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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 KAMAL ABDUL NASIR KAROKHEL, Case No.: 3:25-cv-03751-JLS-KSC
10 Plaintiff,

11 vs.

12 CHRISTOPHER LAROSE, warden of
13 Otay Mesa Detention Center
14 DANIEL A. BRIGHTMAN, San Diego
15 Field Office Director, Immigration and
16 Customs Enforcement and Removal
17 Operations (“ICE/ERO”);
18 TODD LYONS, Acting Director of
19 Immigration Customs Enforcement
20 (“ICE”);
21 KRISTI NOEM, Secretary of the
22 Department of Homeland Security
23 (“DHS”);
24 PAMELA BONDI, Attorney General of
25 the United States,
26 U.S. DEPARTMENT OF HOMELAND
27 SECURITY;
28 U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;

Respondents.

TRVERSE TO PETITION FOR
WRIT OF HABEAS CORPUS

1 **THE ISSUE BEFORE THIS COURT IS NOT WHETHER THE**
2 **PETITIONER QUALIFIES FOR A BOND HEARING BUT WHETHER HIS**
3 **ARREST AND DETENTION WAS LAWFUL.**

4 **STATEMENT OF FACTS**

5 On April 15, 2023, Mr. Karokhel entered the United States. He was
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7 briefly held by the authorities. It was determined then he was not a flight risk and
8 not a danger to the community and he was released into the United States on his
9 own recognizance. He was also placed in an Alternative to Detention program. He
10 was given a phone and application that he used to check in with ICE on a regular
11 basis. This lasted for about 4 months. Eventually, because of his regular check ins
12 and compliance with the system, he was released from the ATD program and ICE
13 took the phone back.
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18 Respondents commenced removal proceedings against him in immigration
19 court upon his initial entry. However, on January 31, 2024, these proceedings were
20 dismissed. At the time the government was dismissing removal proceedings for
21 Afghans that qualified for Temporary Protective Status. This allowed the petitioner
22 to apply for TPS but also to proceed with their asylum application with USCIS.
23 This was a huge benefit to the petitioner because he now had two chances to gain
24 asylum. First with USCIS and if that was not approved, he would have a second,
25 *de novo* opportunity to present his asylum case to an immigration judge.
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1 Subsequently the petitioner filed with USCIS and also was able to obtain work
2 authorization and proceed with his quest for asylum without any further
3 involvement of EOIR.
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5 On December 10, 2025, Mr. Karokhel appeared for a regularly scheduled
6 ICE check in. He arrived at 10:00 a.m. as instructed and waited until nearly 4:30
7 p.m. when he was finally called back to see an officer. He was immediately
8 detained and eventually sent to the Otay Mesa Detention Center. He was not
9 presented with any notice that his liberty was being taken from him. He was not
10 informed what had changed in his case that he was now considered a flight risk or
11 danger to the community. He was simply shackled and led off to detention. The
12 government's response does not refute the statement of facts and any refutation is
13 therefore waived.
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18 **The Petitioner was illegally detained and must be released.**

19 The government's response alleges that, pursuant to *Maldonado Bautista v.*
20 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F.R.D. ----, 2025 WL 3289861
21 (C.D. Cal. Nov. 20, 2025) "Petitioner is detained under 8 U.S.C. § 1226(a) and is
22 entitled to an order from this Court directing a bond hearing be held pursuant to 8
23 U.S.C. § 1226(a)." ECF 6 p.2. However, Mr. Karokhel's detention was and
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25 remains unlawful *ab initio*, not pursuant to any statute. Ordering a bond hearing is
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1 not the appropriate remedy for an illegal detention. Rather, his immediate release is
2 the appropriate relief.
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4 The process for revoking Mr. Karokhel's parole is that it must be
5 terminated upon written notice after an individualized determination that the
6 humanitarian purposes no longer apply. 8 C.F.R. § 212.5(e)(2)(i). However, the
7 government's arrest and detention of Mr. Karokhel was not authorized under color
8 of any law. His arrest and detention were a violation of his right to due process
9 guaranteed by the Fifth Amendment to the Constitution and was a violation of the
10 Administrative Procedures Act.
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14 In cases raising similar claims, the government has argued that this Court
15 lacks jurisdiction to consider or grant relief under 8 U.S.C. §§ 1252(g) and
16 1252(b)(9). This argument fails here for at least three independent reasons. First,
17 Mr. Karokhel's claims are inextricably intertwined with the government's
18 authority to detain him, which this Court has jurisdiction to consider. Second, this
19 Court has jurisdiction to review whether the agency has complied with due process
20 and its mandatory, nondiscretionary duties. Finally, even if Mr. Karokhel's claims
21 were precluded by the statute, which they are not, this Court could review them
22 under the Suspension Clause.
23

24 **A. Mr. Karokhel's claims challenge the government's authority to detain him.**

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26 Courts have jurisdiction to "decide a purely legal question that does not
27 challenge the Attorney General's discretionary authority." *Ibarra-Perez v. United*
28 *States*, 154 F.4th 989, 996 (9th Cir. 2025) (quotations omitted). In *Ibarra-Perez*,

1 the Ninth Circuit squarely held that “§ 1252(g) does not prohibit challenges to
2 unlawful practices merely because they are in some fashion connected to removal
3 orders.” *Id.* at 997. Accordingly, the question is whether Mr. Karokhel’s claims
4 “challenge the Attorney General’s discretionary authority.” *Id.* at 996.

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6 They do not. First, Mr. Karokhel’s claims relate to the government’s
7 authority to detain him, and courts have widely held that review of issues related to
8 detention is not barred by § 1252(g) or (b)(9). *See, e.g., Flores–Torres v. Mukasey*,
9 548 F.3d 708, 711 (9th Cir. 2008) (holding that habeas jurisdiction exists to review
10 a challenge to immigration detention based on a citizenship claim); *Kong v. United*
11 *States*, 62 F.4th 608, 617 (1st Cir. 2023) (holding that “assertions of illegal
12 detention [were] plainly collateral to ICE’s prosecutorial decision to execute [a
13 detainee’s removal” and thus not subject to § 1252’s jurisdictional bars); *Cardoso*
14 *v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000) (“[S]ection 1252(g) does not bar courts
15 from reviewing an alien detention order[.]”); *Parra v. Perryman*, 172 F.3d 954,
16 957 (7th Cir. 1999) (§ 1252(g) did not apply to a “claim concern[ing] detention”).
17 To undersigned counsel’s knowledge, every judge in this district has held that it
18 has jurisdiction to consider claims that an individual is unlawfully detained.

19
20 Importantly, all of the claims Mr. Karokhel asserts in his habeas petition
21 relate to the government’s authority to detain him. In his habeas, Mr. Karokhel’s
22 asks this Court to find that the denial of his liberty interest granted to him though
23 his parole violated procedural due process and the Administrative Procedures Act.

24
25 The government paroled Mr. Karokhel into the United States. The
26 government never claimed before his detention that it revoked this parole, nor has
27 it provided evidence that it was revoked. Yet ICE detained Mr. Karokhel as though
28 it *had* been revoked.

1 Importantly, a person shall only be “returned to the custody from which he
2 was paroled” when “the purposes of such parole . . . have been served.” 8 U.S.C. §
3 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e) (parole may only be terminated “upon
4 accomplishment of the purpose for which parole was authorized”); *Y-Z-L-H v.*
5 *Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *12 (D. Or. July 9, 2025)
6 (noncitizen should not be returned to custody unless the purposes of the parole
7 have been served). Additionally, parole shall only be “terminated upon written
8 notice to the alien.” 8 C.F.R. § 212.5(e)(2)(i). So under the statute and the
9 regulations, parole revocation (and thus the noncitizen’s re-detention) only occurs
10 when the parole’s purpose is served and the noncitizen receives written notice of
11 the revocation.
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13 Here, neither occurred. Mr. Karokhel was paroled into the United States to
14 apply for asylum, and “the purposes of such parole” have not yet “been served”
15 because his asylum claim has not been adjudicated. 8 U.S.C. § 1182(d)(5)(A).
16 Moreover, there is no indication that Mr. Karokhel’s parole had been revoked, nor
17 did he receive any written notification of a revocation, as the regulations and the
18 document itself require. 8 C.F.R. § 212.5(e). So, by arresting and placing Mr.
19 Karokhel in detention, the government violated its own parole order, in violation of
20 statutory and regulatory authority. By these actions, this Court has jurisdiction to
21 review the status of Mr. Karokhel’s parole and the government’s authority to
22 detain him.
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24 In sum, Mr. Karokhel’s unlawful arrest affected the government’s authority
25 to detain him by 1) effectively revoking his parole, in violation of the statute and
26 regulations, and 2) attempting to subject him to mandatory detention. The Supreme
27 Court recently clarified that when petitioners’ claims for relief “necessarily imply
28 the invalidity of their confinement and removal,” such claims “fall within the core

1 of the writ of habeas corpus.” *Trump v. J. G. G.*, 672 (2025) (quotations omitted).
2 Because the government’s authority to detain Mr. Karokhel is thus inextricably
3 intertwined with the claims in his habeas petition, this Court has jurisdiction to
4 consider them.

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

9 Even if Mr. Karokhel’s claims were *not* inextricably intertwined with the
10 government’s authority to detain him, they would still not be jurisdictionally
11 barred. That is because the jurisdictional bars of § 1252 do not bar review of
12 claims that ICE is “failing to carry out non-discretionary statutory duties and
13 provide due process.” *J.R. v. Bostock*, No. 2:25-CV-01161-JNW, 2025 WL
14 1810210, at *3 (W.D. Wash. June 30, 2025); *see also D.V.D. v. U.S. Dep’t of*
15 *Homeland Sec.*, 778 F. Supp. 3d 355, 377–78 (D. Mass. 2025) (§ 1252(g) did not
16 bar review of “the purely legal question of whether the Constitution and relevant
17 statutes require notice and an opportunity to be heard”).

18 That is precisely what Judge Curiel recently held in a similar case. In *Sayed*
19 *Nasser Noori v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *1
20 (S.D. Cal. Oct. 1, 2025) the petitioner was an asylum seeker from Afghanistan who
21 “presented himself at the U.S. Port of Entry in San Ysidro, California and applied
22 for admission with a CBP One application.” Immigration officials “paroled him
23 into the United States” under a similar type of parole as Mr. Karokhel. *Id.* But after
24 the government cancelled the petitioner’s removal proceedings and placed him in
25 expedited removal, he filed a habeas petition, and the government argued that §§
26 1252(g) and (b)(9) stripped the court of jurisdiction to hear his claims. *Id.* at *5.

27 Nevertheless, Judge Curiel found that he had jurisdiction to hear the claims,
28 noting that “Petitioner does not challenge the decision to commence proceedings.”

1 *Id.* at *6. Instead, “Petitioner challenges the legality of the revocation of
2 humanitarian parole in violation of the law and dismissal of ongoing removal
3 proceedings without due process.” *Id.* So even assuming the agency’s revocation of
4 parole “constitutes a decision or action to adjudicate cases,” that action is not “in
5 the discretion” of the agency under § 1252(g) where it was “not performed in
6 accordance with the mandatory procedures.” *Id.* (quoting *Sharkey v. Quarantillo*,
7 541 F.3d 75, 86 (2d Cir. 2008) (alterations omitted)).
8

9 Other courts have held the same. In *Dep’t of Homeland Sec. v. Regents of the*
10 *Univ. of California*, 140 S. Ct. 1891, 1907 (2020), the Supreme Court held that §
11 1252(b)(9) “does not present a jurisdictional bar” where those bringing suit “are
12 not asking for review of an order of removal,” “the decision to seek removal,” or
13 “the process by which removability will be determined.” (quotations and
14 alterations omitted). And in *Vasquez Garcia v. Noem*, 25-cv-02180-DMS-MMP,
15 2025 WL 2549431, Dkt. 7 at *8 (S.D. Cal. Sept. 3, 2025), Judge Sabraw held that
16 “§ 1252(g) does not limit the Court’s jurisdiction in the present case” because the
17 petitioners were “enforcing their constitutional rights to due process in the context
18 of the removal proceedings—not the legitimacy of the removal proceedings or any
19 removal order.”

20 Here, Mr. Karokhel similarly challenges the legality of the government’s
21 arbitrary decision to cancel his parole and declare him subject to mandatory
22 detention. Because these actions were “not performed in accordance with the
23 mandatory procedures,” they were not undertaken “in the discretion” of the
24 agency. *Noori*, 2025 WL 2800149, at *6; *see also United States ex rel. Accardi v.*
25 *Shaughnessy*, 347 U.S. 260, 265–68 (1954) (holding that agencies must adhere to
26 their own binding regulations, both substantively and procedurally). Accordingly,
27 this Court is not jurisdictionally barred from reviewing them.
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1 **C. Mr. Karokhel’s claims do not fall within the plain language of**
2 **§ 1252 and if they did, the statute would violate the Suspension**
3 **Clause and Due Process.**

4 Finally, Mr. Karokhel’s claims do not fall within the plain language of the
5 § 1252(g) and § 1252(b)(9) jurisdictional bars. And even if they did, this Court
6 could still review them under the Suspension Clause.

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

17 Here, Mr. Karokhel’s challenge does not fall within any of the three
18 categories of § 1252(g). He does not challenge the agency’s decision to
19 “commence proceedings” under § 1252(g) because his asylum proceedings had
20 already “commenced”. Nor does he challenge the agency’s decision to
21 “adjudicate” his case—only the arbitrary decision to detain him. And Mr.
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1 Karokhel could not challenge the agency’s ability to “execute [his] removal order”
2 given that he doesn’t have one. Reading § 1252(g) “narrowly,” *Ibarra-Perez*, 154
3 F.4th at 991, thus shows that Mr. Karokhel’s claims do not fall within any of these
4 three categories.
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7 The same is true of § 1252(b)(9). This section bars “[j]udicial review of all
8 questions of law and fact, including interpretation and application of constitutional
9 and statutory provisions, arising from any action taken or proceeding brought to
10 remove an alien from the United States[.]” 8 U.S.C. § 1252(b)(9). But the Ninth
11 Circuit holds that this statute, by its plain language, applies only to “judicial review
12 of an order of removal” and does not eliminate the ability of a court to review
13 claims that are “independent of challenges to removal orders.” *Singh v. Gonzales*,
14 499 F.3d 969, 978 (9th Cir. 2007) (quotations omitted). Rather, § 1252(b)(9) was
15 designed to limit noncitizens to “one bite of the apple with regard to challenging an
16 order of removal,” precluding, for instance, claims that the BIA erred in finding an
17 individual “ineligible for asylum, withholding of removal, and relief under the
18 [Convention Against Torture].” *Martinez v. Napolitano*, 704 F.3d 620, 622–23 (9th
19 Cir. 2012). Thus, determining jurisdiction under § 1252 “requires a case-by-case
20 inquiry turning on a practical analysis” of the noncitizen’s circumstances. *Singh v.*
21 *Holder*, 638 F.3d 1196, 1211 (9th Cir. 2011).
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1 Here, Mr. Karokhel does not challenge any decision that the BIA or a circuit
2 court could review as part of a final order of removal. Nor could he, since the
3 agency has yet to issue a decision regarding his removal. Rather, he seeks review
4 of the agency's parole revocation which does not relate to the substance of his
5 removal proceedings. Thus, neither provision in § 1252 strips this Court of
6 jurisdiction to hear his claims.
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9 But even if the government's expansive reading of § 1252 *were* correct, this
10 Court could still hear Mr. Karokhel's claims under the Suspension Clause. Under
11 the Suspension Clause, "[t]he Privilege of the Writ of Habeas Corpus shall not be
12 suspended, unless when in Cases of Rebellion or Invasion the public Safety may
13 require it." U.S. Const. Art. I ¶ 9, cl. 2. Courts have held that even when "Congress
14 intended to strip all courts of jurisdiction over [a petitioner's] claim, the
15 Suspension Clause of the Constitution nonetheless requires that [he] may bring his
16 challenge through the writ of habeas corpus." *Ragbir v. Homan*, 923 F.3d 53, 57–
17 58 (2d Cir. 2019), *cert. granted, judgment vacated sub nom. Pham v. Ragbir*, 141
18 S. Ct. 227 (2020). In determining the reach of the Suspension Clause, courts are
19 required to consider "(1) the citizenship and status of the detainee and the
20 adequacy of the process through which that status determination was made; (2) the
21 nature of the sites where apprehension and then detention took place; and (3) the
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1 practical obstacles inherent in resolving the prisoner's entitlement to the writ.”

2 *Boumediene v. Bush*, 553 U.S. 723, 766 (2008).

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

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19 Here, the facts in Mr. Karokhel’s case are materially identical to those in
20 *Noori*. Mr. Karokhel was “paroled into the United States upon a finding that he
21 was not a flight risk or a danger to the community,” has “remained here for nearly
22 a year,” and “developed ties to the community.” *Id.* Thus, as in *Noori*, the

1 *Boumediene* factors weigh in his favor, and at a minimum, this Court has
2 jurisdiction to review his claims under the Suspension Clause.
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4 **II. On the merits, the government’s actions violated the Administrative
5 Procedures Act and due process.**

6 Moving to the merits, Mr. Karokhel argues that the agency’s effective
7 revocation of his parole violated the Administrative Procedures Act and procedural
8 due process.

9 **A. Revoking Mr. Karokhel’s parole and subjecting him to detention
10 violates the Administrative Procedures Act and Due Process.**

11 As recounted above, the government paroled Mr. Karokhel into the United
12 States to allow him to apply for asylum. When ICE detained Mr. Karokhel it did
13 not say whether it was revoking his parole or not. Either way, the government’s
14 actions violate the Administrative Procedures Act and Due Process.

15 **1. The government’s actions violated the Administrative
16 Procedures Act.**

17 Under the Administrative Procedures Act (APA), an agency action may be
18 held unlawful and set aside if it is “arbitrary, capricious, an abuse of discretion, or
19 otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). An action is an abuse
20 of discretion if the agency “entirely failed to consider an important aspect of the
21 problem, offered an explanation for its decision that runs counter to the evidence
22 before the agency, or is so implausible that it could not be ascribed to a difference
23 in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs.
24 of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S.,
25 Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). For a challenged
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1 agency action to be upheld, the agency “must explain the evidence which is
2 available, and must offer a rational connection between the facts found and the
3 choice made.” *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983) (internal quotations
4 omitted) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168
5 (1962)).
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8 Here, regardless of whether the agency formally revoked Mr. Karokhel’s
9 parole or not, it violated the APA. If the agency did *not* revoke his parole, then it
10 inexplicably violated its own parole decision by detaining Mr. Karokhel. Doing so
11 violated the APA because the agency did not provide notice in which it “offered a
12 rational connection between the facts found and the choice made”—i.e., the fact
13 that Mr. Karokhel was still on parole, yet the agency decided to detain him. *Motor*
14 *Vehicle Mfrs*, 463 U.S. at 52. And nothing suggests that there *was* a “rational”
15 reason for this choice, given that Mr. Karokhel had filed an asylum application,
16 complied with all the conditions of his parole, and had no criminal history. This
17 was the epitome of an “arbitrary” and “capricious” act under the APA. 5 U.S.C. §
18 706(2)(A).
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24 But assuming the agency *had* revoked his parole, it also violated the APA.
25 As explained, a person shall only be “returned to the custody from which he was
26 paroled” when “the purposes of such parole . . . have been served.” 8 U.S.C.
27 § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be terminated
28 “upon accomplishment of the purpose for which parole was authorized”); *Y-Z-L-H*,

1 2025 WL 1898025, at *12 (same). Alternatively, the regulations permit revocation
2 of parole when “neither humanitarian reasons nor public benefit warrants the
3 [noncitizen’s] continued presence.” 8 C.F.R. § 212.5(e)(2)(i). But under either
4 scenario, parole shall only be “terminated upon written notice to the alien.” 8
5 C.F.R. § 212.5(e)(2)(i). So, under the statute and the regulations and pursuant to
6 the parole document given to Mr. Karokhel upon his release, the agency may only
7 revoke parole and re-detain a noncitizen when the parole’s purpose is served or no
8 humanitarian reasons warrant it *and* the noncitizen receives written notice.
9

10 None of this occurred here. Because “the purpose[] of [Mr. Karokhel’s]
11 parole” was to allow him to apply for asylum, that purpose has not yet “been
12 served” because his asylum claim has not been adjudicated. 8 U.S.C. §
13 1182(d)(5)(A). Moreover, the “humanitarian reasons” for Mr. Karokhel’s parole—
14 to allow him to seek protection from the government of Iran—have not changed. 8
15 C.F.R. § 212.5(e)(2)(i). What’s more, Mr. Karokhel never received any written
16 notification of a revocation under 8 C.F.R. § 212.5(e). So, if the agency revoked
17 his parole, this decision violated both the statute and the regulation and was “not in
18 accordance with law” under the APA. 5 U.S.C. § 706(2)(A).

19 That is precisely what Judge Curiel concluded in *Noori*, 2025 WL 2800149,
20 at *13. Relying on the same authority cited above, *Noori* concluded that “to meet
21 statutory and regulatory requirements, revocation should only occur when (1) the
22 parole’s purpose is served or (2) when humanitarian reasons and public benefit are
23 no longer warranted, and the noncitizen is provided written notice.” *Id.* The first
24 requirement was not met because the petitioner “applied for asylum and was still in
25 the middle of those proceedings when Respondents issued and executed the
26 revocation.” *Id.* So, the second requirement was not met because “humanitarian
27 reasons still warrant the Petitioner’s presence in the country.” *Id.* At a minimum,
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1 Judge Curiel held, parole revocation “requires an individualized determination,”
2 which the government had not provided because it failed to explain “why the
3 Petitioner would now be considered a flight risk or danger to the community.” *Id.*

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

9
10 **2. The government’s actions violated procedural due process.**

11 Not only did the government’s effective revocation of parole violate the
12 APA, it also violated procedural due process. The Fifth Amendment guarantees
13 that “[n]o person shall be ... deprived of life, liberty, or property, without due
14 process of law.” U.S. Const. amend. V. To determine a violation of procedural due
15 process, courts weigh the traditional factors of (1) the private interest at issue, (2)
16 the risk of erroneous deprivation of that interest through the procedures used, and
17 (3) the government’s interest. *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976).
18 Here, these factors easily weigh in Mr. Karokhel’s favor.

19 First, the private interest at issue is Mr. Karokhel’s deprivation of liberty—
20 i.e., remaining on parole, rather than being detained. *See Morrissey v. Brewer*, 408
21 U.S. 471, 482-483 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)
22 (“Freedom from imprisonment—from government custody, detention, or other
23 forms of physical restraint—lies at the heart of the liberty that [the Due Process]
24 Clause protects.”). Not only is Mr. Karokhel’s general liberty interest substantial,
25 he has an added interest in remaining out of custody so he can work with his
26 attorney to prepare his asylum case. What’s more, Mr. Karokhel’s work
27 authorization is contingent on his parole status, and revocation of his parole will
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1 directly impact his ability to provide for himself and his family. Thus, the first
2 factor weighs heavily in Mr. Karokhel's favor.

3 Second, the procedures the agency used to determine whether to revoke
4 Mr. Karokhel's parole presented a high risk of erroneous deprivation of liberty. To
5 date, the agency's actions surrounding Mr. Karokhel's parole have completely
6 failed to comply with the statute, the regulations, and even the agency's own
7 decision. After granting Mr. Karokhel parole, the agency inexplicably revoked this
8 parole. It did so even though Mr. Karokhel had attended all his check-in
9 appointments, had no criminal history, and had timely filed an asylum application.
10 The agency did not claim that "the purposes of such parole . . . have been served,"
11 8 U.S.C. § 1182(d)(5)(A), nor that the "humanitarian reasons" for his parole no
12 longer existed, 8 C.F.R. § 212.5(e)(2)(i). Because consideration of any of these
13 factors should have led to a different result, the risk of erroneous deprivation of
14 Mr. Karokhel's parole without these procedures was high, and this factor weighs
15 heavily in his favor.

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

22 If Mr. Karokhel's detention was unlawful, *ab initio*, he should not be
23 required to post a bond and, in effect, pay a ransom to be released from this illegal
24 detention. Nothing in the government's response indicates that Mr. Karokhel has
25 somehow become a flight risk or a danger to the community.
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1 In addition, the current practice at Otay Mesa Detention Center is, upon
2 release, to immediately enroll detainees in an Alternative to Detention program and
3 put an ankle monitor on them before their actual release. This is also done without
4 any individualized consideration of whether the detainee is a potential flight risk or
5 a danger to the community. Mr. Karokhel had been at liberty for quite a while prior
6 to his detention and should not be enrolled in any ATD program and especially
7 should not be forced to wear an ankle monitor.
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11 CONCLUSION

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15 Petitioner respectfully requests this Court to grant the following:

16 (1) Declare that Petitioner's detention without an individualized
17 determination violates the Due Process Clause of the Fifth Amendment and the
18 Administrative Procedures Act;

19 (2) Issue a Writ of Habeas Corpus ordering Respondents to release
20 Petitioner from custody;

21 (3) Issue and Order prohibiting the Respondents from enrolling the
22 Petitioner in any Alternative to Detention program, specifically barring them from
23 requiring an ankle monitor;

24 (4) In the alternative, order a bond hearing for the Petitioner.
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1 (5) Grant any further relief this Court deems just and proper.

2 Dated: December 31, 2025.

3 /s/ Brian J. McGoldrick
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9 *Attorney 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 31, 2025, I served a copy of this **TRAVERSE TO PETITION FOR WRIT OF HABEAS CORPUS** by the method and to the parties listed below:

On December 31, 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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/s/Brian J. McGoldrick
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