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

RODRIGO GREGORIO-RODRIGUEZ,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of the Department of Homeland Security, TODD BLANCHE, Acting Attorney General, TODD M. LYONS, Acting Director, Immigration and Customs Enforcement, JESUS ROCHA, Acting Field Office Director, San Diego Field Office, CHRISTOPHER LAROSE, Warden at Otay Mesa Detention Center,

Respondents.

CIVIL CASE NO.: 26-cv-3314-DMS-DEB

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

## INTRODUCTION

Rodrigo Gregorio-Rodriguez is a citizen of Guatemala who was released from custody in 2018 so that he could seek asylum in the United States. Even though he had been released for eight years, he was arrested and re-detained in May of 2026 with no explanation. ICE took him into custody without giving him any paperwork or any opportunity to contest his re-detention. He has been detained ever since.

While it is unclear whether the government has any lawful mechanism to detain Mr. Gregorio-Rodriguez in the first place, the government's actions clearly violated his due process rights, which entitled him to pre-deprivation notice and a hearing. This Court should therefore reinstate Mr. Gregorio-Rodriguez's release immediately.

## STATEMENT OF FACTS

Mr. Gregorio-Rodriguez was born in Guatemala. Declaration of Rodrigo Gregorio-Rodriguez, Exhibit A at ¶ 1. He came to the United State to seek asylum. *Id.* He is afraid for his life if he is forced to return to Guatemala. *Id.*

In 2008, Mr. Gregorio-Rodriguez first entered the country, but he left that same year. *Id.* at ¶ 2. He then came back in 2018 to file an asylum application. *Id.* When he arrived at the border in 2018, he was immediately detained by Border Patrol. *Id.* at ¶ 3. After about a week, he was released on parole. *Id.*

During his release, Mr. Gregorio-Rodriguez was enrolled in Intensive Supervision Appearance Program ("ISAP"). *Id.* at ¶ 4. While on ISAP, he did not miss appointments and was compliant with the conditions of his release. *Id.* He was fitted with an ankle monitor, which he had on until he was detained. *Id.*

On February 18, 2025, an immigration judge terminated his case. *Id* at ¶ 5. Mr. Gregorio-Rodriguez continued to wear the ankle monitor and check in when required. *Id.* He was out of custody until he was re-detained this May. *Id.*

On May 14, 2026, Mr. Gregorio-Rodriguez went to an appointment at the immigration office. *Id.* at ¶ 6. He was told he needed to come sign something. *Id.* When he arrived, agents cut off his ankle monitor and detained him. *Id.* They did not tell him why he was being detained or why he was no longer allowed to remain out of custody. *Id.* At no point did he receive notice that he was being re-detained or that his prior release was being revoked. *Id.*

## CLAIMS FOR RELIEF

### I. The Due Process Clause requires providing Mr. Gregorio-Rodriguez with notice and a chance to be heard before revoking his release.

"[T]he revocation of [Mr. Gregorio-Rodriguez'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. Gregorio-Rodriguez 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 release. *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 v. Casey*, No. 25-CV-2784-JLS-VET, 2025 WL 3063629, *3 (S.D. Cal. Nov. 3, 2025) (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 and often others ... [thus it] must be seen within the protection of the [Fifth] Amendment.'" *Id.*

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

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

Whether or not "the Government may believe it has a valid reason to detain Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process." *E.A. T.-B. v. Wamsley*, 795 F. Supp. 3d 1316, 1322 (W.D. Wash. 2025). Here, Respondents have not yet provided that valid reason for

detention. Mr. Gregorio-Rodriguez does not have a pending immigration matter, as evidenced by the fact that an immigration judge terminated his case on February 18, 2025.[1] Exh. A at ¶ 5.

Thus, because Respondents did not provide "proper notice, reasoning, and a pre-deprivation hearing" before revoking release, and because Respondents have not yet shown any valid reason for detention, Mr. Gregorio-Rodriguez's re-detention violated the Due Process Clause. *Salazar*, 2025 WL 3063629, at *5.

## II. Prayer for relief

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, Petitioner is entitled to notice of the reasons for revocation of his release and a hearing before an immigration judge to determine whether detention is warranted. The government should 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;
3. Order any other relief that the Court deems just and proper.

Respectfully submitted,

Dated: June 17, 2026

*s/ Hannah Basalone*
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[1] When an immigration judge terminates proceedings, this ends the removal proceedings "without either a grant of relief by the IJ or a final order of removal." Kate Mahoney, *Seeking Administrative Closure and Termination*, Immigration Legal Resource Center (February 2025), https://www.ilrc.org/sites/default/files/2025-02/Seeking%20Administrative%20Closure%20and%20Termination.pdf.