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

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Civil Case No.: 26-cv-2129-BJC-SBC

**Amended Petition
for a
Writ of Habeas Corpus**

12 v.
13 MARKWAYNE MULLIN, Secretary of
14 the Department of Homeland Security,
15 TODD BLANCHE, Acting Attorney
16 General, TODD M. LYONS, Acting
17 Director, Immigration and Customs
18 Enforcement, JESUS ROCHA, Acting
19 Field Office Director, San Diego Field
20 Office, CHRISTOPHER LAROSE,
21 Warden at Otay Mesa Detention Center,

22 Respondents.

1 **INTRODUCTION**

2 Leonid Salikov is a citizen of Russia who made an appointment through the
3 CBP One app to apply for asylum. He was paroled into the United States to seek
4 asylum and placed in removal proceedings. But despite complying with all his
5 court dates and timely submitting an application for asylum, Mr. Salikov was
6 arrested when he went through an immigration checkpoint on the highway. The
7 DHS then took him into custody without any notice or explanation.

8 Respondents have revoked Mr. Salikov’s parole in violation of the statute
9 and regulations, which require written notification and a determination that the
10 purposes of the parole have been served. Alternatively, the Due Process Clause of
11 the Fifth Amendment of the Constitution requires redeprivation notice and
12 hearing. Either way, the agency’s actions violated the Administrative Procedures
13 Act and the Due Process Clause, and this Court should order his immediate
14 release.

15 **STATEMENT OF FACTS**

16 Mr. Salikov was born in Russia. Exhibit A, Declaration of Leonid Salikov,
17 at ¶ 1. He fled due to problems he was having with the Russia police. *Id.* at ¶ 1.
18 He went to Mexico and made an appointment through the CBP One app to apply
19 for asylum. *Id.* at ¶ 1.

20 On July 21, 2023, Mr. Salikov went to the port of entry at Nogales, Arizona
21 for his CBP One appointment. *Id.* at ¶ 2. He was immediately paroled into the
22 United States. *Id.* at ¶ 2.

23 Mr. Salikov went to stay with his friend in San Jose, California. *Id.* at ¶ 3.
24 He was placed in removal proceedings and applied for asylum. *Id.* at ¶ 3. During,
25 this time, he complied with all his court dates and requirements. *Id.* at ¶ 3.

26 On March 20, 2026, Mr. Salikov was driving to a camp in southern
27 California and had to pass through an immigration checkpoint. *Id.* at ¶ 4. The
28 Border Patrol agents asked to see his ID and then took him into custody. *Id.* at ¶ 4.

1 They did not tell Mr. Salikov why they were arresting him, nor did they give him
2 any paperwork or an informal interview at which he could contest my detention.
3 *Id.* at ¶ 4. He was transferred to Otay Mesa Detention Center and has been
4 detained ever since.

5 **CLAIMS FOR RELIEF**

6 **I. Count One: ICE failed to comply with its own regulations and the**
7 **Administrative Procedures Act in revoking Mr. Salikov’s parole.**

8 When ICE took Mr. Salikov into custody on March 20, 2025, it did not say
9 whether it was revoking his parole. Exh. A at ¶ 4. Either way, the government’s
10 actions violated the regulations and the Administrative Procedures Act.

11 Under the Administrative Procedures Act (APA), an agency action may be
12 held unlawful and set aside if it is “arbitrary, capricious, an abuse of discretion, or
13 otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). An action is an
14 abuse of discretion if the agency “entirely failed to consider an important aspect
15 of the problem, offered an explanation for its decision that runs counter to the
16 evidence before the agency, or is so implausible that it could not be ascribed to a
17 difference in view or the product of agency expertise.” *Nat’l Ass’n of Home*
18 *Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle*
19 *Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43
20 (1983)). For a challenged agency action to be upheld, the agency “must explain
21 the evidence which is available, and must offer a rational connection between the
22 facts found and the choice made.” *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983)
23 (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United*
24 *States*, 371 U.S. 156, 168 (1962)).

25 Here, regardless of whether the agency formally revoked Mr. Salikov’s
26 parole, it violated the APA. If the agency did *not* revoke his parole, then it
27 inexplicably violated its own parole decision by detaining Mr. Salikov. Doing so
28 violated the APA because the agency did not “offer a rational connection between

1 the facts found and the choice made”—i.e., the fact that Mr. Salikov was still on
2 parole, yet the agency decided to detain him. *Motor Vehicle Mfrs*, 463 U.S. at 52.
3 And nothing suggests that there *was* a “rational” reason for this choice, given that
4 Mr. Salikov had filed an asylum application and complied with all the conditions
5 or his parole. This was the epitome of an “arbitrary” and “capricious” act under
6 the APA. 5 U.S.C. § 706(2)(A).

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

20 None of this occurred here. Because “the purpose[] of [Mr. Salikov’s]
21 parole” was to allow him to apply for asylum, that purpose has not yet “been
22 served” because his asylum claim is still pending. 8 U.S.C. § 1182(d)(5)(A). And
23 the humanitarian reasons for parole—to avoid unnecessary detention when an
24 asylum seeker poses no danger or flight risk—remains the same. Put differently,
25 “upon Petitioner’s entry into the United States, Respondents determined that
26 Petitioner was suitable for parole. Respondents have not provided a reasoned
27 explanation or any changed circumstances that would justify their current
28 departure from their prior decision.” *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123,

1 1146 (D. Or. 2025). Under the APA, “[i]t is Respondents’ burden to provide a
2 reasoned explanation for their action,” which they will not be able to do. *Id.*

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

7 Numerous courts have released parolees on this basis. *See, e.g., Arias v.*
8 *LaRose*, No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal.
9 Nov. 25, 2025); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149
10 (S.D. Cal. Oct. 1, 2025); *Salazar v. Casey*, No. 25-cv-2784 JLS-VET, 2025 WL
11 3063629 (S.D. Cal. Nov. 3, 2025); *Perez v. LaRose*, No. 25-cv-02620-RBM-JLB,
12 2025 WL 3171742 (S.D. Cal. Nov. 13, 2025); *Y-Z-L-H v. Bostock*, No. 25-cv-
13 965-SI, 2025 WL 1898025, at *13 (D. Or. July 9, 2025). Because Mr. Salikov is
14 in the same position as these individuals, this Court should do the same and order
15 his immediate release.

16 **II. Count Two: The Due Process Clause required notice and a chance to**
17 **be heard before parole was revoked.**

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

25 “The Fifth Amendment guarantees that ‘[n]o person shall be ... deprived of
26 life, liberty, or property, without due process of law.’” *Salazar*, 2025 WL
27 3063629, at *3 (quoting U.S. Const. amend. V). “[T]he Due Process Clause
28 applies to all ‘persons’ within the United States, including aliens, whether their

1 presence here is lawful, unlawful, temporary, or permanent.” *Zadvydus v. Davis*,
2 533 U.S. 678, 693 (9th Cir. 2001).

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

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

18 “Second, the risk of an erroneous deprivation of such interest is high as
19 Petitioner’s parole was revoked without providing [him] a reason for revocation or
20 giving [him] an opportunity to be heard.” *Salazar*, 2025 WL 3063629, at *4.
21 “Civil immigration detention is permissible only to prevent flight or protect
22 against danger to the community.” *Perez*, 2025 WL 3171742, at *5. But here,
23 “[s]ince DHS’s initial determination that Petitioner should be paroled because [he]
24 posed no danger to the community and was not a flight risk, there is no evidence
25 that these findings have changed.” *Id.*

26 “Third, the Government’s interest in detaining Petitioner without notice,
27 reasoning, and a hearing is low.” *Salazar*, 2025 WL 3063629, at *5 (cleaned up).
28 “Detention for its own sake, to meet an administrative quota, or because the

1 government has not yet established constitutionally required pre-detention
2 procedures is not a legitimate government interest.” *Pinchi v. Noem*, 792 F. Supp.
3 3d 1025, 1036 (N.D. Cal. 2025).

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

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

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

11 **IV. Prayer for relief**

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

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

22 Respectfully submitted,

23
24 Dated: April 16, 2026

s/ Kara Hartzler

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