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9
10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**
12

13 HENRY ATUD MBAH,

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.
26
27
28

Civil Case No.: 26-cv-2407-LL-MSB

**Amended Petition
for a
Writ of Habeas Corpus**

1 INTRODUCTION

2 Henry Atud Mbah is a citizen of Cameroon who was accused of being a
3 member of a separatist party and fled for his life. He was paroled into the United
4 States on January 3, 2022, and applied for asylum before USCIS. But on October
5 7, 2025, ICE told Mr. Mbah to come in for a credible fear interview and then
6 arrested him. ICE then took him into custody without any notice or explanation.

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

14 STATEMENT OF FACTS

15 Mr. Mbah was born in Cameroon. Exhibit A, Declaration of Henry Atud
16 Mbah, at ¶ 1. He fled Cameroon because the government accused him of 
17  *Id.* at ¶ 1.

18 On January 3, 2022, Mr. Mbah crossed into the United States to seek
19 asylum and was immediately arrested by Border Patrol agents. *Id.* at ¶ 2. After
20 about three weeks in custody, he was paroled into the United States. *Id.* at ¶ 2.

21 Mr. Mbah went to Baltimore and applied for asylum before USCIS. *Id.* at ¶
22 3. After several years, ICE suddenly told him to come in for a credible fear
23 interview. *Id.* at ¶ 3. He went in to the Baltimore office on October 7, 2025, but
24 ICE didn't give him a credible fear interview; instead, they arrested him. *Id.* at ¶
25 3. They did not tell him why they were arresting me, nor did they give him any
26 paperwork or an informal interview at which he could contest his detention. *Id.* at
27 ¶ 3.

1 One week later, Mr. Mbah was transferred to Otay Mesa Detention Center
 2 and placed in removal proceedings. *Id.* at ¶ 4. He applied for asylum, but the
 3 immigration judge ordered him removed to Uganda on March 19, 2026. *Id.* at ¶ 4.
 4 He then filed an appeal with the Board of Immigration Appeals, which is
 5 currently pending. *Id.* at ¶ 4.

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. Mbah's parole.**

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

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

26 Here, regardless of whether the agency formally revoked Mr. Mbah's
 27 parole, it violated the APA. If the agency did *not* revoke his parole, then it
 28 inexplicably violated its own parole decision by detaining Mr. Mbah. Doing so

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

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

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

1 departure from their prior decision.” *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123,
 2 1146 (D. Or. 2025). Under the APA, “[i]t is Respondents’ burden to provide a
 3 reasoned explanation for their action,” which they will not be able to do. *Id.*

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

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

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

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

25 “The Fifth Amendment guarantees that ‘[n]o person shall be ... deprived of
 26 life, liberty, or property, without due process of law.’” *Salazar*, 2025 WL
 27 3063629, at *3 (quoting U.S. Const. amend. V). “[T]he Due Process Clause
 28 applies to all ‘persons’ within the United States, including aliens, whether their

1 presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*,
2 533 U.S. 678, 693 (9th Cir. 2001).

3 “Generally, due process protections depend on the situation and must
4 account for (1) the private interest at issue, (2) the risk of erroneous deprivation of
5 that interest through the procedures used, and (3) the Government’s interest.”
6 *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct.
7 1, 2025); (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). Weighing those
8 considerations here, Respondents violated the Due Process Clause by revoking
9 parole with no notice or hearing.

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

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

26 “Third, the Government’s interest in detaining Petitioner without notice,
27 reasoning, and a hearing is low.” *Salazar*, 2025 WL 3063629, at *5 (cleaned up).
28 “Detention for its own sake, to meet an administrative quota, or because the

1 government has not yet established constitutionally required pre-detention
2 procedures is not a legitimate government interest.” *Pinchi v. Noem*, 792 F. Supp.
3 3d 1025, 1036 (N.D. Cal. 2025).

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

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

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

11 **IV. Prayer for relief**

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

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

22 Respectfully submitted,

23
24 Dated: April 20, 2026

s/ Kara Hartzler

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