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

CHEIKHOU SARR,

Petitioner,

v.

JEREMY CASEY, Warden at Imperial
Regional Detention Facility,

Respondents.

Civil Case No.: 26-cv-2343-RBM

**Traverse in Support Petition for a
Writ of Habeas Corpus**

INTRODUCTION

Cheikhou Sarr is a citizen of Senegal who was released on humanitarian parole so that he could seek asylum in the United States. Sarr Habeas Petition at 5, ECF No. 1. He had “been working in the United States since then.” *Id.* He “was gainfully employed and paying taxes.” *Id.* But despite complying with all the conditions of his parole, ICE detained Mr. Sarr after his immigration court hearing on May 29, 2025. *Id.* ICE took him into custody without any notice or explanation. Exhibit A, Sarr Decl. at ¶¶ 8–9.

The government, in its return, conveniently ignores all of this and instead makes hay about the fact that Mr. Sarr received a bond hearing before the immigration judge (“IJ”) on March 6, 2026. *See* Gov. Return at 1–2, ECF No. 8. The government claims that Mr. Sarr omitted any mention of his bond hearing in his habeas petition. *Id.* at 1. This is false. Mr. Sarr transparently informed this

1 Court that he “had a bond hearing on March 4, 2026, and was denied bond.” Sarr
2 Habeas Petition at 5. Mr. Sarr correctly explained that this bond hearing is
3 irrelevant here as his “arrest was unjust and illegal because [he] was already on
4 parole.” *Id.*

5 While it is unclear whether the government has formally revoked Mr. Sarr’s
6 parole, the government’s actions are unlawful regardless. If the agency did not
7 revoke his parole, then it violated that parole by detaining him. And if the agency
8 *did* revoke his parole, then it did so in violation of the statute and regulations,
9 which require written notification and a determination that the purposes of the
10 parole have been served. Alternatively, the Due Process Clause of the Fifth
11 Amendment of the Constitution requires redeprivation notice and hearing. Either
12 way, the agency’s actions violated the Administrative Procedures Act and the Due
13 Process Clause, and this Court should order his immediate release.

14 Because the government entirely ignored Mr. Sarr’s argument that he is
15 entitled to immediate release because of his unlawful detention while on parole, it
16 has thus waived any argument to the contrary. *See United States v. Cabrera*, 796
17 F. Supp. 3d 660, 664 (S.D. Cal. 2025) (recognizing that “a party waives argument
18 when it fails to respond to an argument made to the court” quoting *United States*
19 *v. Caceres-Olla*, 738 F.3d 1051, 1053 n.1 (9th Cir. 2013)).

20 STATEMENT OF FACTS

21 Mr. Sarr was born in Senegal but came to the United States seeking asylum
22 on January 16, 2024. Exhibit A at ¶ 1. He was released on humanitarian parole the
23 next day. *Id.* at ¶ 2. Mr. Sarr applied for asylum on May 14, 2024, and was shortly
24 thereafter issued a work permit and a Social Security Number. *Id.* at ¶ 3. Mr. Sarr
25 complied with all the conditions of his parole. *Id.* at ¶ 14. He submitted his photos
26 on time, went to all his check-ins, and attended all his court hearings. *Id.* Mr. Sarr
27 has not committed any crimes or infractions. *Id.* at ¶ 15.

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1 Mr. Sarr attended immigration court in New York City on May 29, 2025.
2 *Id.* at ¶ 7. The IJ denied his asylum request that day. *Id.* at ¶ 4. Mr. Sarr left the
3 courtroom after his hearing ended and ICE was waiting outside and arrested him.
4 *Id.* at ¶ 8. Mr. Sarr was not told why he was being detained. *Id.* at ¶¶ 8–9. He was
5 not told why ICE rescinded its decision to release him and did not receive any
6 paperwork explaining it. *Id.* He also did not receive an informal interview at
7 which he could contest his detention. *Id.*

8 **CLAIMS FOR RELIEF**

9 **I. Count One: ICE failed to comply with its own regulations in revoking**
10 **Mr. Sarr’s parole under 8 C.F.R. § 212.5, violating the Administrative**
11 **Procedures Act and Due Process.**

12 When ICE detained Mr. Sarr on May 29, 2025, it did not say whether it was
13 revoking his parole. Exhibit A at ¶¶ 8–10. Either way, the government’s actions
14 violate the Administrative Procedures Act and Due Process.

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

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1 Here, regardless of whether the agency formally revoked Mr. Sarr's parole,
2 it violated the APA. If the agency did *not* revoke his parole, then it inexplicably
3 violated its own parole decision by detaining Mr. Sarr in May 2025. Doing so
4 violated the APA because the agency did not "offer a rational connection between
5 the facts found and the choice made"—i.e., the fact that Mr. Sarr was still on
6 parole, yet the agency decided to detain him. *Motor Vehicle Mfrs*, 463 U.S. at 52.
7 And nothing suggests that there *was* a "rational" reason for this choice, given that
8 Mr. Sarr had filed an asylum application and was complying with his regular
9 check-ins. This was the epitome of an "arbitrary" and "capricious" act under the
10 APA. 5 U.S.C. § 706(2)(A).

11 But assuming the agency *had* revoked his parole, it also violated the APA.
12 Per ICE regulations, a person shall only be "returned to the custody from which
13 he was paroled" when "the purposes of such parole . . . have been served." 8
14 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be
15 terminated "upon accomplishment of the purpose for which parole was
16 authorized"); *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1145 (D. Or. 2025)
17 (same). Alternatively, the regulations permit revocation of parole when "neither
18 humanitarian reasons nor public benefit warrants the [noncitizen's] continued
19 presence." 8 C.F.R. § 212.5(e)(2)(i). But under either scenario, parole shall only
20 be "terminated upon written notice to the alien." 8 C.F.R. § 212.5(e)(2)(i). So
21 under the statute and the regulations, the agency may only revoke parole and re-
22 detain a noncitizen when the parole's purpose is served, or no humanitarian
23 reasons warrant it *and* the noncitizen receives written notice.

24 None of this occurred here. Because "the purpose[] of [Mr. Sarr's] parole"
25 was to allow him to apply for asylum, that purpose has not yet "been served"
26 because his asylum claim is still pending. 8 U.S.C. § 1182(d)(5)(A); *see* Exhibit A
27 at ¶ 5. And the humanitarian reasons for parole—to avoid unnecessary detention
28 when an asylum seeker poses no danger or flight risk—remains the same.

Put differently, “upon Petitioner’s entry into the United States, Respondents determined that Petitioner was suitable for parole. Respondents have not provided a reasoned explanation or any changed circumstances that would justify their current departure from their prior decision.” *Y-Z-L-H*, 792 F. Supp. 3d at 1146. Under the APA, “[i]t is Respondents’ burden to provide a reasoned explanation for their action,” which they will not be able to do. *Id.*

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

Multiple courts have released parolees on this basis. *See Arias v. Larose*, No. 25-CV-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25, 2025); *Noori v. LaRose*, 807 F. Supp. 3d 1146, 1169 (S.D. Cal. 2025); *Salazar v. Casey*, No. 25-CV-2784 JLS-VET, 2025 WL 3063629 (S.D. Cal. Nov. 3, 2025); *Perez v. LaRose*, No. 25-CV-02620-RBM-JLB, 2025 WL 3171742 (S.D. Cal. Nov. 13, 2025); *Y-Z-L-H*, 792 F. Supp. 3d at 1147. Because Mr. Sarr is in the same position as these individuals, this Court should do the same and order his immediate release.

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

Additionally, “the revocation of [Mr. Sarr’s] parole without justification or consideration of his individualized circumstances violates the Due Process Clause.” *Perez*, 2025 WL 3171742, at *4. Mr. Sarr was “entitled to notice of the reasons for revocation of his parole and a hearing before an immigration judge to determine whether detention is warranted” before ICE revoked his parole. *Id.* at *7.

“The Fifth Amendment guarantees that ‘[n]o person shall be . . . deprived of life, liberty, or property, without due process of law.’” *Salazar*, 2025 WL

1 3063629, at *3 (quoting U.S. Const. amend. V). “[T]he Due Process Clause
2 applies to all ‘persons’ within the United States, including aliens, whether their
3 presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*,
4 533 U.S. 678, 693 (9th Cir. 2001).

5 “Generally, due process protections depend on the situation and must
6 account for (1) the private interest at issue, (2) the risk of erroneous deprivation of
7 that interest through the procedures used, and (3) the Government's interest.”
8 *Noori*, 807 F. Supp. 3d at 1164; (citing *Mathews v. Eldridge*, 424 U.S. 319
9 (1976)). Weighing those considerations here, Respondents violated the Due
10 Process Clause by revoking parole with no notice or hearing.

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

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

27 “Third, the Government's interest in detaining Petitioner without notice,
28 reasoning, and a hearing is low.” *Salazar*, 2025 WL 3063629, at *5 (cleaned up).

1 “Detention for its own sake, to meet an administrative quota, or because the
2 government has not yet established constitutionally required pre-detention
3 procedures is not a legitimate government interest.” *Pinchi v. Noem*, 792 F. Supp.
4 3d 1025, 1036 (N.D. Cal. 2025).

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

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

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

12 **IV. Prayer for relief**

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

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

Dated: May 5, 2026

s/ Camille Fenton

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EXHIBIT A

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

CHEIKHOU SARR,

Petitioner,

v.

JEREMY CASEY, Warden at Imperial
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Respondents.

Civil Case No.: 26-cv-2343-RBM

**Declaration of
Cheikhou Sarr
in Support of Petition
for a Writ of Habeas Corpus**

I, Cheikhou Sarr, declare:

1. I was born in Senegal. I came to the United States to seek asylum. I entered the United States on January 16, 2024.
2. I was released on humanitarian parole on January 17, 2024.
3. I applied for asylum on May 14, 2024. I was issued a work permit and a Social Security Number after I submitted my asylum application.
4. My asylum request was denied by an immigration judge ("IJ") on May 29, 2025. I appealed to the Board of Immigration Appeals ("BIA") on June 27, 2025.
5. I just won my appeal before the BIA, which means I can continue to pursue my asylum claims.

6. I spent some time in New York City after I was released on parole. When I received my work permit, I moved down to South Carolina to live with one of my uncles.
7. I notified the immigration court of my move, but the court had not updated my address in time for one of my court hearings. So, on May 29, 2025, I traveled back to New York City for my immigration court date.
8. After my hearing ended, I left the courtroom and ICE was waiting outside and arrested me. ICE did not tell me why I was being detained. They just said it was because my asylum request had just been denied. ICE did not say that my parole was being revoked. The agents did not mention my parole at all.
9. I have been in immigration detention since May 29, 2025. ICE has never given me any paperwork explaining why I was being kept in immigration custody. I was never given an interview or a hearing where I could contest my immigration detention or loss of parole.
10. After ICE arrested me, they transferred me to detention in Texas for about 27 days. I met with an ICE officer there, but he did not talk to me about my parole and did not give me a chance to contest my detention. The ICE officer only spoke with me to try to get me to agree to my removal back to Senegal.
11. No other ICE officer has come to speak with me since that day in Texas.
12. I was in Texas for about five months. Then I was transferred to Imperial Regional Detention Facility ("IRDF"), and I was asked if I wanted to voluntarily return to Senegal and I told them no, I want to stay here and continue fighting my case for asylum. I have been in immigration custody for over eleven months.
13. I had a bond hearing before the IJ on March 4, 2026, but the IJ denied my bond because she had issues with my sponsor. My parole was not discussed that day.
14. I have followed all the conditions of my parole since I was granted parole back in 2024. I always sent my photos in on time, went to all my check-ins, and attended all my court dates.

1 15. I have not committed any crimes or infractions.

2 16. I do not have money to hire a lawyer.

3
4 I, Camille Fenton, declare under penalty of perjury that I reviewed this declaration
5 with Cheikhou Sarr using a Wolof interpreter, and he confirmed that it was true and
6 correct.

7 Date: April 22, 2026

Signed: /s/ *Camille Fenton*