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

12 **CARLOS ALBERTO FERNANDO**
13 **GARCIA-MARROQUIN,**

14 Petitioner,

15 v.

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

25 Respondents.

Civil Case No.: 26-cv-2131-JLS-BLM

Amended Petition
for a
Writ of Habeas Corpus

1 INTRODUCTION

2 Carlos Alberto Fernando Garcia-Marroquin is a citizen of Peru who was
3 arrested at an airport in Laredo, Texas, and released into the United States and
4 placed in removal proceedings. But despite complying with all his court dates and
5 timely submitting an application for relief, Mr. Garcia-Marroquin was arrested
6 when he was called in for a check-in appointment. ICE then took him into custody
7 without any notice or explanation.

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

15 STATEMENT OF FACTS

16 Mr. Garcia-Marroquin was born in Peru. Exhibit A, Declaration of Carlos
17 Alberto Fernando Garcia-Marroquin, at ¶ 1. He came to the United States in 2004
18 and lived in Maryland for twenty years. *Id.* at ¶ 1.

19 In November 2024, Mr. Garcia-Marroquin went to the airport in Laredo,
20 Texas. *Id.* at ¶ 2. While he was in the airport, Border Patrol agents asked to see his
21 ID and then took him into custody. *Id.* at ¶ 2.

22 After 20 days in detention, the agents released Mr. Garcia-Marroquin on
23 parole. *Id.* at ¶ 3. They put him on an ankle monitor and required him to do check-
24 in appointments on an app on his phone. *Id.* at ¶ 3. Then they placed him in
25 removal proceedings, where he filed for cancellation of removal. *Id.* at ¶ 3. He
26 complied with all his check-in requirements. *Id.* at ¶ 3.

27 In October 2025, Mr. Garcia-Marroquin checked in on his phone as normal.
28 *Id.* at ¶ 4. ICE then called him and told him they wanted him to come in to the

1 office to talk. *Id.* at ¶ 4. But when Mr. Garcia-Marroquin went in the next day,
2 ICE took him into custody. *Id.* at ¶ 4. They did not tell him why they were
3 arresting him, nor did they give him any paperwork or an informal interview at
4 which he could contest his detention. *Id.* at ¶ 4. He was transferred to Otay Mesa
5 Detention Center and has been detained ever since.

6 CLAIMS FOR RELIEF

7 I. **Count One: ICE failed to comply with its own regulations and the** 8 **Administrative Procedures Act in revoking Mr. Garcia-Marroquin’s** 9 **parole.**

10 When ICE took Mr. Garcia-Marroquin into custody in October 2025, it did
11 not say whether it was revoking his parole. Exh. A at ¶ 4. Either way, the
12 government’s actions violated the regulations and the Administrative Procedures
13 Act.

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

28 Here, regardless of whether the agency formally revoked Mr. Garcia-
Marroquin’s parole, it violated the APA. If the agency did *not* revoke his parole,

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

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

23 None of this occurred here. Because “the purpose[] of [Mr. Garcia-
24 Marroquin’s] parole” was to allow him to apply for asylum, that purpose has not
25 yet “been served” because his asylum claim is still pending. 8 U.S.C.
26 § 1182(d)(5)(A). And the humanitarian reasons for parole—to avoid unnecessary
27 detention when an asylum seeker poses no danger or flight risk—remains the
28 same. Put differently, “upon Petitioner’s entry into the United States, Respondents

1 determined that Petitioner was suitable for parole. Respondents have not provided
2 a reasoned explanation or any changed circumstances that would justify their
3 current departure from their prior decision.” *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d
4 1123, 1146 (D. Or. 2025). Under the APA, “[i]t is Respondents’ burden to
5 provide a reasoned explanation for their action,” which they will not be able to do.
6 *Id.*

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

11 Numerous courts have released parolees on this basis. *See, e.g., Arias v.*
12 *Larose*, No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal.
13 Nov. 25, 2025); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149
14 (S.D. Cal. Oct. 1, 2025); *Salazar v. Casey*, No. 25-cv-2784 JLS-VET, 2025 WL
15 3063629 (S.D. Cal. Nov. 3, 2025); *Perez v. LaRose*, No. 25-cv-02620-RBM-JLB,
16 2025 WL 3171742 (S.D. Cal. Nov. 13, 2025); *Y-Z-L-H v. Bostock*, No. 25-cv-
17 965-SI, 2025 WL 1898025, at *13 (D. Or. July 9, 2025). Because Mr. Garcia-
18 Marroquin is in the same position as these individuals, this Court should do the
19 same and order his immediate release.

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

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

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
3 3063629, at *3 (quoting U.S. Const. amend. V). “[T]he Due Process Clause
4 applies to all ‘persons’ within the United States, including aliens, whether their
5 presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*,
6 533 U.S. 678, 693 (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.”
10 *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct.
11 1, 2025); (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). Weighing those
12 considerations here, Respondents violated the Due Process Clause by revoking
13 parole with no 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
16 that parole is temporary or discretionary. “For example, *Morrissey v. Brewer*, 408
17 U.S. 471, 482 (1972)—though analyzing the criminal parole context—found that
18 ‘the liberty of a parolee, although indeterminate, includes many of the core values
19 of unqualified liberty and its termination inflicts a grievous loss on the parolee
20 and 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.
25 “Civil immigration detention is permissible only to prevent flight or protect
26 against danger to the community.” *Perez*, 2025 WL 3171742, at *5. But here,
27 “[s]ince DHS's initial determination that Petitioner should be paroled because [he]
28

1 posed no danger to the community and was not a flight risk, there is no evidence
2 that these findings have 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. Garcia-Marroquin’s
11 redetention 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. Garcia-
15 Marroquin 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
21 entitled to notice of the reasons for revocation of his parole and a
22 hearing before an immigration judge to determine whether detention is
23 warranted. Respondents 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

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3. Order any other relief that the Court deems just and proper.

Respectfully submitted,

Dated: April 16, 2026

s/ Kara Hartzler

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