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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10
11 YOLVER DARYANE GOMEZ MEJIA,

CIVIL CASE NO.:
26-cv-2285-BJC-BJW

12 Petitioner,

**Supplemental Briefing
in Support of**

13 v.

**[Civil Immigration Habeas,
28 U.S.C. § 2241]**

14
15 DIRECTOR, OTAY MESA
DETENTION CENTER, et al.,

16 Respondents.
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27 ¹ Federal Defenders of San Diego, Inc., is filing the instant supplemental with
28 conditional appointment. Doc. 4. Mr. Gomez Mejia's CJA 23 Financial Affidavit
has been completed and will be filed with the Court.

1 INTRODUCTION

2 Mr. Gomez Mejia, a Venezuelan native, is a husband and father of two
3 young children, now ages five and six. In 2023, the family made an appointment
4 to enter the United States through the CBP One App so that they could apply for
5 asylum. On the day of their appointment, *ICE paroled Mr. Gomez-Mejia and his*
6 *family into the country.*

7 Since that date, Mr. Gomez Mejia has applied for asylum and his asylum
8 remains pending. He works supporting his young family.

9 On March 16, 2026, Mr. Gomez Mejia was on his way to work when he
10 was suddenly stopped by several unmarked cars. ICE agents took him out of the
11 car and arrested him without any explanation or process.

12 The consequences of his detention are severe. While he is detained, his wife
13 is now trying to make ends meet by recycling. Moreover, although his asylum
14 claim was proceeding while he was out in the community, ICE now wants him to
15 proceed as a detained person. Proceeding as a detained individual seriously
16 disadvantages Mr. Gomez Mejia in regard to access to counsel, gathering
17 evidence, and securing a fair hearing.

18 While it is unclear whether the government has formally revoked Mr.
19 Gomez Mejia's parole, the government's actions are unlawful regardless. If the
20 agency did not revoke his parole, then it violated that parole by detaining him.
21 And if the agency did revoke his parole, then it did so in violation of the statute
22 and regulations, which require written notification and a determination that the
23 purposes of the parole have been served. Alternatively, the Due Process Clause of
24 the Fifth Amendment of the Constitution requires redeprivation notice and
25 hearing. Either way, the agency's actions violated the Administrative Procedures
26 Act and the Due Process Clause, and this Court should order his immediate
27 release.

28 This Court should grant *immediate release* as this Court and other courts in

1 this district have done in similar cases. *Zapata Velasquez v. Noem*, No. 26-CV-
2 0746-BJC-MMP, 2026 WL 1005077, at *3 (S.D. Cal. Apr. 14, 2026) (holding due
3 process concerns apply even when parole has expired); *Alegria Palma v. LaRose*,
4 25-cv-1942-BJC-MMP, ECF No. 14 (S.D. Cal. Aug. 11, 2025); *Sanchez v.*
5 *LaRose*, No. 25-CV-2396-JES-MMP, 2025 WL 2770629, at *4 (S.D. Cal. Sept.
6 26, 2025); *Rahman v. Casey*, No. 26-CV-646 JLS (MMP), 2026 WL 512878, at
7 *2 (S.D. Cal. Feb. 23, 2026); *Rodriguez Alba v. Noem*, No. 26CV561-LL-DEB,
8 2026 WL 776060, at *3 (S.D. Cal. Mar. 19, 2026).

9 Mr. Gomez-Mejia now files this supplemental briefing in support of his
10 previously files pro se motion.

11 STATEMENT OF FACTS

12 Mr. Gomez Mejia is a Venezuelan national who entered the United States
13 on June 16, 2023. Exhibit A, Declaration of Gomez Mejia at ¶ 1-2. He and his
14 young family came in with an appointment through the CBP-One App. *Id.* at ¶ 2.

15 Mr. Gomez Mejia integrated himself into the community. He was working
16 as an UBER delivery driver to support his wife and children (ages 5 and 6). *Id.* at
17 ¶ 5. Mr. Gomez Mejia filed an application for asylum and the application remains
18 pending. *Id.* ¶ 3-4.

19 On March 16, 2026, Mr. Gomez Mejia was on his way to work when he
20 was stopped by about five unmarked cars *Id.* at ¶ 6. ICE agents ordered him into
21 their car and arrested him without explanation or process. *Id.* at ¶6-7. He is now
22 detained at the Otay Mesa Detention Center. *Id.* at ¶ 6.

23 Although his asylum claim was proceeding on the outside, Mr. Gomez
24 Mejia is now being required to proceed with asylum as a detained person. *Id.* at ¶
25 8.

26 Furthermore, the situation for his family is very grave. His family depended
27 on him financially. *Id.* at 9. Now that he is detained, the wife struggles to feed the
28 family and has turned to recycling to make money. *Id.*

1 **LEGAL BACKGROUND**

2 This Court should grant this petition by ordering Mr. Gomez Mejia’s
3 immediate release.

4 **I. Revoking Mr. Gomez Mejia’s release and subjecting him to detention**
5 **violates the Administrative Procedures Act and Due Process.**

6 1. The government’s actions violated the Administrative
7 Procedures Act.

8 The INA “establishes the framework governing noncitizens’ entry into and
9 removal from the United States, with regulations promulgated by the enforcing
10 agencies providing further governance.” *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d
11 1123, 1132 (D. Or. 2025). “Noncitizens who arrive at a port of entry without a
12 visa or other entry document, like Petitioner, are deemed ‘inadmissible’ under 8
13 U.S.C. § 1182(a)(7)” due to their lack of entry documents. *Id.* at 1132 & n.7
14 (noting that “[d]epending on the circumstances, other categories of inadmissibility
15 may also apply, but § 1182(a)(7) applies for noncitizens without proper
16 documentation”). Once a noncitizen is deemed inadmissible, “the immigration
17 officer must order the noncitizen’s removal unless the noncitizen indicates an
18 intention to apply for asylum or fear of prosecution.” *Id.* (citing 8 U.S.C. §
19 1225(b)(1)(A)(i)). The government may place the noncitizen into expedited
20 removal proceedings, *see* 8 U.S.C. § 1225(b)(1), or the government may place the
21 noncitizen into regular removal proceedings under 8 U.S.C. § 1229(a). *See Y-Z-L-*
22 *H*, 792 F. Supp. 3d at 1132–33 (citing 8 U.S.C. § 1225(b)(2)).

23 Section § 1225(b)(2)(A) provides that “in the case of an alien who is an
24 applicant for admission, if the examining immigration officer determines that an
25 alien seeking admission is not clearly and beyond a doubt entitled to be admitted,
26 the alien shall be detained for a proceeding under section 1229a of this title.” 8
27 U.S.C. § 1225(b)(2)(A). However, “applicants for admission may be temporarily
28 released on parole [into the United States] ‘for urgent humanitarian reasons or
significant public benefit,” as set forth in 8 U.S.C. § 1182(d)(5)(A). *Jennings v.*

1 *Rodriguez*, 583 U.S. 281, 288 (2018) (quoting 8 U.S.C. § 1182(d)(5)(A)). The
2 decision to grant parole pursuant to 8 U.S.C. § 1182(d)(5)(A) is determined “on a
3 case-by-case basis.” 8 U.S.C. § 1182(d)(5)(A). Then, “when the purpose of the
4 parole has been served,” § 1182(d)(5)(A) provides that “the alien shall forthwith
5 return or be returned to the custody from which he was paroled and thereafter his
6 case shall continue to be dealt with in the same manner as that of any other
7 applicant for admission to the United States.” *Jennings*, 583 U.S. at 288 (quoting
8 8 U.S.C. § 1182(d)(5)(A)).

9 To terminate the previously granted parole, the agency must comply with
10 the applicable regulatory and statutory requirements. As set forth in 8 C.F.R. §
11 212.5(e)(2)(i), which governs the “[t]ermination of parole,”

12 In cases not covered by paragraph (e)(1) of this section,³ upon
13 accomplishment of the purpose for which parole was authorized or
14 when in the opinion of one of the officials listed in paragraph (a)
15 of this section, neither humanitarian reasons nor public benefit
16 warrants the continued presence of the alien in the United States,
17 parole shall be terminated upon written notice to the alien and he
or she shall be restored to the status that he or she had at the time
of parole.

18 8 C.F.R. § 212.5(e)(2)(i). That is, “[u]nder the governing regulation, [§
19 1182(d)(5)(A)] parole may be terminated only if the purpose of parole is
20 accomplished, or humanitarian reasons and the public benefit no longer warrant
21 parole.” *Loaiza Arias v. LaRose*, No. 3:25-cv-02595-BTM-MMP, 2025 WL
22 3295385, at *3 (S.D. Cal. Nov. 25, 2025) (citing 8 C.F.R. § 212.5(e)).

23 What’s more, ICE is required to inform noncitizens of the reasons for
24 revocation. The court in *Y-Z-H-L* determined that under the Administrative
25 Procedure Act, immigration parolees are entitled to determinations related to their
26 parole revocations that are not arbitrary, capricious or an abuse of discretion. *Y-Z-*
27 *L-H*, 792 F. Supp. 3d at 1144. An agency acts arbitrarily and capriciously by
28 failing to make a reasoned determination or where the agency fails to “articulate[]

1 a satisfactory explanation for its action including a rational connection between
2 the facts found and the choice made.” *Id.* Parole revocations in the context of the
3 INA must occur on a case-by-case basis and may occur “when the purposes of
4 such parole shall, in the opinion of the Secretary of Homeland Security, have been
5 served the alien shall forthwith return or be returned to the custody from which he
6 was paroled.” *Id.* (quoting 8 C.F.R. § 212.5(e)). 8 C.F.R. § 212.5(e) requires
7 written notice of the termination of parole except where the immigrant has
8 departed or when the specified period of parole has expired.

9 The government has failed to follow the applicable statutory and regulatory
10 provisions to terminate Petitioner’s parole. *Cf. Coal. for Humane Immigrant Rts.*
11 *v. Noem*, No. 25-cv-872 (JMC), 2025 WL 2192986, at *2 (D.D.C. Aug. 1, 2025)
12 (holding that the government failed to follow the applicable statutory and
13 regulatory provisions and that paroled noncitizens cannot be subject to expedited
14 removal proceedings); *Salgado Bustos v. Raycraft*, No. 25-13202, 2025 WL
15 3022294, at *5–7 (E.D. Mich. Oct. 29, 2025) (same); *E.V. v. Raycraft*, No. 4:25-
16 cv-2069, 2025 WL 2938594, at *10 (N.D. Ohio Oct. 16, 2025) (same).

17 First, the statute at 8 U.S.C. §1182(d)(5)(A) permits the termination of
18 parole only where there is a finding that the purpose of such parole has been
19 served. *Y-Z-L-H*, 792 F. Supp. 3d at 1133. Here, however, the purpose of
20 Petitioner’s parole has not been served. He fled from Venezuela, seeking asylum
21 in the United States, and he entered the United States at a port of entry. Exh. A ¶
22 1. At that time, Mr. Gomez Mejia was granted release pursuant to 8 U.S.C. §
23 1182(d)(5)(A), which provides for parole into the United States “for urgent
24 humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A). He
25 filed an asylum application and he has filed an appeal of the immigration judge’s
26 decision. Thus, the purpose of parole has not yet been served. *Perez Bueno v.*
27 *Janecka*, No. 5:25-CV-03376-CAS-BFM, 2026 WL 309934, at *1 (C.D. Cal. Feb.
28 5, 2026) (granting habeas noting asylum remains pending when on appeal prior to

1 detention); *Velasquez-Chinga v. Noem*, No. 3:26-CV-00105-RBM-KSC, 2026
2 WL 311507, at *1 (S.D. Cal. Feb. 5, 2026) (same)

3 Second, ICE is required to provide the noncitizen “a cogent description of
4 the reasons supporting the revocation decision.” *J.E.H.G. v. Chestnut*, No. 1:25-
5 CV-01673-JLT SKO, 2025 WL 3523108, at *6 (E.D. Cal. Dec. 9, 2025). In *Y-Z-
6 H-L*, the Petitioner received an email stating that “DHS was exercising its
7 discretion” to terminate parole. 792 F. Supp. 3d at 1146. The court said that this
8 language was vague and did not provide an actual reason. *Id.* It stated that the
9 “email was legally insufficient to meet the statutory and regulatory requirements,
10 even though it cited those provisions and invoked the word ‘discretion.’” *Id.*
11 Common sense and the words of the statute require parole revocation to be
12 analyzed on a case-by-case basis and that a decision to revoke parole “must attend
13 to the reasons an individual [noncitizen] received parole.” *J.E.H.G.*, 2025 WL
14 3523108, at *6 (citing *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025
15 WL 1953796, at *11 (W.D.N.Y. July 16, 2025)). There is no indication that the
16 government conducted that analysis in this case.

17 Judge Curiel found an APA violation in *Noori v. LaRose*, No. 25-CV-1824-
18 GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct. 1, 2025). *Noori* concluded that “to
19 meet statutory and regulatory requirements, revocation should only occur when
20 (1) the parole’s purpose is served or (2) when humanitarian reasons and public
21 benefit are no longer warranted, and the noncitizen is provided written notice.” *Id.*
22 The first requirement was not met because the petitioner “applied for asylum and
23 was still in the middle of those proceedings when Respondents issued and
24 executed the revocation.” *Id.* And even though the petitioner was provided a
25 “generic notification” of his revocation, the second requirement was not met
26 because “humanitarian reasons still warrant the Petitioner’s presence in the
27 country.” *Id.* At a minimum, Judge Curiel held, parole revocation “requires an
28 individualized determination,” which the government had not provided because it

1 failed to explain “why the Petitioner would now be considered a flight risk or
2 danger to the community.” *Id.*

3 Here, as in *Noori*, the government failed to meet the statutory and
4 regulatory requirements for parole revocation. Thus, the government here “has
5 acted arbitrarily and capriciously in violation of the APA.” *Id.*

6 2. Mr. Gomez Mejia’s detention is a violation of the Due Process
7 Clause.

8 The Due Process Clause of the Fifth Amendment forbids the government
9 from depriving any person of liberty without due process of law. U.S. Const.
10 amend. V. “Freedom from imprisonment—from government custody, detention,
11 or other forms of physical restraint—lies at the heart of the liberty” that the Due
12 Process Clause protects. *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*,
13 504 U.S. 71, 80 (1992)).

14 An individual released from immigration custody has a constitutionally
15 protected liberty interest in remaining free from detention. *Morrissey v. Brewer*,
16 408 U.S. 471, 482, 92 S. Ct. 2593, 2601, 33 L. Ed. 2d 484 (1972); *see also*
17 *Sanchez v. LaRose*, 25-cv-2396; 2025 WL 2770629, at * 3 (S.D. Cal.). Thus,
18 Petitioner has a fundamental interest in liberty and being free from official
19 restraint.

20 “Even when ICE has the initial discretion to detain or release a noncitizen
21 pending removal proceedings, after that individual is released from custody [he]
22 has a protected liberty interest in remaining out of custody.” *Pinchi v. Noem*, 792
23 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025). (internal citation omitted). Thus, the
24 liberty interest applies to individuals who are paroled into the United States and
25 released to attend removal proceedings. *Garcia v. Andrews*, No. 1:25-CV-01006
26 JLT SAB, 2025 WL 2420068, at *11 (E.D. Cal. Aug. 21, 2025); *Valencia Zapata*
27 *v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2578207, at *3 (N.D. Cal. Sept. 5,
28 2025); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *13 (D.

1 Or. July 9, 2025).

2 To determine which procedures are constitutionally sufficient to satisfy the
3 Due Process Clause, the Court must apply the *Mathews* factors. *See Mathews*,
4 424 U.S. at 335. Courts must consider: (1) “the private interest that will be
5 affected by the official action”; (2) “the risk of an erroneous deprivation of such
6 interest through the procedures used, and the probable value, if any, of additional
7 or substitute procedural safeguards”; and (3) “the Government’s interest, including
8 the function involved and the fiscal and administrative burdens that the additional
9 or substitute procedural requirement would entail.” *Id.*

10 All three factors support a finding that the government’s revocation of Mr.
11 Gomez Mejia’s release without reasoning or an opportunity to be heard, denied
12 Petitioner of his due process rights. First, Mr. Gomez Mejia has a significant
13 liberty interest in remaining out of custody pursuant to his conditional parole.
14 “Freedom from imprisonment—from government custody, detention, or other
15 forms of physical restraint—lies at the heart of the liberty [the Due Process
16 Clause] protects.” *Zadvydas*, 533 U.S. at 690. He also has an interest in remaining
17 with his family and continuing the process of adjusting status to a lawful
18 permanent resident and asylum. *See Morrissey*, 408 U.S. 471 at 482 (“Subject to
19 the conditions of his parole, he can be gainfully employed and is free to be with
20 family and friends and to form the other enduring attachments of normal life.”).

21 Second, the risk of an erroneous deprivation of such interest is high as Mr.
22 Gomez Mejia parole was revoked without providing him a reason for revocation
23 or giving him an opportunity to be heard. When he was paroled, the government
24 made a finding that he did not pose a danger to the community and was not a
25 flight risk. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1760 (N.D. Cal. 2017)
26 (“Release reflects a determination by the government that the noncitizen is not a
27 danger to the community or a flight risk.”). “Once a noncitizen has been released,
28 the law prohibits federal agents from rearresting him merely because he is subject

1 to removal proceedings.” *Saravia*, 280 F. Supp. 3d at 1760. “Rather, the federal
2 agents must be able to present evidence of materially changed circumstances—
3 namely, evidence that the noncitizen is in fact dangerous or has become a flight
4 risk....” *Id.* “Where, as here, ‘the petitioner has not received any bond or custody
5 hearing,’ ‘the risk of an erroneous deprivation of liberty is high’ because neither
6 the government nor [Petitioner] has had an opportunity to determine whether there
7 is any valid basis for [his] detention.” *Pinchi*, 2025 WL 2084921, at *5 (quoting
8 *Singh v. Andrews*, No. 25-cv-801-KES-SKO (HC), 2025 WL 1918679, at *7
9 (E.D. Cal. July 11, 2025)) (cleaned up).

10 Third, the Government’s interest in detaining Mr. Gomez Mejia without
11 proper notice and reasoning or a hearing is “low.” *See Pinchi*, 2025 WL 2084921,
12 at *5; *Matute*, 2025 WL 2817795, at *6; *Ortega v. Bonnar*, 415 F. Supp. 3d 963,
13 970 (N.D. Cal. Nov. 22, 2019) (“If the government wishes to re-arrest [Petitioner]
14 at any point, it has the power to take steps toward doing so; but its interest in
15 doing so without a hearing is low.”).

16 Thus, Mr. Gomez Mejia’s detention is unlawful. *See, e.g., Alegria Palma v.*
17 *Larose et al.*, No. 25-cv-1942 BJC (MMP), slip op. at 14 (S.D. Cal. Aug. 11,
18 2025) (granting a TRO based on a procedural due process challenge to a
19 revocation of parole without a pre-deprivation hearing); *Navarro Sanchez*, 2025
20 WL 2770629, at *5 (granting a writ of habeas corpus releasing petitioner from
21 custody to the conditions of her preexisting parole on due process grounds).²

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23 ² It is unclear whether Mr. Gomez Mejia’s parole expired prior to his detention.
24 Regardless, this Court and other “courts have repeatedly held that liberty interests
25 do not expire when parole does.” *Isoev v. LaRose*, No. 26-CV-1361-JES-DDL,
26 2026 WL 776308, at *3 (S.D. Cal. Mar. 19, 2026); *Zapata Velasquez v. Noem*, No.
27 26-CV-0746-BJC-MMP, 2026 WL 1005077, at *3 (S.D. Cal. Apr. 14, 2026).
28 “When he was released from his initial detention on parole, Petitioner took with
him a liberty interest which is entitled to the full protections of the due process
clause.” *Ramirez Tesara v. Wamsley*, 800 F. Supp. 3d 1130, 1136 (W.D. Wash.
2025). “Once established, Petitioner’s interest in liberty is a constitutional right
which may only be revoked through methods that comport with due process.” *Id.*;
see also Rodriguez Cabrera v. Mattos, No. 2:25-CV-01551-RFB-EJY, 2025 WL
3072687, at *11 (D. Nev. Nov. 3, 2025) (“Petitioner has a fundamental interest in

1 **II. This Court has jurisdiction to consider Mr. Gomez Mejia’s claim.**

2 In cases raising similar claims, the government has argued that this Court
3 lacks jurisdiction to consider or grant relief under 8 U.S.C. §§ 1252(g) and
4 1252(b)(9). This argument fails here for at least three independent reasons. First,
5 Mr. Gomez Mejia’s claims are inextricably intertwined with the government’s
6 authority to detain him, which this Court has jurisdiction to consider. Second, this
7 Court has jurisdiction to review whether the agency has complied with due
8 process and its mandatory, nondiscretionary duties.

9 Courts have jurisdiction to “decide a purely legal question that does not
10 challenge the Attorney General’s discretionary authority.” *Ibarra-Perez v. United*
11 *States*, 154 F.4th 989, 996 (9th Cir. 2025) (quotations omitted). In *Ibarra-Perez*,
12 the Ninth Circuit squarely held that “§ 1252(g) does not prohibit challenges to
13 unlawful practices merely because they are in some fashion connected to removal
14 orders.” *Id.* at 997. Accordingly, the question is whether Petitioner’s claim
15 “challenge[s] the Attorney General’s discretionary authority.” *Id.* at 996.

16 They do not. First, Petitioner claim relates to the government’s authority to
17 detain him, and courts have widely held that review of issues related to detention
18 is not barred by § 1252(g) or (b)(9). *See, e.g., Flores–Torres v. Mukasey*, 548 F.3d
19 708, 711 (9th Cir. 2008) (holding that habeas jurisdiction exists to review a
20 challenge to immigration detention based on a citizenship claim); *Kong v. United*
21 *States*, 62 F.4th 608, 617 (1st Cir. 2023) (holding that “assertions of illegal
22 detention [were] plainly collateral to ICE’s prosecutorial decision to execute [a
23 detainee’s removal” and thus not subject to § 1252’s jurisdictional bars); *Cardoso*
24 *v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000) (“[S]ection 1252(g) does not bar courts

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26 _____
27 freedom from physical confinement, and that liberty interest is particularly strong
28 given his initial release from detention in 2022, and the fact that Respondents did
not seek his return to custody upon the expiration of his parole in December 2022,
or in the three years since.”).

1 from reviewing an alien detention order[.]”); *Parra v. Perryman*, 172 F.3d 954,
2 957 (7th Cir. 1999) (§ 1252(g) did not apply to a “claim concern[ing] detention”).
3 To undersigned counsel’s knowledge, every judge in this district has held that it
4 has jurisdiction to consider claims that an individual is unlawfully detained.
5 Petitioner’s claim asserts in his habeas petition relate to the government’s
6 authority to detain him without following the regulations and statues relating to
7 parole.

8 Second, the jurisdictional bars of § 1252 do not bar review of claims that
9 ICE is “failing to carry out non-discretionary statutory duties and provide due
10 process.” *J.R. v. Bostock*, No. 2:25-CV-01161-JNW, 2025 WL 1810210, at *3
11 (W.D. Wash. June 30, 2025); *see also D.V.D. v. U.S. Dep’t of Homeland Sec.*, 778
12 F. Supp. 3d 355, 377–78 (D. Mass. 2025) (§ 1252(g) did not bar review of “the
13 purely legal question of whether the Constitution and relevant statutes require
14 notice and an opportunity to be heard”).

15 That is precisely what Judge Curiel recently held in a similar case. In *Noori*
16 *v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *1 (S.D. Cal. Oct.
17 1, 2025), the petitioner was (like Petitioner) an asylum seeker from Afghanistan
18 who “presented himself at the U.S. Port of Entry in San Ysidro, California and
19 applied for admission with a CBP One application.” Immigration officials
20 “paroled him into the United States” under the same type of “DT” humanitarian
21 parole as Mr. Gomez Mejia. *Id.* But after the government cancelled the
22 petitioner’s removal proceedings and placed him in expedited removal, he filed a
23 habeas petition, and the government argued that §§ 1252(g) and (b)(9) stripped
24 the court of jurisdiction to hear his claims. *Id.* at *5.

25 Nevertheless, Judge Curiel found that he had jurisdiction to hear the claims,
26 noting that “Petitioner does not challenge the decision to commence proceedings.”
27 *Id.* at *6. Instead, “Petitioner challenges the legality of the revocation of
28 humanitarian parole in violation of the law and dismissal of ongoing removal

1 proceedings without due process.” *Id.* So even assuming the agency’s revocation
2 of parole “constitutes a decision or action to adjudicate cases,” that action is not
3 “in the discretion” of the agency under § 1252(g) where it was “not performed in
4 accordance with the mandatory procedures.”” *Id.* (quoting *Sharkey v. Quarantillo*,
5 541 F.3d 75, 86 (2d Cir. 2008) (alterations omitted)).

6 Other courts have held the same. In *Dep’t of Homeland Sec. v. Regents of*
7 *the Univ. of California*, 140 S. Ct. 1891, 1907 (2020), the Supreme Court held
8 that § 1252(b)(9) “does not present a jurisdictional bar” where those bringing suit
9 “are not asking for review of an order of removal,” “the decision to seek
10 removal,” or “the process by which removability will be determined.” (quotations
11 and alterations omitted). And in *Vasquez Garcia v. Noem*, 25-cv-02180-DMS-
12 MMP, 2025 WL 2549431, Dkt. 7 at *8 (S.D. Cal. Sept. 3, 2025), Judge Sabraw
13 held that “§ 1252(g) does not limit the Court’s jurisdiction in the present case”
14 because the petitioners were “enforcing their constitutional rights to due process
15 in the context of the removal proceedings—not the legitimacy of the removal
16 proceedings or any removal order.”

17 Here, because these actions were “not performed in accordance with the
18 mandatory procedures,” they were not undertaken “in the discretion” of the
19 agency. *Noori*, 2025 WL 2800149, at *6; *see also United States ex rel. Accardi v.*
20 *Shaughnessy*, 347 U.S. 260, 265–68 (1954) (holding that agencies must adhere to
21 their own binding regulations, both substantively and procedurally). Accordingly,
22 this Court is not jurisdictionally barred from reviewing them.

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CLAIM AND PRAYER FOR RELIEF

For the reasons just given, the statute, the regulations, and the Fifth Amendment Due Process Clause prohibits the government from continuing to detain Petitioner.

Accordingly, Petitioner respectfully requests that this Court:

1. Order Respondents to immediately release Petitioner from custody under the same conditions of parole;
2. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: April 26, 2026

s/ Zandra Lopez

Zandra Lopez

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