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

10 MATHEU YANCOR, Dylan Adolfo

11 Petitioner,

12 v.

13 CHRISTOPHER J. LAROSE, Senior
14 Warden, Otay Mesa Detention Center;
15 PATRICK DIVVER, Field Office
16 Director, San Diego Office of Detention
17 and Removal, U.S. Immigration and
18 Customs Enforcement; TODD M.
19 LYONS, Acting Director, U.S.
20 Immigration and Customs Enforcement,
U.S. Department of Homeland Security;
and MARKWAYNE MULLIN,
Secretary, U.S.
Department of Homeland Security
Respondents.

Case No.: 3:26-cv-02350-RSH-MMP



**Petitioner's Traverse
In Support of Amended Writ**

PETITIONER'S TRAVERSE

Petitioner, Dylan Adolfo Matheu Yancor, through undersigned counsel respectfully submit this traverse to Respondent's return and in support of his amended petition for writ of Habeas Corpus.

In his amended petition, Mr. Matheu Yancor explained that despite his grant of conditional parole release, ICE revoked his parole arbitrarily and without following regulations. He therefore made two claims: (1) ICE had failed to comply with its own regulations, violating the Administrative Procedures Act, and (2) ICE violated due process by revoking parole without notice and an opportunity to be heard. He therefore asked this Court to order outright release.

ARGUMENT

I. Respondent's Return confirms Mr. Matheu Yancor was granted conditional parole, cites to documents not in the record, fails to argue why Mr. Matheu Yancor's re-detention does not violate the Administrative Procedures Act and Due Process, and fails to argue that he is a danger to the community or a flight risk.

1. In his amended petition, Mr. Matheu Yancor explained that ICE revoked his parole, without following regulations, in violation of the APA and in violation of Due Process. See Doc 7 at pages 3-5. He claimed that by re-detaining him without notice or consideration of his individualized facts and circumstances, Respondents have violated the INA, implementing regulations, and the APA. *Id.* They revoked his parole without notice and an opportunity to be heard.
2. In *Velazquez-Chinga v. Noem*, the court found that the revocation of the petitioner's parole without an individualized determination or an opportunity to be heard "was neither consistent with 8 U.S.C. §

1 1182(d)(5)(A) nor the demands of due process.” Case No.: 3:26-cv-
2 00105-RBM-KSC, 2026 WL 311507, at *3 (S.D. Cal. Feb. 5, 2026)
3 (citing *Araujo*, 2025 WL 3278016, at *2.) As the Court noted, “[d]ue
4 process for parole terminations requires (1) a decision by an appropriate
5 official on whether the purpose of parole has been served; (2) written
6 notice of the reasons for the termination; and (3) an opportunity to rebut
7 the reasons given for the termination.” *Id.* (quoting *Araujo v. LaRose*,
8 No. 25cv2942-BTM-MMP, 2025 WL 3278016, at *2 (S.D. Cal. Nov. 24,
9 2025)); *see Noori v. LaRose*, 807 F. Supp. 3d 1146, 1164–66 (S.D. Cal.
10 2025) (analyzing *Mathews* factors).

- 11 3. Here the government did not provide a written notice as to the reasons
12 for the termination of Mr. Matheu Yancor’s parole. The government
13 also did not provide a meaningful opportunity to rebut the reasons given
14 for the termination, especially since no reasons were given.
- 15 4. Mr. Matheu Yancor was also never made aware that he could challenge
16 his re-detention.
- 17 5. Such actions by the government, including their lack of notice and lack
18 of opportunity afforded to Mr. Matheu Yancor to challenge detention
19 and be heard are against the due process rights of Mr. Matheu Yancor
20 and the remedy is outright release, not a bond hearing.
- 21 6. The government’s argument also fails because they are relying on and/or
22 referring to documents that either do not exist or are not in the record.
- 23 7. Quoting the Government’s Return (*document 9 page 2*) they claim that
24 there was no violation of the 5th amendment because

25 “petitioner signed an acknowledgment that he would be detained.
26 *See ECF 6 Exhibit 1 at 1-3, 5-6 (Form I-213). In addition, Petitioner did*
27 *not request an immigration judge to review his custody determination.*
28

1 *See Exhibit 2 (Notice of Custody Determination).*” See government
2 return Doc 9 at pg 2.

3 8. The government’s return seems to be citing documents that are not in
4 the record. Their citation on Doc 9, page 2 to “*Exhibit 2 (Notice of*
5 *Custody Determination)*” does not cite to a specific document number
6 and is nowhere in the record. There is no exhibit 2 to any of their filings.
7 There is also no document labelled “Notice of Custody Determination.”
8 It is therefore unclear what document they are referring to or relying on.

9 9. The government return later cites to an Exhibit 3, which also is not in
10 the record. Quoting the Government Return (Doc 9, pg 2-3):

11 *a. Regarding Petitioner’s other arguments surrounding due process*
12 *and APA violations, Petitioner’s initial order of release on*
13 *recognizance noted that Petitioner must not violate any laws or*
14 *ordinances and that he would not associate with known gang*
15 *members, criminal associates, or be associated with any such*
16 *activity. See Exhibit 3 (Order of Release on Recognizance). The*
17 *Petitioner signed these conditions twice and violated them. See*
18 *Exhibit 3 at 2-3; ECF 6 Exhibit 1 at 1-3, 5-6.*

19 *b. The order also notes that violations of these conditions may result*
20 *in Petitioner being taken into ICE custody and being prosecuted.*
21 *Id. Petitioner knowingly violated these conditions. Id.*

22 10. Again, the Return does not cite to a specific document number and is
23 nowhere in the record. There is no exhibit 3 to any of their filings.

24 11. The petitioner did file a copy of a page of his Order of Release on
25 Recognizance, but it is only 1 page, and the government return here is
26 citing to a page 2-3. See Doc 7-1 at 1.

27
28

1 12. Again, their arguments fail and have no merit and cannot be given any
2 weight when based on evidence that does not exist or is not in the
3 record.

4 13. Although petitioner may have been coerced into signing a document that
5 acknowledged his custody, that is not what the law requires here. That
6 acknowledgement of custody document does not list, describe, or
7 explain the reasons for termination of his parole. According to caselaw
8 and due process, an individual must be provided in writing the reasons
9 for the termination of their parole and an opportunity to rebut those
10 reasons. Here, Mr. Matheu Yancor never received any written
11 notification of a revocation under 8 C.F.R. § 212.5(e).

12 14. The government's return also does not claim he is a danger to the
13 community or a flight risk. Although they allege facts against Mr.
14 Matheu Yancor, their return does not contend or make any argument
15 that he is a flight risk or a danger to the community. See doc 9.

16 15. The government's only argument seems to be that "*Petitioner's re-*
17 *detention was prompted by his arrest for alien smuggling under 8*
18 *U.S.C. § 1324 and the Court should weigh this against Petitioner's*
19 *arguments that re-detention violated the APA and his right to due*
20 *process under the Fifth Amendment.*" See doc 9 at page 2. They do not
21 explicitly state, contend, or argue that such actions mean he is a danger
22 to the community or a flight risk. As a neutral arbiter, the court should
23 not entertain any potential arguments that are not explicitly stated by the
24 government.

25 16. Since the government is not contending he is a flight risk or danger, his
26 remedy is outright release.

27 17. Furthermore, the government return does not respond at all claims
28 presented in the amended writ. The return states, "*the government does*

1 *not oppose the petition outside of Petitioner's arguments that*
2 *Respondents violated the APA and the Fifth Amendment."*

3 18. The government did not respond to claim 3 -that "*ICE failed to comply*
4 *with statutory obligations in Garcia v ICE to consider the least*
5 *restrictive setting available for UACs when they re-detained Mr. Matheu*
6 *Yancor.*" See Doc 7, page 7-8.

7 19. Instead, the government purports to unilaterally redefine the "legal
8 issues presented" in the petition: Per the government, they involve only
9 "the statutory authority for . . . detention of Petitioner under 8 U.S.C.
10 §§ 1225(b)(2)(A) or 1226(a)," and in a footnote mentions an "order
11 directing a bond hearing." Doc. 9 at 2, 4.

12 20. **That is false—this is not a Yajure Hurtado/Maldonado Bautista**
13 **case, and the proper remedy is not a bond hearing. This is a parole**
14 **case, and the proper remedy is release.** That follows from three
15 considerations.

16 21. First, to state what should be obvious, the government does not get to
17 decide what "legal issues [are] presented" in a habeas petition. Doc. 9 at
18 2. The petitioner does. And the petitioner challenged the revocation of
19 his conditional parole release. Doc. 7.

20 22. Second, Mr. Matheu Yancor's case does not at all implicate *Matter of*
21 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), *Maldonado-Bautista*
22 *v. Noem*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987 (C.D. Cal.
23 Dec. 18, 2025), or § 1226(a). *Yajure Hurtado* and *Maldonado Bautista*
24 address the rights of immigrants who successfully evaded detection at
25 the border, entered the country illegally, and lived for a time in the
26 United States. See *Maldonado-Bautista*, 2025 WL 3713987, at *2
27 (defining the class to include people who "were not or will not be
28 apprehended upon arrival"). The former says that this population is

1 barred from bond hearings by § 1225(b), while the latter says that it is
2 entitled to bond hearings under § 1226(a). *Id.* at *12. But Mr. Matheu
3 Yancor did not successfully evade detection at the border and enter the
4 country illegally, or live for a time in the United States. He turned
5 himself in immediately at the border. Doc. 1 at page 2. And everyone
6 agrees that people caught immediately at the border are subject to
7 mandatory detention under § 1225(b), *unless*—as occurred here—ICE
8 exercises its discretionary authority to grant parole.

9 23. Thus, the problem with Mr. Matheu Yancor’s detention is not that the
10 government failed to provide him a statutorily guaranteed bond hearing.
11 It is that ICE exercised discretion to give him conditional parole, then
12 unlawfully revoked it.

13 24. Third, when an immigrant’s parole is unlawfully revoked, the remedy is
14 release, not a bond hearing. *See, e.g., Arias v. Larose*, No. 3:25-CV-
15 02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025)
16 (“The Respondents shall immediately release Arias from custody on her
17 preexisting conditions.”); *Noori v. LaRose*, 807 F. Supp. 3d 1146, 1154
18 (S.D. Cal. 2025) (“order[ing] his immediate release”); *Salazar v. Casey*,
19 No. 25-cv-2784 JLS-VET, 2025 WL 3063629 (S.D. Cal. Nov. 3, 2025)
20 (ordering that ICE “immediately release Petitioner from custody subject
21 to the conditions of her preexisting parole and Form I-94”); *Perez v.*
22 *LaRose*, No. 25-cv-02620-RBM-JLB, 2025 WL 3171742 (S.D. Cal.
23 Nov. 13, 2025) (ordering respondents “to immediately release Petitioner
24 from custody, subject to the conditions of his preexisting parole and
25 Form I-94”); *Y-Z-L-H v. Bostock*, No. 25-cv-965-SI, 2025 WL 1898025,
26 at *13 (D. Or. July 9, 2025) (ordering respondents “immediately to
27 release Petitioner from custody”). The government’s cases granting
28

1 bond hearings to persons wrongly detained under *Yajure Hurtado* are
2 inapposite, because they involve completely different claims.

3 25. Thus, this Court must not allow the government to redefine the claims in
4 the petition, rely on a set of inapplicable cases, and thereby deprive Mr.
5 Matheu Yancor of the relief to which he is entitled. This Court must
6 instead address the claims in the petition and—having received no
7 response or arguments with improper citations to non-existing
8 documents, to those claims from the government—grant outright
9 release.

10 **II. The Government’s Return does not refute or address Mr. Matheu**
11 **Yancor’s claim that the Due Process Clause required notice and a**
12 **chance to be heard before parole was revoked.**

13 26. Additionally, the revocation of Mr. Matheu Yancor’s release without
14 justification or consideration of his individualized circumstances violates
15 the Due Process Clause. *Perez v. LaRose*, No. 3:25-CV-02620-RBM-
16 JLB, 2025 WL 3171742, at *4 (S.D. Cal. Nov. 13, 2025).

17 27. The absence of any individualized determination significantly risked
18 erroneously depriving Petitioner of his liberty interest, and the
19 government has offered no evidence that the burdens of providing such
20 process would outweigh this substantial liberty interest. *Quispe Cardenas*
21 *v. LaRose*, No. 3:26-cv-02352-JO-JLB at 9.

22 28. Petitioner was “entitled to notice of the reasons for revocation of his
23 release and a hearing before an immigration judge to determine whether
24 detention is warranted” before ICE revoked his release. *Id.* at *7. Due
25 process demands a hearing prior to the government’s decision to
26 terminate a person’s liberty. By failing to provide such a hearing,
27 Respondents have violated Mr. Matheu Yancor’s constitutional right to
28 due process. Accordingly, this Court should grant the instant petition for

1 a writ of habeas corpus, and order Petitioner's immediate release. A post-
2 deprivation hearing cannot serve as an adequate procedural safeguard
3 because it is after the fact and cannot prevent an erroneous deprivation of
4 liberty.

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

11 30. "Generally, due process protections depend on the situation and must
12 account for (1) the private interest at issue, (2) the risk of erroneous
13 deprivation of that interest through the procedures used, and (3) the
14 Government's interest." *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB,
15 2025 WL 2800149 (S.D. Cal. Oct. 1, 2025); (citing *Mathews v. Eldridge*,
16 424 U.S. 319 (1976)). Weighing those considerations here, Respondents
17 violated the Due Process Clause by revoking release with no notice or
18 hearing.

19 31. "First, Petitioner has a private interest in remaining free, which developed
20 over the 17 months he resided in the United States." *Id.* at *10. It does not
21 matter that release is temporary or discretionary. "For example, *Morrissey*
22 *v. Brewer*, 408 U.S. 471, 482 (1972)—though analyzing the criminal
23 parole context—found that 'the liberty of a parolee, although
24 indeterminate, includes many of the core values of unqualified liberty and
25 its termination inflicts a grievous loss on the parolee and often others ...
26 [thus it] must be seen within the protection of the [Fifth] Amendment.'" *Id.*
27

28 32. "Second, the risk of an erroneous deprivation of such interest is high as

Petitioner's release was revoked without providing [him] a reason for revocation or giving [him] an opportunity to be heard.” *Salazar*, 2025 WL 3063629, at *4. “Civil immigration detention is permissible only to prevent flight or protect against danger to the community.” *Perez*, 2025 WL 3171742, at *5. But here, “[s]ince DHS's initial determination that Petitioner should be released because [he] posed no danger to the community and was not a flight risk, there has been no explicit argument that he is now a danger to the community or a flight risk.”

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

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

Prayer for relief

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

1. Order Respondents to immediately release Petitioner from custody, subject to the conditions of his preexisting release;
2. Order that prior to any re-detention of Petitioner, that Petitioner is entitled to notice of the reasons for revocation of his release and a hearing before a neutral immigration judge to determine whether detention is warranted. Respondents should bear the burden of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or

1 such a flight risk that no amount of bond would suffice to ensure his future
2 appearance; and

- 3 3. Order that Respondents file a declaration attesting to the full compliance
4 of any orders made by this court; and
5 4. Enjoin Respondents from re-detaining Petitioner until at least 48 hours
6 after the filing of their declaration.
7 5. Order any other relief that the Court deems just and proper.

8
9 Respectfully submitted,

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11 Dated: June 11, 2026

/s/ David Szeles

David Szeles,
Attorney for Petitioner