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

11 YUNIELL MICHELL GUERRA
12 FONSECA,

13 Petitioner,

14 v.

15 MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security,
16 TODD BLANCHE, Acting Attorney
General, TODD M. LYONS, Acting
17 Director, Immigration and Customs
Enforcement, JESUS ROCHA, Acting
18 Field Office Director, San Diego Field
Office, JEREMY CASEY, Warden of
19 Imperial Regional Detention Center,
20

21 Respondents.
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Civil Case No.: 26-cv-2496-BJC-BJW

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

1 INTRODUCTION

2 Yuniell Michell Guerra Fonseca is a citizen of Cuba who was allowed into
3 the country in 2022, given a valid work permit, and has a pending asylum claim.
4 But despite complying with all his court dates and timely submitting an
5 application for relief, Mr. Guerra Fonseca was arrested at a check point in El
6 Centro, California.

7 Mr. Guerra Fonseca was driving a delivery truck from Arizona to
8 California. His pregnant wife was a passenger. He provided agents with his valid
9 documents but was arrested without any explanation or opportunity to contest his
10 detention. His wife, who has a high-risk pregnancy, was dropped off at a gas
11 station where she waited for four hours for family to pick her up. Meanwhile,
12 Mr. Guerra Fonseca was taken to a border patrol station where he was detained
13 for 15 days without being able to communicate with the outside world. He was
14 eventually taken to Imperial Detention Center where he remains today.

15 Respondents have revoked Mr. Guerra Fonseca's release in violation of the
16 statute and regulations, which require written notification and a determination that
17 the purposes of the release have been served.

18 Alternatively, the Due Process Clause of the Fifth Amendment of the
19 Constitution requires redeprivation notice and hearing. Either way, the agency's
20 actions violated the Administrative Procedures Act and the Due Process Clause,
21 and this Court should order his immediate release.

22 STATEMENT OF FACTS

23 Mr. Guerra Fonseca was born in Cuba. Exhibit A, Declaration of Guerra
24 Fonseca, at ¶ 1. He came to the United States in 2022 and was allowed to enter
25 the country. *Id.* at ¶ 2.

26 During the four years that he has been allowed to live in the community,
27 Mr. Guerra Fonseca complied with all requirements, including his ICE check-ins.
28

1 *Id.* at ¶ 4. His last check-in was on December 16, 2025. *Id.* at ¶ 5. He was simply
2 told to return on May 15, 2026. *Id.*

3 On January 6, 2026, he had a hearing before an immigration judge and he
4 was given a new court date in 2029. *Id.* at ¶ 6. Again, he was allowed to go home.

5 On March 1, 2026, Mr. Guerra was driving a delivery truck from Arizona
6 to California. *Id.* at ¶ 8. His wife, who has a high-risk pregnancy, was a passenger
7 in the truck. When he arrived at the check point, he showed his valid
8 documentation. *Id.* The agents told him to get out of the truck and they arrested
9 him. *Id.* No explanation was given to Mr. Guerra Fonseca for his arrest other than
10 to say that Trump has ordered arrests. *Id.* Mr. Guerra was not given an
11 opportunity to contest his detention. *Id.*

12 This sudden arrest has caused significant hardship. Mr. Guerra Fonseca's
13 pregnant wife waited for four hours at a gas station for a family member to pick
14 her up while Mr. Guerra Fonseca was sent to a border patrol station where he
15 waited for 15 days. *Id.* at ¶¶ 9–10. During those 15 days, he was not able to
16 communicate with the outside world. *Id.* He could not call out to check on the
17 status of his pregnant wife. *Id.* For 15 days, he ate a burrito and boxed juice for
18 breakfast, lunch and dinner. *Id.* He was finally sent to the Imperial Regional
19 Detention Center where he remains today. *Id.*

20 The sudden arrest has also hurt them financially. Because his pregnant wife
21 could not make the car payments on their own, they lost their only car. *Id.* at ¶ 13.
22 She is also behind on paying rent. *Id.* The family also paid someone money to file
23 what turned out to be a pro se habeas petition. *Id.*

24 CLAIMS FOR RELIEF

25 **I. Claim One: ICE failed to comply with its own regulations and the** 26 **Administrative Procedures Act in revoking Mr. Guerra Fonseca's** 27 **parole.**

28 When ICE took Mr. Guerra Fonseca into custody in March 1, 2026, it did
not say whether it was revoking his release or the reasons for detaining him. Exh.

1 A at ¶ 10. Either way, the government's actions violated the regulations and the
2 Administrative Procedures Act.

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

17 Here, regardless of whether the agency formally revoked Mr. Guerra
18 Fonseca's parole, it violated the APA. If the agency did *not* revoke his parole,
19 then it inexplicably violated its own decision to release by detaining Mr. Guerra
20 Fonseca. Doing so violated the APA because the agency did not "offer a rational
21 connection between the facts found and the choice made"—i.e., the fact that
22 Mr. Guerra Fonseca was still on parole, yet the agency decided to detain him.
23 *Motor Vehicle Mfrs*, 463 U.S. at 52. And nothing suggests that there *was* a
24 "rational" reason for this choice, given that Mr. Guerra Fonseca had filed an
25 asylum application and complied with all the conditions of his parole. This was
26 the epitome of an "arbitrary" and "capricious" act under the APA. 5 U.S.C.
27 § 706(2)(A).

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

14 None of this occurred here. Because “the purpose[] of [Mr. Guerra
 15 Fonseca’s] parole” was to allow him to apply for asylum, that purpose has not yet
 16 “been served” because his asylum claim is still pending. 8 U.S.C.
 17 § 1182(d)(5)(A). And the humanitarian reasons for parole—to avoid unnecessary
 18 detention when an asylum seeker poses no danger or flight risk—remains the
 19 same. Put differently, “upon Petitioner’s entry into the United States, Respondents
 20 determined that Petitioner was suitable for parole. Respondents have not provided
 21 a reasoned explanation or any changed circumstances that would justify their
 22 current departure from their prior decision.” *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d
 23 1123, 1146 (D. Or. 2025). Under the APA, “[i]t is Respondents’ burden to
 24 provide a reasoned explanation for their action,” which they will not be able to do.
 25 *Id.*

26 What’s more, Mr. Guerra Fonseca never received any written notification
 27 of a revocation under 8 C.F.R. § 212.5(e). So if the agency revoked his parole,
 28

1 this decision violated both the statute and the regulation and was “not in
2 accordance with law” under the APA. 5 U.S.C. § 706(2)(A).

3 Numerous courts have released parolees on this basis. *See, e.g., Arias v.*
4 *Larose*, No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal.
5 Nov. 25, 2025); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149
6 (S.D. Cal. Oct. 1, 2025); *Salazar v. Casey*, No. 25-cv-2784 JLS-VET, 2025 WL
7 3063629 (S.D. Cal. Nov. 3, 2025); *Perez v. LaRose*, No. 25-cv-02620-RBM-JLB,
8 2025 WL 3171742 (S.D. Cal. Nov. 13, 2025); *Y-Z-L-H v. Bostock*, No. 25-cv-
9 965-SI, 2025 WL 1898025, at *13 (D. Or. July 9, 2025). Because Mr. Guerra
10 Fonseca is in the same position as these individuals, this Court should do the same
11 and order his immediate release.

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

14 Additionally, “the revocation of [Mr. Guerra Fonseca’s] parole without
15 justification or consideration of his individualized circumstances violates the Due
16 Process Clause.” *Perez v. LaRose*, No. 3:25-CV-02620-RBM-JLB, 2025 WL
17 3171742, at *4 (S.D. Cal. Nov. 13, 2025). Mr. Guerra Fonseca was “entitled to
18 notice of the reasons for revocation of his parole and a hearing before an
19 immigration judge to determine whether detention is warranted” before ICE
20 revoked his parole. *Id.* at *7.

21 “The Fifth Amendment guarantees that ‘[n]o person shall be ... deprived of
22 life, liberty, or property, without due process of law.’” *Salazar*, 2025 WL
23 3063629, at *3 (quoting U.S. Const. amend. V). “[T]he Due Process Clause
24 applies to all ‘persons’ within the United States, including aliens, whether their
25 presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*,
26 533 U.S. 678, 693 (9th Cir. 2001).

27 “Generally, due process protections depend on the situation and must
28 account for (1) the private interest at issue, (2) the risk of erroneous deprivation of

1 that interest through the procedures used, and (3) the Government's interest.”
2 *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct.
3 1, 2025); (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). Weighing those
4 considerations here, Respondents violated the Due Process Clause by revoking
5 parole with no notice or hearing.

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

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

22 “Third, the Government’s interest in detaining Petitioner without notice,
23 reasoning, and a hearing is low.” *Salazar*, 2025 WL 3063629, at *5 (cleaned up).
24 “Detention for its own sake, to meet an administrative quota, or because the
25 government has not yet established constitutionally required pre-detention
26 procedures is not a legitimate government interest.” *Pinchi v. Noem*, 792 F. Supp.
27 3d 1025, 1036 (N.D. Cal. 2025).

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

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

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

8 **IV. Prayer for relief**

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

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

19
20 Respectfully submitted,

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22 Dated: May 8, 2026

s/ Zandra L. Lopez
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