiction to consider Mr. Karami's claims, and because these claims succeed on the merits, this Court should GRANT the Temporary Restraining Order and Order to Show Cause at the earliest possible opportunity.

Respectfully submitted,

Dated: December 2, 2025

/s/Brian J. McGoldrick
Brian J. McGoldrick, Esq.
Pro Bono Counsel for Petitioner

CERTIFICATE OF SERVICE

I, Brian J. McGoldrick, CERTIFY

I am over the age of 18 and not a party to this matter. My business address is 4916 Del Mar Avenue, San Diego, CA 92107. On December 2, 2025, I served a copy of this **PETITIONER'S TRAVERSE TO PETITION FOR HABEAS CORPUS AND APPLICATION FOR TEMPORARY RESTRAINING ORDER**

by the method and to the parties listed below:

On December 2, 2025, I accessed the electronic mailing list for CM/ECF users in this case and representatives of all parties are CM/ECF users and are noticed as follows:

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