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10 UNITED STATES DISTRICT COURT
 11 SOUTHERN DISTRICT OF CALIFORNIA

12 JAIME EDGARDO GALDAMEZ
 13 ORTEGA,

14 Petitioner,

15 v.

16 WARDEN AT OTAY MESA
 17 DETENTION CENTER,

18 Respondents.

CIVIL CASE NO.:
 26-cv-131-JO-MMP

**PETITIONER'S SUPPLEMENTAL
 BRIEFING**

Next hearing:
 Jan. 26, 2026 at 9:30 a.m.

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 27 ¹ The Court conditionally appointed Federal Defenders of San Diego, Inc. ECF No.
 28 4. Mr. Galdamez Ortega financial eligibility for representation is included in the
 financial affidavit that will be filed prior to January 23, 2026.

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Introduction

Mr. Galdamez Ortega was paroled into the country in August of 2023. On October 22, 2025, ICE pulled his car over and detained him. He has been detained at Otay Mesa Detention Center ever since. ICE did not provide him with a basis for the revocation. This civil immigration habeas petition claims the detention of petitioner violates the parole statute, the government’s regulations, and the Fifth Amendment’s Due Process Clause.

This Court should order Petitioner’s immediate release and reinstate Petitioner’s parole.

Statement of Facts

Mr. Galdamez Ortega is a Guatemalan national who entered the United States on August 23, 2023. Exhibit A, Declaration of Jaime Edgardo Galdamez Ortega at ¶ 1. He was detained for a night and then released on parole the next day. *Id.*

Mr. Galdamez Ortega was informed that the purpose of paroling him into the country was so that he could pursue his asylum claim, which he was required to do within a year of his entry. *Id.* After being released on parole, he pursued his asylum claim and made all his court appearances. *Id.* at ¶¶ 1-2.

On October 22, 2025, while his asylum claim was pending, ICE arrested Mr. Galdamez Ortega. *Id.* at ¶ 4. ICE pulled his car over and arrested him. *Id.* at ¶ 5. ICE did not give him paperwork regarding the revocation of his parole. *Id.* He has not been told the reasons of his detention. *Id.* at ¶ 6. And he was not given an opportunity to contest the detention. *Id.*

Prior to his detention in October, Mr. Galdamez Ortega integrated himself into the community. He moved to Providence, Rhode Island where he worked in construction and cared for his family.

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LEGAL BACKGROUND

I. Revoking Mr. Galdamez Ortega’s parole and subjecting him to detention violates the Administrative Procedures Act and Due Process.

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

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

Section § 1225(b)(2)(A) provides that “in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A). However, “applicants for admission may be temporarily released on parole [into the United States] ‘for urgent humanitarian reasons or significant public benefit,’ as set forth in 8 U.S.C. § 1182(d)(5)(A). *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)). The decision to grant parole pursuant to 8 U.S.C. § 1182(d)(5)(A) is determined “on a

1 case-by-case basis.” 8 U.S.C. § 1182(d)(5)(A). Then, “when the purpose of the
2 parole has been served,” § 1182(d)(5)(A) provides that “the alien shall forthwith
3 return or be returned to the custody from which he was paroled and thereafter his
4 case shall continue to be dealt with in the same manner as that of any other
5 applicant for admission to the United States.” *Jennings*, 583 U.S. at 288 (quoting
6 8 U.S.C. § 1182(d)(5)(A)).

7 To terminate the previously granted parole, the agency must comply with
8 the applicable regulatory and statutory requirements. As set forth in 8 C.F.R. §
9 212.5(e)(2)(i), which governs the “[t]ermination of parole,”

10 In cases not covered by paragraph (e)(1) of this section,³ upon
11 accomplishment of the purpose for which parole was authorized or
12 when in the opinion of one of the officials listed in paragraph (a)
13 of this section, neither humanitarian reasons nor public benefit
14 warrants the continued presence of the alien in the United States,
15 parole 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.

16 8 C.F.R. § 212.5(e)(2)(i). That is, “[u]nder the governing regulation, [§
17 1182(d)(5)(A)] parole may be terminated only if the purpose of parole is
18 accomplished, or humanitarian reasons and the public benefit no longer warrant
19 parole.” *Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL
20 3295385, at *3 (S.D. Cal. Nov. 25, 2025) (citing 8 C.F.R. § 212.5(e)).

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

1 INA must occur on a case-by-case basis and may occur “when the purposes of
2 such parole shall, in the opinion of the Secretary of Homeland Security, have been
3 served the alien shall forthwith return or be returned to the custody from which he
4 was paroled.” *Id.* (quoting 8 C.F.R. § 212.5(e)). 8 C.F.R. § 212.5(e) requires
5 written notice of the termination of parole except where the immigrant has
6 departed or when the specified period of parole has expired.

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

15 First, the parole statute at 8 U.S.C. § 1182(d)(5)(A) permits the termination
16 of parole only where there is a finding that the purpose of such parole has been
17 served. *Y-Z-L-H*, 792 F. Supp. 3d at 1133. Here, however, the purpose of Mr.
18 Galdamez Ortega’s parole has not been served. He fled from Guatemala, seeking
19 asylum in the United States, and he entered the United States at a port of entry.
20 Exh. A ¶ 1. At that time, Mr. Galdamez Ortega was granted parole pursuant to 8
21 U.S.C. § 1182(d)(5)(A), which provides for parole into the United States “for
22 urgent humanitarian reasons or significant public benefit.” 8 U.S.C. §
23 1182(d)(5)(A). He filed an asylum application. Thus, when he was recently
24 arrested and detained, he was still seeking asylum. Thus, the purpose of parole has
25 not yet been served.

26 Second, ICE is required to provide the noncitizen “a cogent description of
27 the reasons supporting the revocation decision.” *J.E.H.G. v. Chestnut*, No. 1:25-
28 CV-01673-JLT SKO, 2025 WL 3523108, at *6 (E.D. Cal. Dec. 9, 2025). In *Y-Z-*

1 *H-L*, the Petitioner received an email stating that “DHS was exercising its
2 discretion” to terminate parole. 792 F. Supp. 3d at 1146. The court said that this
3 language was vague and did not provide an actual reason. *Id.* It stated that the
4 “email was legally insufficient to meet the statutory and regulatory requirements,
5 even though it cited those provisions and invoked the word ‘discretion.’” *Id.*
6 Common sense and the words of the statute require parole revocation to be
7 analyzed on a case-by-case basis and that a decision to revoke parole “must attend
8 to the reasons an individual [noncitizen] received parole.” *J.E.H.G.*, 2025 WL
9 3523108, at *6 (citing *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025
10 WL 1953796, at *11 (W.D.N.Y. July 16, 2025)). There is no indication that the
11 government conducted that analysis in this case.

12 Judge Curiel found an APA violation in *Noori v. LaRose*, No. 25-CV-1824-
13 GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct. 1, 2025). *Noori* concluded that “to
14 meet statutory and regulatory requirements, revocation should only occur when
15 (1) the parole’s purpose is served or (2) when humanitarian reasons and public
16 benefit are no longer warranted, and the noncitizen is provided written notice.” *Id.*
17 The first requirement was not met because the petitioner “applied for asylum and
18 was still in the middle of those proceedings when Respondents issued and
19 executed the revocation.” *Id.* And even though the petitioner was provided a
20 “generic notification” of his revocation, the second requirement was not met
21 because “humanitarian reasons still warrant the Petitioner’s presence in the
22 country.” *Id.* At a minimum, Judge Curiel held, parole revocation “requires an
23 individualized determination,” which the government had not provided because it
24 failed to explain “why the Petitioner would now be considered a flight risk or
25 danger to the community.” *Id.*

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

1 2. Mr. Galdamez Ortega’s detention is a violation of the Due
2 Process Clause.

3 The Due Process Clause of the Fifth Amendment forbids the government
4 from depriving any person of liberty without due process of law. U.S. Const.
5 amend. V. “Freedom from imprisonment—from government custody, detention,
6 or other forms of physical restraint—lies at the heart of the liberty” that the Due
7 Process Clause protects. *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*,
8 504 U.S. 71, 80 (1992)).

9 An individual released from immigration custody has a constitutionally
10 protected liberty interest in remaining free from detention. *Morrissey v. Brewer*,
11 408 U.S. 471, 482, 92 S. Ct. 2593, 2601, 33 L. Ed. 2d 484 (1972); *see also*
12 *Sanchez v. LaRose*, 25-cv-2396; 2025 WL 2770629, at * 3 (S.D. Cal.). Thus, Mr.
13 Galdamez Ortega has a fundamental interest in liberty and being free from official
14 restraint.

15 “Even when ICE has the initial discretion to detain or release a noncitizen
16 pending removal proceedings, after that individual is released from custody [he]
17 has a protected liberty interest in remaining out of custody.” *Pinchi v. Noem*, 792
18 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025). (internal citation omitted). Thus, the
19 liberty interest applies to individuals who are paroled into the United States and
20 released to attend removal proceedings. *Garcia v. Andrews*, No. 1:25-CV-01006
21 JLT SAB, 2025 WL 2420068, at *11 (E.D. Cal. Aug. 21, 2025); *Valencia Zapata*
22 *v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2578207, at *3 (N.D. Cal. Sept. 5,
23 2025); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *13 (D.
24 Or. July 9, 2025).

25 To determine which procedures are constitutionally sufficient to satisfy the
26 Due Process Clause, the Court must apply the *Mathews* factors. *See Mathews*,
27 424 U.S. at 335. Courts must consider: (1) “the private interest that will be
28 affected by the official action”; (2) “the risk of an erroneous deprivation of such

1 interest through the procedures used, and the probable value, if any, of additional
2 or substitute procedural safeguards”; and (3) “the Government’s interest, including
3 the function involved and the fiscal and administrative burdens that the additional
4 or substitute procedural requirement would entail.” *Id.*

5 All three factors support a finding that the government’s revocation of Mr.
6 Galdamez Ortega’s parole without reasoning or an opportunity to be heard, denied
7 Petitioner of his due process rights. First, Mr. Galdamez Ortega has a significant
8 liberty interest in remaining out of custody pursuant to his conditional parole.
9 “Freedom from imprisonment—from government custody, detention, or other
10 forms of physical restraint—lies at the heart of the liberty [the Due Process
11 Clause] protects.” *Zadvydas*, 533 U.S. at 690. He also has an interest in remaining
12 with his family and continuing the process of adjusting status to a lawful
13 permanent resident and asylum. *See Morrissey*, 408 U.S. 471 at 482 (“Subject to
14 the conditions of his parole, he can be gainfully employed and is free to be with
15 family and friends and to form the other enduring attachments of normal life.”).

16 Second, the risk of an erroneous deprivation of such interest is high as Mr.
17 Galdamez Ortega’s parole was revoked without providing him a reason for
18 revocation or giving him an opportunity to be heard. When he was paroled, the
19 government made a finding that he did not pose a danger to the community and
20 was not a flight risk. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1760 (N.D. Cal.
21 2017) (“Release reflects a determination by the government that the noncitizen is
22 not a danger to the community or a flight risk.”). “Once a noncitizen has been
23 released, the law prohibits federal agents from rearresting him merely because he
24 is subject to 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 dangerous or has
27 become a flight risk....” *Id.* “Where, as here, ‘the petitioner has not received any
28 bond or custody hearing,’ ‘the risk of an erroneous deprivation of liberty is high’

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

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

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

17 **II. This Court has jurisdiction to consider Mr. Galdamez Ortega’s claim.**

18 In cases raising similar claims, the government has argued that this Court
19 lacks jurisdiction to consider or grant relief under 8 U.S.C. §§ 1252(g) and
20 1252(b)(9). This argument fails here for at least three independent reasons. First,
21 Mr. Galdamez Ortega’s claims are inextricably intertwined with the government’s
22 authority to detain him, which this Court has jurisdiction to consider. Second, this
23 Court has jurisdiction to review whether the agency has complied with due
24 process and its mandatory, nondiscretionary duties.

25 Courts have jurisdiction to “decide a purely legal question that does not
26 challenge the Attorney General’s discretionary authority.” *Ibarra-Perez v. United*
27 *States*, 154 F.4th 989, 996 (9th Cir. 2025) (quotations omitted). In *Ibarra-Perez*,
28 the Ninth Circuit squarely held that “§ 1252(g) does not prohibit challenges to

1 unlawful practices merely because they are in some fashion connected to removal
2 orders.” *Id.* at 997. Accordingly, the question is whether Mr. Galdamez Ortega’s
3 claim “challenge[s] the Attorney General’s discretionary authority.” *Id.* at 996.

4 They do not. First, Mr. Galdamez Ortega’s claim relates to the
5 government’s authority to detain him, and courts have widely held that review of
6 issues related to detention is not barred by § 1252(g) or (b)(9). *See, e.g., Flores–*
7 *Torres v. Mukasey*, 548 F.3d 708, 711 (9th Cir. 2008) (holding that habeas
8 jurisdiction exists to review a challenge to immigration detention based on a
9 citizenship claim); *Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023)
10 (holding that “assertions of illegal detention [were] plainly collateral to ICE’s
11 prosecutorial decision to execute [a detainee’s removal” and thus not subject to §
12 1252’s jurisdictional bars); *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000)
13 (“[S]ection 1252(g) does not bar courts from reviewing an alien detention
14 order[.]”); *Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999) (§ 1252(g) did
15 not apply to a “claim concern[ing] detention”). To undersigned counsel’s
16 knowledge, every judge in this district has held that it has jurisdiction to consider
17 claims that an individual is unlawfully detained. Mr. Galdamez Ortega claim
18 asserts in his habeas petition relate to the government’s authority to detain him
19 without following the regulations and statues relating to parole.

20 Second, the jurisdictional bars of § 1252 do not bar review of claims that
21 ICE is “failing to carry out non-discretionary statutory duties and provide due
22 process.” *J.R. v. Bostock*, No. 2:25-CV-01161-JNW, 2025 WL 1810210, at *3
23 (W.D. Wash. June 30, 2025); *see also D.V.D. v. U.S. Dep’t of Homeland Sec.*, 778
24 F. Supp. 3d 355, 377–78 (D. Mass. 2025) (§ 1252(g) did not bar review of “the
25 purely legal question of whether the Constitution and relevant statutes require
26 notice and an opportunity to be heard”).

27 That is precisely what Judge Curiel recently held in a similar case. In *Noori*
28 *v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *1 (S.D. Cal. Oct.

1 1, 2025), the petitioner was (like Mr. Galdamez Ortega) an asylum seeker from
2 Afghanistan who “presented himself at the U.S. Port of Entry in San Ysidro,
3 California and applied for admission with a CBP One application.” Immigration
4 officials “paroled him into the United States” under the same type of “DT”
5 humanitarian parole as Mr. Galdamez Ortega. *Id.* But after the government
6 cancelled the petitioner’s removal proceedings and placed him in expedited
7 removal, he filed a habeas petition, and the government argued that §§ 1252(g)
8 and (b)(9) stripped the court of jurisdiction to hear his claims. *Id.* at *5.

9 Nevertheless, Judge Curiel found that he had jurisdiction to hear the claims,
10 noting that “Petitioner does not challenge the decision to commence proceedings.”
11 *Id.* at *6. Instead, “Petitioner challenges the legality of the revocation of
12 humanitarian parole in violation of the law and dismissal of ongoing removal
13 proceedings without due process.” *Id.* So even assuming the agency’s revocation
14 of parole “constitutes a decision or action to adjudicate cases,” that action is not
15 “in the discretion” of the agency under § 1252(g) where it was “not performed in
16 accordance with the mandatory procedures.” *Id.* (quoting *Sharkey v. Quarantillo*,
17 541 F.3d 75, 86 (2d Cir. 2008) (alterations omitted)).

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

1 Here, Mr. Galdamez Ortega similarly challenges the legality of the
2 government’s arbitrary decision to cancel his USCIS asylum process and place
3 him in proceedings before an immigration judge without notice, an opportunity to
4 be heard, or any justification. Because these actions were “not performed in
5 accordance with the mandatory procedures,” they were not undertaken “in the
6 discretion” of the agency. *Noori*, 2025 WL 2800149, at *6; *see also United States*
7 *ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265–68 (1954) (holding that
8 agencies must adhere to their own binding regulations, both substantively and
9 procedurally). Accordingly, this Court is not jurisdictionally barred from
10 reviewing them.

11 **CLAIM AND PRAYER FOR RELIEF**

12 For the reasons just given, the statute, the regulations, and the Fifth
13 Amendment Due Process Clause prohibits the government from continuing to
14 detain Mr. Galdamez Ortega.

15 Accordingly, Petitioner respectfully requests that this Court:

- 16 1. Order Respondents to immediately release Petitioner from custody under
17 the same conditions of parole;
- 18 2. Order all other relief that the Court deems just and proper.

20 Respectfully submitted,

21 Dated: December 21, 2025

s/ Zandra Lopez
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