

1 **Kara Hartzler**
 2 Federal Defenders of San Diego, Inc.
 3 225 Broadway, Suite 900
 4 San Diego, California 92101-5030
 5 Telephone: (619) 234-8467
 6 Facsimile: (619) 687-2666
 7 Kara_hartzler@fd.org
 8 Attorneys for Petitioner

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

12 QUINONEZ DE LA CRUZ HENNER,
 13
 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.

Civil Case No.: 26-cv-2849-LL-BJW

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

INTRODUCTION

Quinonez de la Cruz Henner is a citizen of Ecuador who lost his parents at a young age and fled for his life. He was paroled into the United States on March 20, 2024, and was applying for asylum in removal proceedings. But on December 12, 2025, masked plainclothes ICE agents surrounded Mr. de la Cruz Henner’s car, grabbed him, and arrested him without any notice or explanation.

Respondents have revoked Mr. De la Cruz Henner’s parole in violation of the statute and regulations, which require written notification and a determination that the purposes of the parole have been served. Alternatively, the Due Process Clause of the Fifth Amendment of the Constitution requires redeprivation notice and hearing. Either way, the agency’s actions violated the Administrative Procedures Act and the Due Process Clause, and this Court should order his immediate release.

STATEMENT OF FACTS

Mr. de la Cruz Henner was born in Ecuador and is 25 years old. Exhibit A, Declaration of Quinonez de la Cruz Henner, at ¶ 1. Both of Mr. de la Cruz Henner’s parents died when he was young. *Id.* at ¶ 1. He fled Ecuador because he feared for his life. *Id.* at ¶ 1.

In Mexico, Mr. de la Cruz Henner made an appointment through the CBP One app so that he could apply for asylum. *Id.* at ¶ 2. On March 20, 2024, he went to the port of entry for his appointment and was detained for about a day. *Id.* at ¶ 2. Immigration officials then paroled him into the United States to allow him to apply for asylum. *Id.* at ¶ 2.

Mr. de la Cruz henner began living in San Diego and was placed in removal proceedings. *Id.* at ¶ 3. He received a work permit and a Social Security number. *Id.* at ¶ 3. He has no criminal history. *Id.* at ¶ 3.

Mr. de la Cruz Henner was scheduled to attend his first immigration court in January 2025. *Id.* at ¶ 4. However, on December 12, 2025, he was driving his

1 car when several unmarked cars suddenly surrounded him and forced him to stop.
2 *Id.* at ¶ 4. Masked ICE agents in plainclothes got out and grabbed him. *Id.* at ¶ 4.
3 Mr. de la Cruz Henner was very scared because he didn't know who they were, so
4 he tried to run. *Id.* at ¶ 4.

5 The masked agents chased after Mr. de la Cruz Henner and tackled him. *Id.*
6 at ¶ 5. They kicked him and yelled at him for having run away and then arrested
7 him. *Id.* at ¶ 5. They did not tell him why they were arresting him, nor did they
8 give him any paperwork or an informal interview at which he could contest his
9 detention. *Id.* at ¶ 5.

10 Mr. de la Cruz Henner was transferred to Otay Mesa Detention Center,
11 where his removal proceedings continued. *Id.* at ¶ 6. He has been detained for
12 over five months. *Id.* at ¶ 6.

13 .
14 **CLAIMS FOR RELIEF**

15 **I. Count One: ICE failed to comply with its own regulations and the**
16 **Administrative Procedures Act in revoking Mr. De la Cruz Henner's**
parole.

17 When ICE took Mr. De la Cruz Henner into custody on December 12,
18 2025, it did not say whether it was revoking his parole. Exh. A at ¶ 4. Either way,
19 the government's actions violated the regulations and the Administrative
20 Procedures Act.

21 Under the Administrative Procedures Act (APA), an agency action may be
22 held unlawful and set aside if it is "arbitrary, capricious, an abuse of discretion, or
23 otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). An action is an
24 abuse of discretion if the agency "entirely failed to consider an important aspect
25 of the problem, offered an explanation for its decision that runs counter to the
26 evidence before the agency, or is so implausible that it could not be ascribed to a
27 difference in view or the product of agency expertise." *Nat'l Ass'n of Home*
28 *Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle*

1 *Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43
2 (1983)). For a challenged agency action to be upheld, the agency “must explain
3 the evidence which is available, and must offer a rational connection between the
4 facts found and the choice made.” *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983)
5 (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United*
6 *States*, 371 U.S. 156, 168 (1962)).

7 Here, regardless of whether the agency formally revoked Mr. De la Cruz
8 Henner’s parole, it violated the APA. If the agency did *not* revoke his parole, then
9 it inexplicably violated its own parole decision by detaining Mr. De la Cruz
10 Henner. Doing so violated the APA because the agency did not “offer a rational
11 connection between the facts found and the choice made”—i.e., the fact that
12 Mr. De la Cruz Henner was still on parole, yet the agency decided to detain him.
13 *Motor Vehicle Mfrs*, 463 U.S. at 52. And nothing suggests that there *was* a
14 “rational” reason for this choice, given that Mr. De la Cruz Henner had filed an
15 asylum application and complied with all the conditions of his parole. This was
16 the epitome of an “arbitrary” and “capricious” act under the APA. 5 U.S.C.
17 § 706(2)(A).

18 But assuming the agency *had* revoked his parole, it also violated the APA.
19 Per ICE regulations, a person shall only be “returned to the custody from which
20 he was paroled” when “the purposes of such parole . . . have been served.” 8
21 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be
22 terminated “upon accomplishment of the purpose for which parole was
23 authorized”); *Y-Z-L-H*, 2025 WL 1898025, at *12 (same). Alternatively, the
24 regulations permit revocation of parole when “neither humanitarian reasons nor
25 public benefit warrants the [noncitizen’s] continued presence.” 8 C.F.R.
26 § 212.5(e)(2)(i). But under either scenario, parole shall only be “terminated upon
27 written notice to the alien.” 8 C.F.R. § 212.5(e)(2)(i). So under the statute and the
28 regulations, the agency may only revoke parole and re-detain a noncitizen when

1 the parole’s purpose is served or no humanitarian reasons warrant it *and* the
2 noncitizen receives written notice.

3 None of this occurred here. Because “the purpose[] of [Mr. De la Cruz
4 Henner’s] parole” was to allow him to apply for asylum, that purpose has not yet
5 “been served” because his asylum claim is still pending. 8 U.S.C.
6 § 1182(d)(5)(A). And the humanitarian reasons for parole—to avoid unnecessary
7 detention when an asylum seeker poses no danger or flight risk—remains the
8 same. Put differently, “upon Petitioner’s entry into the United States, Respondents
9 determined that Petitioner was suitable for parole. Respondents have not provided
10 a reasoned explanation or any changed circumstances that would justify their
11 current departure from their prior decision.” *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d
12 1123, 1146 (D. Or. 2025). Under the APA, “[i]t is Respondents’ burden to
13 provide a reasoned explanation for their action,” which they will not be able to do.
14 *Id.*

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

19 Numerous courts have released parolees on this basis. *See, e.g., Arias v.*
20 *Larose*, No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal.
21 Nov. 25, 2025); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149
22 (S.D. Cal. Oct. 1, 2025); *Salazar v. Casey*, No. 25-cv-2784 JLS-VET, 2025 WL
23 3063629 (S.D. Cal. Nov. 3, 2025); *Perez v. LaRose*, No. 25-cv-02620-RBM-JLB,
24 2025 WL 3171742 (S.D. Cal. Nov. 13, 2025); *Y-Z-L-H v. Bostock*, No. 25-cv-
25 965-SI, 2025 WL 1898025, at *13 (D. Or. July 9, 2025). Because Mr. De la Cruz
26 Henner is in the same position as these individuals, this Court should do the same
27 and order his immediate release.

28

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

3 Additionally, “the revocation of [Mr. De la Cruz Henner’s] parole without
4 justification or consideration of his individualized circumstances violates the Due
5 Process Clause.” *Perez v. LaRose*, No. 3:25-CV-02620-RBM-JLB, 2025 WL
6 3171742, at *4 (S.D. Cal. Nov. 13, 2025). Mr. De la Cruz Henner was “entitled to
7 notice of the reasons for revocation of his parole and a hearing before an
8 immigration judge to determine whether detention is warranted” before ICE
9 revoked his parole. *Id.* at *7.

10 “The Fifth Amendment guarantees that ‘[n]o person shall be ... deprived of
11 life, liberty, or property, without due process of law.’” *Salazar*, 2025 WL
12 3063629, at *3 (quoting U.S. Const. amend. V). “[T]he Due Process Clause
13 applies to all ‘persons’ within the United States, including aliens, whether their
14 presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*,
15 533 U.S. 678, 693 (9th Cir. 2001).

16 “Generally, due process protections depend on the situation and must
17 account for (1) the private interest at issue, (2) the risk of erroneous deprivation of
18 that interest through the procedures used, and (3) the Government’s interest.”
19 *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct.
20 1, 2025); (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). Weighing those
21 considerations here, Respondents violated the Due Process Clause by revoking
22 parole with no notice or hearing.

23 “First, Petitioner has a private interest in remaining free, which developed
24 over the [months] he resided in the United States.” *Id.* at *10. It does not matter
25 that parole is temporary or discretionary. “For example, *Morrissey v. Brewer*, 408
26 U.S. 471, 482 (1972)—though analyzing the criminal parole context—found that
27 ‘the liberty of a parolee, although indeterminate, includes many of the core values
28 of unqualified liberty and its termination inflicts a grievous loss on the parolee

1 and often others ... [thus it] must be seen within the protection of the [Fifth]
2 Amendment.” *Id.*

3 “Second, the risk of an erroneous deprivation of such interest is high as
4 Petitioner's parole was revoked without providing [him] a reason for revocation or
5 giving [him] an opportunity to be heard.” *Salazar*, 2025 WL 3063629, at *4.

6 “Civil immigration detention is permissible only to prevent flight or protect
7 against danger to the community.” *Perez*, 2025 WL 3171742, at *5. But here,
8 “[s]ince DHS's initial determination that Petitioner should be paroled because [he]
9 posed no danger to the community and was not a flight risk, there is no evidence
10 that these findings have changed.” *Id.*

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

13 “Detention for its own sake, to meet an administrative quota, or because the
14 government has not yet established constitutionally required pre-detention
15 procedures is not a legitimate government interest.” *Pinchi v. Noem*, 792 F. Supp.
16 3d 1025, 1036 (N.D. Cal. 2025).

17 Thus, because Respondents did not provide “proper notice, reasoning, and a
18 pre-deprivation hearing” before revoking parole, Mr. De la Cruz Henner’s
19 redetention violated the Due Process Clause. *Salazar*, 2025 WL 3063629, at *5.

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

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

24 **IV. Prayer for relief**

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

- 26 1. Order Respondents to immediately release Petitioner from custody,
27 subject to the conditions of his preexisting parole;

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. Order that prior to any re-detention of Petitioner, that Petitioner is entitled to notice of the reasons for revocation of his parole and a hearing before an immigration judge to determine whether detention is warranted. Respondents bear the burden of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight at that hearing; and
3. Order any other relief that the Court deems just and proper.

Respectfully submitted,

Dated: May 18, 2026

s/ Kara Hartzler
Kara Hartzler
Federal Defenders of San Diego, Inc.
Attorneys for Mr. De la Cruz Henner
Email: kara_hartzler@fd.org