

1 **David Szeles, SBN 279244**  
2 Global Law Group San Diego, P.C.  
3 1455 Frazee Road, Ste. 500  
4 San Diego, California 92108  
5 Telephone: (858)833-2020  
6 Facsimile: (619) 839-3152

7 Attorneys for Petitioner

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

10 MATHEU YANCOR, Dylan Adolfo

CASE NO.: 26-cv-02350-RSH-MMP

11 Petitioner,

12 v.

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

13 CHRISTOPHER LAROSE, Warden at  
14 Otay Mesa Detention Center,

15 Respondents.  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

---

26 <sup>1</sup> Federal Rule of Civil Procedure 15(a)(1)(A) permits a party to “amend its  
27 pleading once as a matter of course no later than 21 days after serving it or 21 days  
28 after service of a responsive pleading.” Fed. R. Civ. Pro. 15(a)(1)(A) (punctuation  
altered). It is less than 21 days since the traverse was filed. Mr. Matheu Yancor  
therefore files this amended petition as of right.

1  
2 **INTRODUCTION**


3 Petitioner Dylan Adolfo Matheu-Yancor (“Petitioner” or “Mr. Matheu-  
4 Yancor”) is a Guatemalan asylum seeker detained at Otay Mesa Detention Center  
5 in San Diego, California. He fears persecution in Guatemala on account of  
6 becoming a target for local gangs. The persecution he fears includes being harmed,  
7 kidnapped, tortured, and killed by organized criminal groups. He was also  
8 abandoned and abused by his own father, and is eligible for Special Immigrant  
9 Juvenile Status.

10 Mr. Matheu-Yancor entered the United States on or about September 12,  
11 2024, as a minor, at or near Hidalgo, Texas. He was officially designated an  
12 unaccompanied minor (“UAC”) upon entry to the U.S. Mr. Matheu-Yancor was  
13 transferred to the U.S. Department of Health and Human Service’s Office of  
14 Refugee Resettlement (ORR) and sent to an ORR youth shelter as is protocol for  
15 designated UACs. There is no official record by a federal agency documenting  
16 that he has been de-designated as an unaccompanied minor. Respondents  
17 commenced removal proceedings against him in immigration court on or around  
18 October 30, 2024, entitling him to present his asylum claim with the due process  
19 rights under 8 U.S.C. § 1229a. Since then, Petitioner has attended his immigration  
20 court hearings.

21 While it is unclear whether the government has formally revoked Mr.  
22 Matheu Yancor’s conditional parole or release on his own recognizance, the  
23 government’s actions are unlawful regardless. If the agency did not revoke his  
24 conditional parole or release, then it violated that by re-detaining him. And if the  
25 agency *did* revoke it, then it did so in violation of the statute and regulations,  
26 which require written notification and a determination that the purposes of the  
27 parole or release have been served, as well as the Constitution, which requires  
28 pre-deprivation notice and hearing. Either way, the agency’s actions violated the

1 Administrative Procedures Act and the Due Process Clause. Thus, this Court  
2 should reinstate his release.

3  
4 **STATEMENT OF FACTS**

5 Mr. Matheu Yancor was born in Guatemala on  He came  
6 to the United States on or around September 12, 2024, and was designated an  
7 Unaccompanied Minor (UAC) upon entry. He was taken to an ORR youth shelter  
8 and then released shortly after on his own recognizance.

9 As a UAC Mr. Matheu Yancor is exempt from the 1-year filing deadline for  
10 Asylum, and filed his I-589 on April 19, 2026.

11 **CLAIMS FOR RELIEF**

12 **I. Count 1: ICE failed to comply with its own regulations in revoking Mr.**  
13 **Matheu Yancor's conditional parole release under 8 C.F.R. § 212.5,**  
14 **violating the Administrative Procedures Act and Due Process.**

15 Petitioner restates, realleges, and incorporates by reference each and every  
16 allegation claimed in her original writ of Habeas Corpus.

17 When ICE detained Mr. Matheu Yancor on or about March 27, 2026, it did  
18 not say that it was revoking his conditional parole, so it is unclear whether a  
19 revocation occurred. Either way, the government's actions violate the  
20 Administrative Procedures Act and Due Process.

21 Under the Administrative Procedures Act (APA), an agency action may be  
22 held unlawful and set aside if it is "arbitrary, capricious, an abuse of discretion, or  
23 otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). An action is an  
24 abuse of discretion if the agency "entirely failed to consider an important aspect  
25 of the problem, offered an explanation for its decision that runs counter to the  
26 evidence before the agency, or is so implausible that it could not be ascribed to a  
27 difference in view or the product of agency expertise." *Nat'l Ass'n of Home*  
28 *Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle*  
*Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43

1 (1983)). For a challenged agency action to be upheld, the agency “must explain  
2 the evidence which is available, and must offer a rational connection between the  
3 facts found and the choice made.” *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983)  
4 (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United*  
5 *States*, 371 U.S. 156, 168 (1962)).

6 Here, regardless of whether the agency formally revoked Mr. Matheu  
7 Yancor’s release, it violated the APA. If the agency did *not* revoke his release,  
8 then it inexplicably violated its own release decision by detaining Petitioner.  
9 Doing so violated the APA because the agency did not “offer a rational  
10 connection between the facts found and the choice made”—i.e., the fact that Mr.  
11 Matheu Yancor was still on release, yet the agency decided to detain him. *Motor*  
12 *Vehicle Mfrs*, 463 U.S. at 52. This was an “arbitrary” and “capricious” act under  
13 the APA. 5 U.S.C. § 706(2)(A).

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

27 None of this occurred here. Because “the purpose of Mr. Matheu Yancor’s  
28 release” was to allow him to apply for asylum, that purpose has not yet “been

1 served” because his asylum claim is still pending. 8 U.S.C. § 1182(d)(5)(A). And  
2 the humanitarian reasons for release—to avoid unnecessary detention when an  
3 asylum seeker poses no danger or flight risk—remains the same. Put differently,  
4 “upon Petitioner's entry into the United States, Respondents determined that  
5 Petitioner was suitable for release. Respondents have not provided a reasoned  
6 explanation or any changed circumstances that would justify their current  
7 departure from their prior decision.” *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123,  
8 1146 (D. Or. 2025). Under the APA, “[i]t is Respondents’ burden to provide a  
9 reasoned explanation for their action”. *Id.*

10 What’s more, Mr. Matheu Yancor never received any written notification  
11 of a revocation under 8 C.F.R. § 212.5(e). So if the agency revoked his release,  
12 this decision violated both the statute and the regulation and was “not in  
13 accordance with law” under the APA. 5 U.S.C. § 706(2)(A). Respondent contend  
14 that Mr. Matheu Yancor signed an acknowledgement of custody. Whether the  
15 signature was made knowingly or willingly is another question, but this  
16 acknowledgment is not what is required under the APA. The government fails to  
17 argue that a written notice as to the revocation of release was provided, as  
18 required under the law. 8 C.F.R. § 212.5(e).

19 Several courts have released petitioners on this basis. *See Faizyan v. Casey*,  
20 Case No.: 3:25-cv-02884-RBM-JLB, 2025 WL 3208844, at \*7 (S.D. Cal. Nov. 17,  
21 2025) (reaching the same conclusion as to the revocation of a petitioner’s release  
22 on his own recognizance); *Lopez v Marrero*, 3:26-cv-2077-JES-VET. ALSO *See*  
23 *Arias v. Larose*, No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385, at \*3 (S.D.  
24 Cal. Nov. 25, 2025); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL  
25 2800149 (S.D. Cal. Oct. 1, 2025); *Salazar v. Casey*, No. 25-cv-2784 JLS-VET,  
26 2025 WL 3063629 (S.D. Cal. Nov. 3, 2025); *Perez v. LaRose*, No. 25-cv-02620-  
27 RBM-JLB, 2025 WL 3171742 (S.D. Cal. Nov. 13, 2025); *Y-Z-L-H v. Bostock*, No.  
28 25-cv-965-SI, 2025 WL 1898025, at \*13 (D. Or. July 9, 2025);

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

3 Additionally, “the revocation of Mr. Matheu Yancor’s release without  
4 justification or consideration of his individualized circumstances violates the Due  
5 Process Clause.” *Perez v. LaRose*, No. 3:25-CV-02620-RBM-JLB, 2025 WL  
6 3171742, at \*4 (S.D. Cal. Nov. 13, 2025). Petitioner was “entitled to notice of the  
7 reasons for revocation of his release and a hearing before an immigration judge to  
8 determine whether detention is warranted” before ICE revoked his release. *Id.* at  
9 \*7. Due process demands a hearing prior to the government’s decision to terminate  
10 a person’s liberty. By failing to provide such a hearing, Respondents have violated  
11 Mr. Matheu Yancor’s constitutional right to due process. Accordingly, this Court  
12 should grant the instant petition for a writ of habeas corpus, and order Petitioner’s  
13 immediate release. A post-deprivation hearing cannot serve as an adequate  
14 procedural safeguard because it is after the fact and cannot prevent an erroneous  
15 deprivation of liberty.

16 “The Fifth Amendment guarantees that ‘[n]o person shall be ... deprived of  
17 life, liberty, or property, without due process of law.’” *Salazar*, 2025 WL 3063629,  
18 at \*3 (quoting U.S. Const. amend. V). “[T]he Due Process Clause applies to all  
19 ‘persons’ within the United States, including aliens, whether their presence here is  
20 lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693  
21 (9th Cir. 2001).

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

1 “First, Petitioner has a private interest in remaining free, which developed  
2 over the 28 months she resided in the United States.” *Id.* at \*10. It does not matter  
3 that release is temporary or discretionary. “For example, *Morrissey v. Brewer*, 408  
4 U.S. 471, 482 (1972)—though analyzing the criminal parole context—found that  
5 ‘the liberty of a parolee, although indeterminate, includes many of the core values  
6 of unqualified liberty and its termination inflicts a grievous loss on the parolee and  
7 often others ... [thus it] must be seen within the protection of the [Fifth]  
8 Amendment.’” *Id.*

9 “Second, the risk of an erroneous deprivation of such interest is high as  
10 Petitioner's release was revoked without providing [him] a reason for revocation or  
11 giving [him] an opportunity to be heard.” *Salazar*, 2025 WL 3063629, at \*4. “Civil  
12 immigration detention is permissible only to prevent flight or protect against danger  
13 to the community.” *Perez*, 2025 WL 3171742, at \*5.

14 “Third, the Government's interest in detaining Petitioner without notice,  
15 reasoning, and a hearing is low.” *Salazar*, 2025 WL 3063629, at \*5 (cleaned up).  
16 “Detention for its own sake, to meet an administrative quota, or because the  
17 government has not yet established constitutionally required pre-detention  
18 procedures is not a legitimate government interest.” *Pinchi v. Noem*, 792 F. Supp.  
19 3d 1025, 1036 (N.D. Cal. 2025).

20 Thus, because Respondents did not provide “proper notice, reasoning, and a  
21 pre-deprivation hearing” before revoking release, Mr. Matheu Yancor’s detention  
22 violated the Due Process Clause. *Salazar*, 2025 WL 3063629, at \*5.

23  
24 **III. Count 3: ICE failed to comply with statutory obligations in *Garcia v ICE***  
25 **to consider the least restrictive setting available for UACs when they re-**  
**detained Mr. Matheu Yancor**

26 *Garcia Ramirez et al. v. U.S. Immigration and Customs Enforcement et al.*,  
27 is a nationwide class-action lawsuit against the Department of Homeland Security  
28 (DHS) and U.S. Immigration and Customs Enforcement (ICE) for transferring

1 unaccompanied minors to ICE adult detention facilities without considering less  
2 restrictive placements.<sup>2</sup> On December 12, 2025, a federal court in D.C. issued a  
3 ruling enforcing the 2021 permanent injunction, which requires ICE to comply with  
4 their statutory obligations by considering the least restrictive setting available for  
5 every unaccompanied child who turns 18 and to make all age-outs eligible for  
6 alternatives to detention. The permanent injunction requires ICE to: 1. Comply  
7 substantively with the TVPRA, which requires ICE to consider placing  
8 unaccompanied immigrant children in settings less restrictive than ICE detention,  
9 2. Re-train its officers and revise its policies and handbook on how to make custody  
10 determinations when youth in ORR custody turn 18, 3. Document its custody  
11 decisions on an “Age-Out Review Worksheet.”

12 The record reflects that when ICE re-detained Mr. Matheu Yancor they made  
13 no such considerations for least restrictive detention setting. There is no record of  
14 a federal agency de-designating Mr. Matheu Yancor as a UAC, as required under  
15 ICE policy. Here, if Mr. Matheu Yancor is still a UAC, ICE needed to consider a  
16 least restrictive setting other than adult detention and document such  
17 considerations. If the government claims Mr. Matheu Yancor is no longer a UAC,  
18 they have failed to show proof of his de-designation. Under ICE Directive 11089.1,  
19 immigration officers must appropriately document a UAC re-determination when  
20 they obtain information that a child no longer meets the statutory definition. This  
21 requirement is part of a broader mandate for ICE officers to assess an individual's  
22 UAC status each time they encounter the child or review their official records.

23 Since the government failed to de-designate Mr. Matheu Yancor, he is still a  
24 UAC and must be given the appropriate considerations of the least restrictive  
25 settings, given the permanent injunction. If he is not a UAC, then ICE failed to  
26

---

27 <sup>2</sup> GARCIA RAMIREZ et al v. U.S. IMMIGRATION AND CUSTOM  
28 ENFORCEMENT et al, No. 1:2018cv00508 - Document 367 (D.D.C. 2021)

1 properly document it. Either way, petitioner should be released.

2 **IV. This Court must hold an evidentiary hearing on any disputed facts.**

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

6 **V. Prayer for relief**

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

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

17  
18 Respectfully submitted,

19  
20 Dated: April 27, 2026

/s/ David Szeles

21 David Szeles,  
22 Attorney for Petitioner  
23  
24  
25  
26  
27  
28