

1 **Katie Hurrelbrink**  
2 Federal Defenders of San Diego, Inc.  
3 225 Broadway, Suite 900  
4 San Diego, California 92101-5030  
5 Telephone: (619) 234-8467  
6 Facsimile: (619) 687-2666  
7 katie\_hurrelbrink@fd.org  
8 Attorneys for Mr. Devilmar

9  
10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 FEDLIN DEVILMAR,

13 Petitioner,

14 v.

15 CHRISTOPHER LAROSE, Senior  
16 Warden,

17 Respondents.

CIVIL CASE NO.: 26-cv-1748-BTM

**Amended<sup>1</sup> Petition  
for a  
Writ of Habeas Corpus**

18  
19  
20  
21  
22  
23  
24  
25  
26  
27 <sup>1</sup> Federal Rule of Civil Procedure 15(a)(1)(A) permits a party to “amend its pleading  
28 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 is less than 21 days since service. Ms. Mardian  
therefore files this amended petition as of right.

1 INTRODUCTION

2 Fedlin Devilmar is a citizen of Haiti who was released so that he could seek  
3 asylum in the United States. But despite complying with all his check-in  
4 requirements and litigating his asylum claim as ordered, Mr. Devilmar was  
5 arrested at a meeting with ICE. The arresting officers did not explain why he was  
6 being arrested, give him a chance to contest his detention, or provide any  
7 paperwork in connection with his arrest.

8 While it is unclear whether the government has formally revoked  
9 Mr. Devilmar's parole, the government's actions are unlawful regardless. If the  
10 agency did not revoke his parole, then it violated that parole by detaining him.  
11 And if the agency *did* revoke his parole, then it did so in violation of the statute  
12 and regulations, which require written notification and a determination that the  
13 purposes of the parole have been served, as well as the Constitution, which  
14 requires pre-deprivation notice and hearing. Either way, the agency's actions  
15 violated the Administrative Procedures Act and the Due Process Clause. Thus,  
16 this Court should reinstate his release.

17 STATEMENT OF FACTS

18 Fedlin Devilmar, a Haitian asylum seeker, entered the United States using  
19 CBP One on September 9, 2024. Exh. A at ¶ 1. He received an I-94 form and  
20 work permit. *Id.* at ¶ 2. Though ICE has now taken those forms from him, he  
21 attests that he received humanitarian parole. *Id.* He was not required to attend  
22 regular ICE check ins as part of his parole—he just had to file his asylum  
23 application and attend court dates, which he did. *Id.* at ¶ 3. He has never failed to  
24 do something that ICE asked of him. *Id.*

25 On October 14, 2025, he was ordered to go to an ICE appointment. *Id.* at  
26 ¶ 4. There, he was told to go speak to a woman to confirm his address. *Id.* at ¶ 5.  
27 She arrested him instead. *Id.* ICE said nothing about why the arrest was  
28 happening. *Id.* ICE did not give him any paperwork, apart from some papers to

1 help people find free attorneys. *Id.* ICE did not give him a chance to contest his  
2 arrest. *Id.* ICE just tried to get him to sign for his voluntary removal, which he  
3 refused to do. *Id.*

4 Mr. Devilmar's asylum claim remains pending. *Id.* at ¶ 6. His next hearing  
5 is on April 3, 2026. *Id.*<sup>2</sup>

#### 6 CLAIMS FOR RELIEF

##### 7 **I. Count 1: ICE failed to comply with its own regulations in revoking** 8 **Mr. Devilmar's parole under 8 C.F.R. § 212.5, violating the** 9 **Administrative Procedures Act and Due Process.**

10 When ICE detained Mr. Devilmar on October 6, 2025, it did not say that it  
11 was revoking his parole, so it is unclear whether a revocation occurred. Exh. A at  
12 ¶ 5. Either way, the government's actions violate the Administrative Procedures  
13 Act and Due Process.

14 Under the Administrative Procedures Act (APA), an agency action may be  
15 held unlawful and set aside if it is "arbitrary, capricious, an abuse of discretion, or  
16 otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). An action is an  
17 abuse of discretion if the agency "entirely failed to consider an important aspect  
18 of the problem, offered an explanation for its decision that runs counter to the  
19 evidence before the agency, or is so implausible that it could not be ascribed to a  
20 difference in view or the product of agency expertise." *Nat'l Ass'n of Home*  
21 *Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle*  
22 *Mfrs Ass'n of US, Inc v State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43  
23 (1983)). For a challenged agency action to be upheld, the agency "must explain  
24 the evidence which is available, and must offer a rational connection between the  
25 facts found and the choice made." *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983)  
26 (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v United*  
27

28 <sup>2</sup> Mr. Devilmar qualifies for Federal Defenders' services. Exh. A at ¶ 7.

1 *States*, 371 U.S. 156, 168 (1962)).

2 Here, regardless of whether the agency formally revoked Mr. Devilmar's  
3 parole, it violated the APA. If the agency did *not* revoke his parole, then it  
4 inexplicably violated its own parole decision by detaining Mr. Devilmar. Doing  
5 so violated the APA because the agency did not "offer a rational connection  
6 between the facts found and the choice made"—i.e., the fact that Mr. Devilmar  
7 was still on parole, yet the agency decided to detain him. *Motor Vehicle Mfrs*, 463  
8 U.S. at 52. And nothing suggests that there *was* a "rational" reason for this choice,  
9 given that Mr. Devilmar had filed an asylum application and complied with all the  
10 conditions of his parole. This was the epitome of an "arbitrary" and "capricious"  
11 act under the APA. 5 U.S.C. § 706(2)(A).

12 But assuming the agency *had* revoked his parole, it also violated the APA.  
13 Per ICE regulations, a person shall only be "returned to the custody from which  
14 he was paroled" when "the purposes of such parole . . . have been served." 8  
15 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be  
16 terminated "upon accomplishment of the purpose for which parole was  
17 authorized"); *Y-Z-L-H*, 2025 WL 1898025, at \*12 (same). Alternatively, the  
18 regulations permit revocation of parole when "neither humanitarian reasons nor  
19 public benefit warrants the [noncitizen's] continued presence." 8 C.F.R.  
20 § 212.5(e)(2)(i). But under either scenario, parole shall only be "terminated upon  
21 written notice to the alien." 8 C.F.R. § 212.5(e)(2)(i). So under the statute and the  
22 regulations, the agency may only revoke parole and re-detain a noncitizen when  
23 the parole's purpose is served or no humanitarian reasons warrant it *and* the  
24 noncitizen receives written notice.

25 None of this occurred here. Because "the purpose[ ] of [Mr. Devilmar's]  
26 parole" was to allow him to apply for asylum, that purpose has not yet "been  
27 served" because his asylum claim is still pending. 8 U.S.C. § 1182(d)(5)(A). And  
28 the humanitarian reasons for parole—to avoid unnecessary detention when an

1 asylum seeker poses no danger or flight risk—remains the same. Put differently,  
2 “upon Petitioner’s entry into the United States, Respondents determined that  
3 Petitioner was suitable for parole. Respondents have not provided a reasoned  
4 explanation or any changed circumstances that would justify their current  
5 departure from their prior decision.” *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123,  
6 1146 (D. Or. 2025). Under the APA, “[i]t is Respondents’ burden to provide a  
7 reasoned explanation for their action,” which they will not be able to do. *Id.*

8       What’s more, Mr. Devilmar never received any written notification of a  
9 revocation under 8 C.F.R. § 212.5(e). So if the agency revoked his parole, this  
10 decision violated both the statute and the regulation and was “not in accordance  
11 with law” under the APA. 5 U.S.C. § 706(2)(A).

12       Several courts have released parolees on this basis. *See Arias v. Larose*, No.  
13 3:25-CV-02595-BTM-MMP, 2025 WL 3295385, at \*3 (S.D. Cal. Nov. 25, 2025);  
14 *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct. 1,  
15 2025); *Salazar v. Casey*, No. 25-cv-2784 JLS-VET, 2025 WL 3063629 (S.D. Cal.  
16 Nov. 3, 2025); *Perez v. LaRose*, No. 25-cv-02620-RBM-JLB, 2025 WL 3171742  
17 (S.D. Cal. Nov. 13, 2025); *Y-Z-L-H v. Bostock*, No. 25-cv-965-SI, 2025 WL  
18 1898025, at \*13 (D. Or. July 9, 2025).

19 **II. Count 2: The Due Process Clause required notice and a chance to be**  
20 **heard before parole was revoked.**

21       Additionally, “the revocation of [Mr. Devilmar’s] parole without  
22 justification or consideration of his individualized circumstances violates the Due  
23 Process Clause.” *Perez v. LaRose*, No. 3:25-CV-02620-RBM-JLB, 2025 WL  
24 3171742, at \*4 (S.D. Cal. Nov. 13, 2025). Mr. Devilmar was “entitled to notice of  
25 the reasons for revocation of his parole and a hearing before an immigration judge  
26 to determine whether detention is warranted” before ICE revoked his parole. *Id.* at  
27 \*7.

28

1           “The Fifth Amendment guarantees that ‘[n]o person shall be ... deprived of  
2 life, liberty, or property, without due process of law.’” *Salazar*, 2025 WL 3063629,  
3 at \*3 (quoting U.S. Const. amend. V). “[T]he Due Process Clause applies to all  
4 ‘persons’ within the United States, including aliens, whether their presence here is  
5 lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693  
6 (9th Cir. 2001).

7           “Generally, due process protections depend on the situation and must  
8 account for (1) the private interest at issue, (2) the risk of erroneous deprivation of  
9 that interest through the procedures used, and (3) the Government’s interest.” *Noori*  
10 *v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct. 1, 2025);  
11 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). Weighing those considerations  
12 here, Respondents violated the Due Process Clause by revoking parole with no  
13 notice or hearing.

14           “First, Petitioner has a private interest in remaining free, which developed  
15 over the [months] he resided in the United States.” *Id.* at \*10. It does not matter that  
16 parole is temporary or discretionary. “For example, *Morrissey v. Brewer*, 408 U.S.  
17 471, 482 (1972)—though analyzing the criminal parole context—found that ‘the  
18 liberty of a parolee, although indeterminate, includes many of the core values of  
19 unqualified liberty and its termination inflicts a grievous loss on the parolee and  
20 often others ... [thus it] must be seen within the protection of the [Fifth]  
21 Amendment.’” *Id.*

22           “Second, the risk of an erroneous deprivation of such interest is high as  
23 Petitioner’s parole was revoked without providing [him] a reason for revocation or  
24 giving [him] an opportunity to be heard.” *Salazar*, 2025 WL 3063629, at \*4. “Civil  
25 immigration detention is permissible only to prevent flight or protect against danger  
26 to the community.” *Perez*, 2025 WL 3171742, at \*5. But here, “[s]ince DHS’s initial  
27 determination that Petitioner should be paroled because [he] posed no danger to the  
28

1 community and was not a flight risk, there is no evidence that these findings have  
2 changed.” *Id.*

3 “Third, the Government’s interest in detaining Petitioner without notice,  
4 reasoning, and a hearing is low.” *Salazar*, 2025 WL 3063629, at \*5 (cleaned up).  
5 “Detention for its own sake, to meet an administrative quota, or because the  
6 government has not yet established constitutionally required pre-detention  
7 procedures is not a legitimate government interest.” *Pinchi v. Noem*, 792 F. Supp.  
8 3d 1025, 1036 (N.D. Cal. 2025).

9 Thus, because Respondents did not provide “proper notice, reasoning, and a  
10 pre-deprivation hearing” before revoking parole, Mr. Devilmar’s redetention  
11 violated the Due Process Clause. *Salazar*, 2025 WL 3063629, at \*5.

12 **III. This Court must hold an evidentiary hearing on any disputed facts.**

13 Resolution of a detention-based habeas petition may require an evidentiary  
14 hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009). Mr. Devilmar  
15 hereby requests such a hearing on any material, disputed facts.

16 **IV. Prayer for relief**

17 For the foregoing reasons, Petitioner respectfully requests that this Court:

- 18 1. Order Respondents to immediately release Petitioner from custody,  
19 subject to the conditions of his preexisting parole;
  - 20 2. Order that prior to any re-detention of Petitioner, that Petitioner is entitled  
21 to notice of the reasons for revocation of his parole and a hearing before  
22 an immigration judge to determine whether detention is warranted.  
23 Respondents should bear the burden of establishing, by clear and  
24 convincing evidence, that Petitioner poses a danger to the community or  
25 a risk of flight at that hearing; and
  - 26 3. Order any other relief that the Court deems just and proper.
- 27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Respectfully submitted,

Dated: March 26, 2026

s/ Katie Hurrelbrink

Katie Hurrelbrink  
Federal Defenders of San Diego, Inc.  
Attorneys for Mr. Devilmar  
Email: katie\_hurrelbrink@fd.org