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10 UNITED STATES DISTRICT COURT
 11 SOUTHERN DISTRICT OF CALIFORNIA

12 **ADRIAN DAVID AZUAJE**
 13 **LOZADA,**

14 **Petitioner,**

15 **v.**

16 **CHRISTOPHER LAROSE, Warden**
 17 **at Otay Mesa Detention Center,**
 18 **KRISTI NOEM, Secretary of the**
 19 **Department of Homeland Security,**
 20 **PAMELA JO BONDI, Attorney**
 21 **General, TODD M. LYONS, Acting**
 22 **Director, Immigration and Customs**
 23 **Enforcement, GREGORY J**
 24 **ARCHAMBEAULT, Field Office**
 25 **Director, San Diego Field Office,**
 26 **US ICE, US DHS,**

27 **Respondents.**

Case No.: 25-cv-3614-LL-KSC

Amended¹ Petition
for a
Writ of Habeas Corpus
and
Motion to Expedite Briefing
Schedule

28 ¹ The Court conditionally appointed Federal Defenders of San Diego, Inc. to serve as Mr. Azuaje’s counsel and set a briefing schedule ordering Mr. Azuaje to file a declaration or supplemental petition by January 12, 2026. ECF No. 2. In addition, Federal Rule of Civil Procedure 15(a)(1)(A) permits a party to “amend its pleading once as a matter of course no later than 21 days after serving it.” Fed. R. Civ. Pro. 15(a)(1)(A) (punctuation altered). It has been exactly 21 days since service of Mr. Azuaje’s pro se petition on December 15, 2025. ECF No. 1. Mr. Azuaje thus files this amended petition as of right.

1 INTRODUCTION

2 When Adrian David Azuaje Lozada was paroled into the country
3 last year, he believed he could remain out of custody pending the
4 resolution of his asylum and withholding of removal under the
5 Convention Against Torture (CAT) claims. On October 1, 2024,
6 Mr. Azuaje was paroled into the United States through the San Ysidro
7 Port of Entry after obtaining an interview through the “CBP One”
8 mobile application.² He thereafter complied with all requirements by
9 calling and going to the ICE office about three days later, appearing in
10 immigration court on October 7, 2025, and going to his ICE check-in
11 appointment on October 8, 2025. But ICE unexplainably detained him
12 during his first ICE check-in appointment that day. ICE did not
13 provide him with a basis for the revocation of his parole.

14 Mr. Azuaje’s detention thus violates the parole statute, the
15 government’s regulations, and the Fifth Amendment’s Due Process
16 Clause. The Court should order his immediate release and reinstate
17 his parole during the pendency of his asylum and CAT withholding of
18 removal proceedings. In the alternative, Mr. Azuaje should be given
19 the opportunity to have bond set in his case.

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24 ² According to the U.S. Customs and Border Protection website, “CBP
25 One” is a mobile application that enables undocumented persons
26 without appropriate documents for admission who seek to travel to the
27 United States through certain southwest border land ports of entry
28 (POEs) the ability to submit information through a module within the
application instead of coming directly to wait at a POE. *See, e.g.*, CBP
website, CBP One Fact Sheet - English, *available at*
<https://www.cbp.gov/document/fact-sheets/cbp-one-fact-sheet-english>
(last visited Jan. 5, 2026).

1 STATEMENT OF FACTS

2 Mr. Azuaje fled Venezuela in 2024 and traveled to Mexico to
3 apply for lawful entry into the United States. Exh. A, Declaration of
4 Adrian David Azuaje Lozada, at ¶ 2. He traveled by foot and car for 27
5 days through at least six countries, including Colombia, Panama,
6 Costa Rica, Honduras, Nicaragua, and Guatemala, before arriving to
7 Mexico. *Id.* He then stayed in Mexico City for about two and a half
8 months, submitting daily requests for an interview during the days
9 and hours allotted by the “CBP One” mobile application. *Id.*

10 As such, Mr. Azuaje lawfully entered the United States through
11 the San Ysidro Port of Entry on October 1, 2024, after obtaining a
12 group interview appointment through the “CBP One” mobile
13 application. *Id.* at ¶ 3. There were seven people who participated in the
14 group interview with him, which included six Venezuelans and one
15 Colombian. *Id.* at ¶ 4. They were all given permission to enter the
16 United States that day. *Id.* Mr. Azuaje was given paperwork indicating
17 he was to report for an in-person hearing before the immigration court
18 in Dallas, Texas about a year later, on October 7, 2025. *Id.*; *see also*
19 Exh. B, Notice to Appear.

20 After entering the United States on October 1, 2024, Mr. Azuaje
21 was told to call a telephone number to let ICE know he was now in the
22 country. Exh. A at ¶ 5; *see also* Exh. B. About three days later, he went
23 to an address in Dallas, Texas and gave them the paperwork he had
24 been provided during his group interview. Exh. A at ¶ 5. That day, ICE
25 gave him paperwork indicating he was to report for an ICE check-in
26 appointment at that same location on October 8, 2025. *Id.*

27 About four months after Mr. Azuaje’s arrival to the United
28 States, he paid about \$400 to the federal government to apply for a

1 Social Security number and work authorization card that was
2 supposed to last two years, but only lasted four months. *Id.* at ¶ 6; *see*
3 *also* Exh. G, Social Security card, filed under seal. The program was
4 apparently cancelled by the Trump Administration. Exh. A at ¶ 6. For
5 about three months, Mr. Azuaje briefly worked as a welder in Dallas,
6 Texas. *Id.* He has not worked since May 2025. *Id.* As such, he does not
7 have any assets or savings. *Id.* And he cannot afford an attorney. *Id.*

8 Mr. Azuaje appeared for his October 7, 2025 in-person
9 immigration court hearing as ordered. *Id.* at ¶ 7. That day, the
10 immigration judge said he was not going to address Mr. Azuaje's
11 asylum or CAT withholding of removal claims at that time. *Id.*; *see also*
12 Exh. F, I-589 Asylum Application, filed under seal. Instead, Mr. Azuaje
13 was given a notice to attend a subsequent in-person hearing before the
14 immigration judge on December 7, 2028. Exh. A, at ¶ 7; *see also* ECF
15 No. 1-3.

16 As stated, Mr. Azuaje attended his first immigration court
17 hearing without issue. Exh. A at ¶ 8. At the hearing, he was told he did
18 not have to return for a second immigration court appearance until
19 December 7, 2028, while he pursued his asylum and CAT withholding
20 of removal claims outside of custody. *Id.* Mr. Azuaje has a legitimate
21 fear of torture or persecution if he were to be removed to Venezuela
22 due to his refusal to join a government-associated group. *Id.*

23 Mr. Azuaje has resided in the United States continuously since
24 October 1, 2024. *Id.* at ¶ 12. During that time, he voluntarily appeared
25 for all his immigration court appearances and ICE check-ins, complied
26 fully with all instructions given to him, and followed all immigration
27 laws. *Id.* at ¶¶ 5–8, 11, 13–14. And he has no criminal arrests or
28 convictions in Venezuela or the United States. *Id.* at ¶ 11.

1 On October 8, 2025, Mr. Azuaje was arrested at his first ICE
2 check-in appointment in Dallas, Texas without proper notice. *Id.* at
3 ¶ 9. He was thereafter detained at the Prairieland Detention Facility,
4 located in Alvarado, Texas, for about one week before being transferred
5 to the Otay Mesa Detention Center. *Id.* He is still detained there,
6 despite the immigration judge’s order that he need not reappear in
7 immigration court until December 7, 2028. *Id.* at ¶ 10; *see also* ECF
8 No. 1-3.

9 On December 15, 2025, Mr. Azuaje filed a pro se habeas petition
10 challenging his detention without the possibility of bond. ECF No. 1.
11 The Court then conditionally appointed Federal Defenders of San
12 Diego, Inc. to represent him, and set a briefing schedule. ECF No. 2.
13 This amended petition follows.

14 LEGAL BACKGROUND

15 I. The government’s actions violated the Administrative 16 Procedures Act and the Due Process Clause.

17 The government’s effective revocation of Mr. Azuaje’s parole and
18 detention violated the Administrative Procedures Act and procedural
19 due process.

20 A. Revoking Mr. Azuaje’s parole and subjecting him to 21 detention violates the Administrative Procedures Act 22 and Due Process.

23 1. The government’s actions violated the 24 Administrative Procedures Act.

25 The INA “establishes the framework governing noncitizens’ entry
26 into and removal from the United States, with regulations
27 promulgated by the enforcing agencies providing further governance.”

28 *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1132 (D. Or. 2025).

“Noncitizens who arrive at a port of entry without a visa or other entry
document, like Petitioner, are deemed ‘inadmissible’ under 8 U.S.C.

1 § 1182(a)(7)” due to their lack of entry documents. *Id.* at 1132 & n.7
2 (noting that “[d]epending on the circumstances, other categories of
3 inadmissibility may also apply, but § 1182(a)(7) applies for noncitizens
4 without proper documentation”). Once a noncitizen is deemed
5 inadmissible, “the immigration officer must order the noncitizen’s
6 removal unless the noncitizen indicates an intention to apply for
7 asylum or fear of prosecution.” *Id.* (citing 8 U.S.C. § 1225(b)(1)(A)(i)).
8 The government may place the noncitizen into expedited removal
9 proceedings, *see* 8 U.S.C. § 1225(b)(1), or the government may place the
10 noncitizen into regular removal proceedings under 8 U.S.C. § 1229(a).
11 *See Y-Z-L-H*, 792 F. Supp. 3d at 1132–33 (citing 8 U.S.C. § 1225(b)(2)).

12 Section § 1225(b)(2)(A) provides that “in the case of an alien who
13 is an applicant for admission, if the examining immigration officer
14 determines that an alien seeking admission is not clearly and beyond a
15 doubt entitled to be admitted, the alien shall be detained for a
16 proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A).
17 However, “applicants for admission may be temporarily released on
18 parole [into the United States] ‘for urgent humanitarian reasons or
19 significant public benefit,” as set forth in 8 U.S.C. § 1182(d)(5)(A).
20 *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting 8 U.S.C.
21 § 1182(d)(5)(A)). The decision to grant parole pursuant to 8 U.S.C.
22 § 1182(d)(5)(A) is determined “on a case-by-case basis.” 8 U.S.C.
23 § 1182(d)(5)(A). Then, “when the purpose of the parole has been
24 served,” § 1182(d)(5)(A) provides that “the alien shall forthwith return
25 or be returned to the custody from which he was paroled and thereafter
26 his case shall continue to be dealt with in the same manner as that of
27 any other applicant for admission to the United States.” *Jennings*, 583
28 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).

1 To terminate the previously granted parole, the government must
2 comply with the applicable regulatory and statutory requirements. As
3 set forth in 8 C.F.R. § 212.5(e)(2)(i), which governs the “[t]ermination
4 of parole,”

5 In cases not covered by paragraph (e)(1) of this section,³
6 upon accomplishment of the purpose for which parole was
7 authorized or when in the opinion of one of the officials
8 listed in paragraph (a) of this section, neither
9 humanitarian reasons nor public benefit warrants the
10 continued presence of the alien in the United States, parole
11 shall be terminated upon written notice to the alien and he
or she shall be restored to the status that he or she had at
the time of parole.

12 8 C.F.R. § 212.5(e)(2)(i). That is, “[u]nder the governing regulation,
13 [§ 1182(d)(5)(A)] parole may be terminated only if the purpose of parole
14 is accomplished, or humanitarian reasons and the public benefit no
15 longer warrant parole.” *Loaiza Arias v. LaRose*, No. 3:25-cv-02595-
16 BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025) (citing
17 8 C.F.R. § 212.5(e)).

18 What’s more, ICE is required to inform noncitizens of the reasons
19 for revocation. The court in *Y-Z-L-H* determined that under the
20 Administrative Procedure Act, immigration parolees are entitled to
21 determinations related to their parole revocations that are not
22 arbitrary, capricious or an abuse of discretion. *Y-Z-L-H*, 792 F. Supp.
23 3d at 1144. An agency acts arbitrarily and capriciously by failing to
24 make a reasoned determination or where the agency fails to
25 “articulate[] a satisfactory explanation for its action including a
26 rational connection between the facts found and the choice made.” *Id.*
27 Parole revocations in the context of the INA must occur on a case-by-
28 case basis and may occur “when the purposes of such parole shall, in

1 the opinion of the Secretary of Homeland Security, have been served
2 the alien shall forthwith return or be returned to the custody from
3 which he was paroled.” *Id.* (quoting 8 C.F.R. § 212.5(e)). 8 C.F.R.
4 § 212.5(e) requires written notice of the termination of parole except
5 where the immigrant has departed or when the specified period of
6 parole has expired.

7 The government has failed to follow the applicable statutory and
8 regulatory provisions to terminate Mr. Azuaje’s parole. *Cf. Coal. for*
9 *Humane Immigrant Rts. v. Noem*, No. 25-cv-872 (JMC), 2025 WL
10 2192986, at *2 (D.D.C. Aug. 1, 2025) (holding that the government
11 failed to follow the applicable statutory and regulatory provisions and
12 that paroled noncitizens cannot be subject to expedited removal
13 proceedings); *Salgado Bustos v. Raycraft*, No. 25-13202, 2025 WL
14 3022294, at *5–7 (E.D. Mich. Oct. 29, 2025) (same); *E.V. v. Raycraft*,
15 No. 4:25-cv-2069, 2025 WL 2938594, at *10 (N.D. Ohio Oct. 16, 2025)
16 (same).

17 First, the parole statute at 8 U.S.C. §1182(d)(5)(A) permits the
18 termination of parole only where there is a finding that the purpose of
19 such parole has been served. *Y-Z-L-H*, 792 F. Supp. 3d at 1133. Here,
20 however, the purpose of Mr. Azuaje’s parole has not been served. He
21 fled from Venezuela, seeking asylum in the United States through the
22 CBP One mobile application, and entered the United States at a port of
23 entry. Exh. A at ¶¶ 1–4. At that time, Mr. Azuaje was granted parole
24 pursuant to 8 U.S.C. § 1182(d)(5)(A), which provides for parole into the
25 United States “for urgent humanitarian reasons or significant public
26 benefit.” 8 U.S.C. § 1182(d)(5)(A). He filed Form I-589 Application for
27 Asylum and Withholding Removal, which remains pending. Exh. F, I-
28 589 Asylum Application, filed under seal. Thus, when he was recently

1 arrested and detained at his ICE check-in on October 7, 2025, he was
2 still seeking asylum. *See id.* Thus, the purpose of parole has not yet
3 been served.

4 Second, ICE is required to provide the noncitizen “a cogent
5 description of the reasons supporting the revocation decision.” *J.E.H.G.*
6 *v. Chestnut*, No. 1:25-CV-01673-JLT SKO, 2025 WL 3523108, at *6
7 (E.D. Cal. Dec. 9, 2025). In *Y-Z-L-H*, the Petitioner received an email
8 with a notice of revocation. *Y-Z-L-H*, 792 F. Supp. 3d at 1146. The
9 email stated that “DHS was exercising its discretion” to terminate
10 parole. *Id.*³ Mr. Azuaje has received no such email or notice. The court
11 said that this language was vague and did not provide an actual
12 reason. *Id.* It stated that the “email was legally insufficient to meet the
13 statutory and regulatory requirements, even though it cited those
14 provisions and invoked the word ‘discretion.’” *Id.* Common sense and
15 the words of the statute require parole revocation to be analyzed on a
16 case-by-case basis and that a decision to revoke parole “must attend to
17 the reasons an individual [noncitizen] received parole.” *J.E.H.G.*, 2025
18 WL 3523108, at *6 (citing *Mata Velasquez v. Kurzdorfer*, No. 25-CV-
19 493-LJV, 2025 WL 1953796, at *11 (W.D.N.Y. July 16, 2025)). There is
20 no indication that the government conducted that analysis in
21 Mr. Azuaje’s case.

22 Judge Curiel recently found an APA violation in *Noori v. LaRose*,
23 No. 25-CV-1824-GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct. 1, 2025).

24

25

26 ³ Compare *Y-Z-L-H*, 792 F. Supp. 3d at 1134 (quoting revocation email:
27 “You are currently here because the Department of Homeland Security
28 (DHS) paroled you into the United States for a limited period. Pursuant to 8 U.S.C. § 1182(d)(5)(A) and 8 C.F.R. § 212.5(e), DHS is now exercising its discretion to terminate your parole. Unless it expires sooner, your parole will terminate 7 days from the date of this notice.”)

1 *Noori* concluded that “to meet statutory and regulatory requirements,
2 revocation should only occur when (1) the parole’s purpose is served or
3 (2) when humanitarian reasons and public benefit are no longer
4 warranted, and the noncitizen is provided written notice.” *Id.* The first
5 requirement was not met because the petitioner “applied for asylum
6 and was still in the middle of those proceedings when Respondents
7 issued and executed the revocation.” *Id.* And even though the
8 petitioner was provided a “generic notification” of his revocation, the
9 second requirement was not met because “humanitarian reasons still
10 warrant the Petitioner’s presence in the country.” *Id.* At a minimum,
11 Judge Curiel held, parole revocation “requires an individualized
12 determination,” which the government had not provided because it
13 failed to explain “why the Petitioner would now be considered a flight
14 risk or danger to the community.” *Id.*

15 Here, as in *Noori*, the government failed to meet the statutory
16 and regulatory requirements for parole revocation. Thus, the
17 government here “has acted arbitrarily and capriciously in violation of
18 the APA.” *Id.*

19 **2. Mr. Azuaje’s detention is a violation of the Due**
20 **Process Clause.**

21 The Due Process Clause of the Fifth Amendment forbids the
22 government from depriving any person of liberty without due process
23 of law. U.S. Const. amend. V. “Freedom from imprisonment—from
24 government custody, detention, or other forms of physical restraint—
25 lies at the heart of the liberty” that the Due Process Clause protects.
26 *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80
27 (1992)).

28 //

1 An individual released from immigration custody has a
2 constitutionally protected liberty interest in remaining free from
3 detention. *Morrissey v. Brewer*, 408 U.S. 471, 482, 92 S. Ct. 2593, 2601,
4 33 L. Ed. 2d 484 (1972); *see also Sanchez v. LaRose*, 25-cv-2396; 2025
5 WL 2770629, at * 3 (S.D. Cal.). Thus, Mr. Azuaje has a fundamental
6 interest in liberty and being free from official restraint.

7 “Even when ICE has the initial discretion to detain or release a
8 noncitizen pending removal proceedings, after that individual is
9 released from custody [he] has a protected liberty interest in remaining
10 out of custody.” *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal.
11 2025). (internal citation omitted). Thus, the liberty interest applies to
12 individuals who are paroled into the United States and released to
13 attend removal proceedings. *Garcia v. Andrews*, No. 1:25-CV-01006
14 JLT SAB, 2025 WL 2420068, at *11 (E.D. Cal. Aug. 21, 2025); *Valencia*
15 *Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2578207, at *3 (N.D.
16 Cal. Sept. 5, 2025); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL
17 1898025, at *13 (D. Or. July 9, 2025).

18 To determine which procedures are constitutionally sufficient to
19 satisfy the Due Process Clause, the Court must apply the *Matthews*
20 factors. *See Matthews*, 424 U.S. at 335. Courts must consider: (1) “the
21 private interest that will be affected by the official action”; (2) “the risk
22 of an erroneous deprivation of such interest through the procedures
23 used, and the probable value, if any, of additional or substitute
24 procedural safeguards”; and (3) “the Government's interest, including
25 the function involved and the fiscal and administrative burdens that
26 the additional or substitute procedural requirement would entail.” *Id.*

27 All three factors support a finding that the government's
28 revocation of Mr. Azuaje's parole without reasoning or an opportunity

1 to be heard, denied him of his due process rights. First, Mr. Azuaje has
2 a significant liberty interest in remaining out of custody pursuant to
3 his conditional parole. “Freedom from imprisonment—from
4 government custody, detention, or other forms of physical restraint—
5 lies at the heart of the liberty [the Due Process Clause] protects.”
6 *Zadvydas*, 533 U.S. at 690. He also has an interest in remaining with
7 his family in Texas and continuing the process of adjusting status to a
8 lawful permanent resident and asylum. *See Morrissey*, 408 U.S. 471 at
9 482 (“Subject to the conditions of his parole, he can be gainfully
10 employed and is free to be with family and friends and to form the
11 other enduring attachments of normal life.”).

12 Second, the risk of an erroneous deprivation of such interest is
13 high as Mr. Azuaje’s parole was revoked without providing him a
14 reason for revocation or giving him an opportunity to be heard. When
15 he was paroled, the government made a finding that he did not pose a
16 danger to the community and was not a flight risk. *Saravia v. Sessions*,
17 280 F. Supp. 3d 1168, 1760 (N.D. Cal. 2017) (“Release reflects a
18 determination by the government that the noncitizen is not a danger to
19 the community or a flight risk.”). He has no criminal record, has not
20 been arrested or otherwise in criminal trouble and has been living with
21 his aunt and brother in Dallas Texas since October 2024. Exh. A at
22 ¶¶ 11–12. “Once a noncitizen has been released, the law prohibits
23 federal agents from rearresting him merely because he is subject to
24 removal proceedings.” *Saravia*, 280 F. Supp. 3d at 1760. “Rather, the
25 federal agents must be able to present evidence of materially changed
26 circumstances—namely, evidence that the noncitizen is in fact
27 dangerous or has become a flight risk....” *Id.* “Where, as here, ‘the
28 petitioner has not received any bond or custody hearing,’ ‘the risk of an

1 erroneous deprivation of liberty is high’ because neither the
2 government nor [Petitioner] has had an opportunity to determine
3 whether there is any valid basis for [his] detention.” *Pinchi*, 2025 WL
4 2084921, at *5 (quoting *Singh v. Andrews*, No. 25-cv-801-KES-SKO
5 (HC), 2025 WL 1918679, at *7 (E.D. Cal. July 11, 2025)) (cleaned up).

6 Third, the Government’s interest in detaining Mr. Azuaje without
7 proper notice and reasoning or a hearing is “low.” See *Pinchi*, 2025 WL
8 2084921, at *5; *Matute*, 2025 WL 2817795, at *6; *Ortega v. Bonnar*, 415
9 F. Supp. 3d 963, 970 (N.D. Cal. Nov. 22, 2019) (“If the government
10 wishes to re-arrest [Petitioner] at any point, it has the power to take
11 steps toward doing so; but its interest in doing so without a hearing is
12 low.”).

13 Thus, Mr. Azuaje’s detention is unlawful. See, e.g., *Alegria Palma*
14 *v. Larose et al.*, No. 25-cv-1942 BJC (MMP), slip op. at 14 (S.D. Cal.
15 Aug. 11, 2025) (granting a TRO based on a procedural due process
16 challenge to a revocation of parole without a pre-deprivation hearing);
17 *Navarro Sanchez*, 2025 WL 2770629, at *5 (granting a writ of habeas
18 corpus releasing petitioner from custody to the conditions of her
19 preexisting parole on due process grounds).

20 **CLAIM AND PRAYER FOR RELIEF**

21 **Detaining Mr. Azuaje Violates the Parole Statute,**
22 **the Government’s Regulations, and the Fifth Amendment’s**
Due Process Clause

23 For the reasons just given, the statute, the regulations, and the
24 Fifth Amendment Due Process Clause prohibits the government from
25 continuing to detain Mr. Azuaje. Accordingly, Mr. Azuaje respectfully
26 requests that the Court:

- 27 1. Order Respondents to immediately release Mr. Azuaje from
28 custody under the same conditions of parole;

