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

12 JOSE ISMAEL SORIANO AMAYA,
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-2902-LL-JLB

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

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INTRODUCTION

Jose Ismael Soriano Amaya is a citizen of El Salvador who fled for his life. He was paroled into the United States on January 30, 2024, and was applying for asylum in removal proceedings. But on January 22, 2026, plainclothes ICE agents pulled Mr. Soriano Amaya’s car over and arrested him without any notice or explanation.

Respondents have revoked Mr. Soriano Amaya’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. Soriano Amaya was born in El Salvador and is 25 years old. Exhibit A, Declaration of Jose Ismael Soriano Amaya, at ¶ 1. He fled El Salvador because he feared for his life. *Id.* at ¶ 1.

Mr. Soriano Amaya entered the United States without permission on January 29, 2024, and was immediately apprehended by Border Patrol. *Id.* at ¶ 2. He was detained for about a day. *Id.* at ¶ 2. Immigration officials then paroled him into the United States so that he could apply for asylum. *Id.* at ¶ 2.

Mr. Soriano Amaya began living in Los Angeles 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.

On January 22, 2026, Mr. Soriano Amaya was driving and was pulled over by an unmarked car. *Id.* at ¶ 4. A plainclothes officer asked to see his papers. *Id.* at ¶ 4. Mr. Soriano Amaya told the officer that he has a work permit, but the

1 officer said that a work permit “wasn’t good enough.” *Id.* at ¶ 4. He also said that
2 Mr. Soriano Amaya had a court hearing coming up. *Id.* at ¶ 4.

3 The officers took Mr. Soriano Amaya into custody. *Id.* at ¶ 5. They did not
4 tell Mr. Soriano Amaya why they were arresting him, nor did they give him any
5 paperwork or an informal interview at which he could contest his detention. *Id.* at
6 ¶ 5. Mr. Soriano Amaya was transferred to Imperial Regional Detention Facility,
7 where his removal proceedings have continued. *Id.* at ¶ 6.

8
9 **CLAIMS FOR RELIEF**

10 **I. Count One: ICE failed to comply with its own regulations and the**
11 **Administrative Procedures Act in revoking Mr. Soriano Amaya’s**
12 **parole.**

13 When ICE took Mr. Soriano Amaya into custody on January 22, 2026, it
14 did not say whether it was revoking his parole. Exh. A at ¶ 4. Either way, the
15 government’s actions violated the regulations and the Administrative Procedures
16 Act.

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

1 (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United*
2 *States*, 371 U.S. 156, 168 (1962)).

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

14 But assuming the agency *had* revoked his parole, it also violated the APA.
15 Per ICE regulations, a person shall only be “returned to the custody from which
16 he was paroled” when “the purposes of such parole . . . have been served.” 8
17 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be
18 terminated “upon accomplishment of the purpose for which parole was
19 authorized”); *Y-Z-L-H*, 2025 WL 1898025, at *12 (same). Alternatively, the
20 regulations permit revocation of parole when “neither humanitarian reasons nor
21 public benefit warrants the [noncitizen’s] continued presence.” 8 C.F.R.
22 § 212.5(e)(2)(i). But under either scenario, parole shall only be “terminated upon
23 written notice to the alien.” 8 C.F.R. § 212.5(e)(2)(i). So under the statute and the
24 regulations, the agency may only revoke parole and re-detain a noncitizen when
25 the parole’s purpose is served or no humanitarian reasons warrant it *and* the
26 noncitizen receives written notice.

27 None of this occurred here. Because “the purpose[] of [Mr. Soriano
28 Amaya’s] parole” was to allow him to apply for asylum, that purpose has not yet

1 “been served” because his asylum claim is still pending. 8 U.S.C.
2 § 1182(d)(5)(A). And the humanitarian reasons for parole—to avoid unnecessary
3 detention when an asylum seeker poses no danger or flight risk—remains the
4 same. Put differently, “upon Petitioner’s entry into the United States, Respondents
5 determined that Petitioner was suitable for parole. Respondents have not provided
6 a reasoned explanation or any changed circumstances that would justify their
7 current departure from their prior decision.” *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d
8 1123, 1146 (D. Or. 2025). Under the APA, “[i]t is Respondents’ burden to
9 provide a reasoned explanation for their action,” which they will not be able to do.
10 *Id.*

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

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

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

26 Additionally, “the revocation of [Mr. Soriano Amaya’s] parole without
27 justification or consideration of his individualized circumstances violates the Due
28 Process Clause.” *Perez v. LaRose*, No. 3:25-CV-02620-RBM-JLB, 2025 WL

1 3171742, at *4 (S.D. Cal. Nov. 13, 2025). Mr. Soriano Amaya was “entitled to
2 notice of the reasons for revocation of his parole and a hearing before an
3 immigration judge to determine whether detention is warranted” before ICE
4 revoked his parole. *Id.* at *7.

5 “The Fifth Amendment guarantees that ‘[n]o person shall be ... deprived of
6 life, liberty, or property, without due process of law.’” *Salazar*, 2025 WL
7 3063629, at *3 (quoting U.S. Const. amend. V). “[T]he Due Process Clause
8 applies to all ‘persons’ within the United States, including aliens, whether their
9 presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*,
10 533 U.S. 678, 693 (9th Cir. 2001).

11 “Generally, due process protections depend on the situation and must
12 account for (1) the private interest at issue, (2) the risk of erroneous deprivation of
13 that interest through the procedures used, and (3) the Government's interest.”
14 *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct.
15 1, 2025); (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). Weighing those
16 considerations here, Respondents violated the Due Process Clause by revoking
17 parole with no notice or hearing.

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

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

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

6 “Third, the Government’s interest in detaining Petitioner without notice,
7 reasoning, and a hearing is low.” *Salazar*, 2025 WL 3063629, at *5 (cleaned up).
8 “Detention for its own sake, to meet an administrative quota, or because the
9 government has not yet established constitutionally required pre-detention
10 procedures is not a legitimate government interest.” *Pinchi v. Noem*, 792 F. Supp.
11 3d 1025, 1036 (N.D. Cal. 2025).

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

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

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

19 **IV. Prayer for relief**

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

- 21 1. Order Respondents to immediately release Petitioner from custody,
22 subject to the conditions of his preexisting parole;
- 23 2. Order that prior to any re-detention of Petitioner, that Petitioner is
24 entitled to notice of the reasons for revocation of his parole and a
25 hearing before an immigration judge to determine whether detention is
26 warranted. Respondents bear the burden of establishing, by clear and
27 convincing evidence, that Petitioner poses a danger to the community or
28 a risk of flight at that hearing; and

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3. Order any other relief that the Court deems just and proper.

Respectfully submitted,

Dated: June 1, 2026

s/ Kara Hartzler
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