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

12 ASHWANEE KUMAR,

13 Petitioner,

14 v.

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

24 Respondents.

Civil Case No.: 26-cv-3725-LL-BJW

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

INTRODUCTION

Ashwanee Kumar is a citizen of India who entered the United States in April 2024 to apply for asylum. Two months later, he submitted an affirmative application for asylum to USCIS, received a work permit, and began working as a truck driver. But on December 17, 2025, Border Patrol agents detained Mr. Kumar at an immigration checkpoint and took him into custody without any notice or explanation. Because Mr. Kumar had a liberty interest in remaining out of custody while applying for asylum, Respondents violated due process by revoking their decision to release him. Thus, this Court should order his immediate release.

STATEMENT OF FACTS

Mr. Kumar was born in India and entered the United States without inspection in April 2024, to apply for asylum. Exhibit A, Declaration of Quinonez Kumar, at ¶ 1. On June 18, 2024, two months after he entered the U.S., Mr. Kumar submitted an affirmative application for asylum to USCIS. *Id.* at ¶ 2.

After he submitted his asylum application, Mr. Kumar received a work permit and began working as a truck driver in Fresno, California, while he was waiting for my asylum interview. *Id.* at ¶ 3. He has no criminal history in the United States. *Id.* at ¶ 3.

On December 17, 2025, Mr. Kumar was driving a truck on Highway 86 near Indio, California. *Id.* at ¶ 4. He entered an immigration checkpoint, and the Border Patrol agent directed him to secondary inspection. *Id.* at ¶ 4. The agent asked Mr. Kumar where he was going and wanted to see his driver's license. *Id.* at ¶ 4. Mr. Kumar showed the agent his license and told the agent that he had a work permit. *Id.* at ¶ 4.

Although Mr. Kumar showed the agent his driver's license and explained he had a work permit, the agent detained him. *Id.* at ¶ 5. The agent never gave Mr. Kumar any paperwork or explained why he was being detained. *Id.* at ¶ 5.

1 Mr. Kumar was transferred to the Imperial Detention Center and placed in
2 removal proceedings. *Id.* at ¶ 6. His next court date is August 8, 2026. *Id.* at ¶ 6.

3 CLAIM FOR RELIEF

4 **I. The Due Process Clause required notice and a chance to be heard** 5 **before Mr. Kumar was detained.**

6 The revocation of Mr. Kumar's release "without justification or
7 consideration of his individualized circumstances violates the Due Process
8 Clause." *Perez v. LaRose*, No. 3:25-CV-02620-RBM-JLB, 2025 WL 3171742, at
9 *4 (S.D. Cal. Nov. 13, 2025). Mr. Kumar was "entitled to notice of the reasons for
10 revocation of his [release] and a hearing before an immigration judge to determine
11 whether detention is warranted" before ICE revoked it. *Id.* at *7.

12 "The Fifth Amendment guarantees that '[n]o person shall be ... deprived of
13 life, liberty, or property, without due process of law.'" *Salazar*, 2025 WL
14 3063629, at *3 (quoting U.S. Const. amend. V). "[T]he Due Process Clause
15 applies to all 'persons' within the United States, including aliens, whether their
16 presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*,
17 533 U.S. 678, 693 (9th Cir. 2001).

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

25 "First, Petitioner has a private interest in remaining free, which developed
26 over the [months] he resided in the United States." *Id.* at *10. It does not matter
27 whether release is temporary or discretionary. "For example, *Morrissey v. Brewer*,
28 408 U.S. 471, 482 (1972)—though analyzing the criminal parole context—found

1 that ‘the liberty of a parolee, although indeterminate, includes many of the core
 2 values of unqualified liberty and its termination inflicts a grievous loss on the
 3 parolee and often others ... [thus it] must be seen within the protection of the
 4 [Fifth] Amendment.’” *Id.*

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

8 “Civil immigration detention is permissible only to prevent flight or protect
 9 against danger to the community.” *Perez*, 2025 WL 3171742, at *5. But here,
 10 since the agency determined that Mr. Kumar could remain released “because [he]
 11 posed no danger to the community and was not a flight risk, there is no evidence
 12 that these findings have changed.” *Id.*

13 “Third, the Government’s interest in detaining Petitioner without notice,
 14 reasoning, and a hearing is low.” *Salazar*, 2025 WL 3063629, at *5 (cleaned up).
 15 “Detention for its own sake, to meet an administrative quota, or because the
 16 government has not yet established constitutionally required pre-detention
 17 procedures is not a legitimate government interest.” *Pinchi v. Noem*, 792 F. Supp.
 18 3d 1025, 1036 (N.D. Cal. 2025).

19 Thus, because Respondents did not provide “proper notice, reasoning, and a
 20 pre-deprivation hearing” before revoking its decision to allow him to remain
 21 released, Mr. Kumar’s detention violated the Due Process Clause. *Salazar*, 2025
 22 WL 3063629, at *5.

23 **II. This Court must hold an evidentiary hearing on any disputed facts.**

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

27 **III. Prayer for relief**

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

1. Order Respondents to immediately release Petitioner from custody, subject to the conditions of his preexisting parole;
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: July 23, 2026

s/ Kara Hartzler

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