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

13 HINAULT BUANA MUKIELE,

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, JEREMY CASEY, Warden at
24 Imperial Regional Detention Facility,

25 Respondents.
26
27
28

Civil Case No.: 26-cv-3803-DMS-BJW

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

INTRODUCTION

Hinault Buana Mukiele is a citizen of the Democratic Republic of Congo who entered the United States in 2014 on a visa and applied for asylum. He later went to Canada but was paroled back in. And despite complying with all his check ins and submitting an application for relief, Mr. Mukiele was stopped by ICE while he was walking down the street. After looking at his paperwork, agents told him that they would have to take him to the station, where an officer would decide whether to release him based on his “mood.” He has been detained for 14 months since.

Respondents have revoked Mr. Mukiele’s parole in violation of the statute and regulations, which require notification and an informal interview at which he could contest his detention. 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. Mukiele was born in the Democratic Republic of Congo. Exhibit A, Declaration of Hinault Buana Mukiele, at ¶ 1. He entered the United States on October 1, 2014, on a visa. *Id.* at ¶ 1.

After he entered the U.S., Mr. Mukiele went to Boston and eventually applied for asylum. *Id.* at ¶ 2. He received a work permit and attended all of his court dates and check-in appointments. *Id.* at ¶ 2.

In February 2025, Mr. Mukiele went to Canada and was there for several months. *Id.* at ¶ 3. When he returned, he was paroled back in to the U.S. at the Champlain, New York port of entry. *Id.* at ¶ 3. He then went to New York. *Id.* at ¶ 3.

On May 5, 2026, Mr. Mukiele was walking down the street when an ICE agent asked what he was doing. *Id.* at ¶ 4. Mr. Mukiele showed the agent his

1 paperwork, and the agent said they would have to take Mr. Mukiele to the station.
 2 *Id.* at ¶ 4. He said that the officer there would decide whether to release Mr.
 3 Mukiele based on his “mood.” *Id.* at ¶ 4. The agents never told Mr. Mukiele why
 4 their decision to parole him had been revoked, nor did they give him an
 5 opportunity to contest his detention. *Id.* at ¶ 4.

6 Mr. Mukiele was transferred to the detention center at Batavia, New York,
 7 where an immigration judge ordered him removed. *Id.* at ¶ 5. He then filed an
 8 appeal at the BIA. *Id.* at ¶ 5. In May 2026, he was transferred to the Imperial
 9 Regional Detention Facility, where he remains detained. *Id.* at ¶ 5.

10 CLAIMS FOR RELIEF

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

13 When ICE took Mr. Mukiele into custody on May 5, 2026, it did not say
 14 whether it was revoking his parole. Exh. A at ¶ 4. Either way, the government’s
 15 actions violated the regulations and the Administrative Procedures Act.

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

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

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

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

None of this occurred here. Because “the purpose[] of [Mr. Mukiele’s] parole” was to allow him to continue his application for asylum, that purpose has not yet “been served” because his asylum claim is still pending. 8 U.S.C.

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

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

In the case of someone released under § 241.13(i), the regulations also explicitly require the interviewer to allow the re-detained person to “submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision.” § 241.13(i)(3).

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

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

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

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

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

“First, Petitioner has a private interest in remaining free, which developed over the [months] he resided in the United States.” *Id.* at *10. It does not matter that parole is temporary or discretionary. “For example, *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)—though analyzing the criminal parole context—found that ‘the liberty of a parolee, although indeterminate, includes many of the core values 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. Mukiele’s redetention
 19 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. Mukiele
 23 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

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 7, 2026

s/ Kara Hartzler

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