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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

GLENN ARNALDO PARDO ESCOBAR,

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 of Otay Mesa Detention Center,

Respondents.

Case No.: 26-cv-3312-LL-DEB

First Amended Petition for Writ of Habeas Corpus

INTRODUCTION

On October 7, 2023, Glenn Arnaldo Pardo Escobar came to the United States border with his wife and children. They were fleeing persecution in Peru and seeking asylum in the United States. DHS arrested them after they entered the country, decided they each did not pose a flight risk or a danger, and released them on conditional parole so they could pursue asylum within the United States immigration system. Once released, Border Patrol gave Mr. Pardo Escobar paperwork and sent him to the credible fear interview, which was positive. Mr. Pardo Escobar complied with all the conditions of his release while his asylum case was pending in immigration court for multiple years.

More than two years into his asylum process, the government suddenly decided to order him to instead have to apply for asylum in a third country; an immigration judge agreed that he be ordered to apply for asylum either in Guatemala, Ecuador, or Honduras. The next day, ICE detained Mr. Pardo Escobar and transferred him across the country. Despite the difficulty of appealing the judge's order while being transferred to three different detention centers within a few weeks of being arrested, Mr. Pardo Escobar timely filed an appeal. He was originally told by DHS that if he appealed, he could be released from detention. This has not happened.

This civil immigration habeas petition explains that Mr. Pardo Escobar's detention violates the Fifth Amendment's Due Process Clause. This Court should order Mr. Pardo Escobar's immediate release onto his existing conditional parole conditions and order that Respondents "not cause Petitioner to be re-detained during the pendency of his removal proceedings without prior leave of this Court." *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1147 (D. Or. 2025); *see also Darji v. LaRose*, No. 26-cv-549-JLS-DEB, 2026 WL 323076 (S.D. Cal. Feb. 6, 2026); *Noori v. LaRose*, __ F. Supp. 3d __, 2025 WL 2800149, *9–*13 (S.D. Cal. Oct. 1, 2025); *Delfin-Ricardo v. Noem*, No. 26-cv-136-RSH-BJW, 2026 WL

353357, *1–*2 (S.D. Cal. Feb. 9, 2026); *Modrekiladze v. LaRose*, No. 26-cv-271-JEW-DEB, 2026 WL 242041, *2–*4 (S.D. Cal. Jan. 29, 2026); *Lozada v. LaRose*, No. 25-cv-3614-LL-KSC, 2026 WL 184205 (S.D. Cal. Jan. 23, 2026) (finding similar violations for unlawful revocations of humanitarian or conditional parole and ordering release).

STATEMENT OF FACTS AND BACKGROUND

Glenn Arnaldo Pardo Escobar is a Peruvian national who entered the United States with his family on October 7, 2023. Exhibit A, Declaration of Mr. Pardo Escobar, ¶¶ 1–2. They had fled persecution on account of the government's inability to protect them from gang violence, despite their efforts to seek protection and justice. When they arrived, they were given conditional parole for the purpose of applying for asylum within the United States.

Mr. Pardo Escobar explains that they "were in Border Patrol custody for two days" upon their arrival in the United States, and "then they released [them] into the United States. [They] did not have to pay a bond." Exhibit A ¶ 2.

He was then subject to supervision conditions by ICE. He explains,

> When I was released, Border Patrol put an ankle monitor on me and gave me a cellphone to call in. I then had a credible fear interview, which was positive. I had to report with photos, video calls, and go to regular check-ins in person. During the first two weeks of my release, I had to report every single day. After those two weeks, the ankle monitor was removed. After that, I would go to the office in-person once a month. Once a month I would also have a video call, and another time I had to submit a photo. I complied with all my conditions.

Exhibit A ¶ 3.

His experience indicates he was subject to an "Order of Release on Recognizance." *See* Sample Form I-220A Order of Release on Recognizance, ASAP (Oct. 3, 2025)[1]; *see also* International Refugee Assistance Project, *Basic Information For People Released into the US by US Government Authorities:*

[1] Available at https://asaptogether.org/en/form-i220a/.

What It Means to Receive An "Order of Release on Recognizance (June 12, 2025) (noting that people on this form of release receive ICE check-in dates and can have reporting requirements).[2]

This order is also called one of "conditional parole." *Garcia-Henriquez v. LaRose*, 2026 WL 323328, *2 (S.D. Cal. Feb. 6, 2026). To issue conditional parole, DHS determined Mr. Pardo Escobar was "detained pursuant to Respondents' discretionary authority under [8 U.S.C.] § 1226." *Faizyan v. Casey*, No. 25-cv-2884-RBM-JLB, 2025 WL 3208844, * 5 (S.D. Cal. Nov. 17, 2025). It also made an individualized determination that he was neither a danger to the community nor a flight risk. *See Ramirez-Bibiano v. LaRose*, No., 2025 WL 3632748, *4 (S.D. Cal. Dec. 15, 2025) (explaining this point).

Mr. Pardo Escobar was living in Maryland, complying with all his ICE conditions, and was asking for asylum in immigration court. Exhibit A ¶¶ 4–5. He attended four hearings regarding his asylum case and attended every hearing. *Id.* About a month before Mr. Pardo Escobar's last hearing, ICE unexpectedly put another ankle monitor on him. Exhibit A ¶5. He continued to comply and work with the immigration court. *Id.*

On February 17, 2026, Mr. Pardo Escobar attended immigration court and was told that the government wanted to send him to a third country, which he did not agree do. Exhibit A ¶ 6. The next day, he went to his ISAP appointment and two ICE officers arrested him. Exhibit A ¶ 7. He learned that the immigration judge had in fact ordered him removed to Honduras, Ecuador, or Guatemala, to apply for asylum in one of those countries rather than the United States. Exhibit B (immigration judge order); *see* Immigrant Legal Resource Center, *Asylum Cooperative Agreements: What You Must Know* (Dec. 2, 2025)[3]; *see also U.T. v.*

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[2] Available at https://support.iraplegalinfo.org/hc/en-us/articles/15908200910100-Basic-Information-For-People-Recently-Released-into-the-US-by-US-Government-Authorities.

[3] Available at https://www.ilrc.org/community-resources/asylum-cooperative-

Bondi, 20-cv-116-EGS, Dkt. Nos. 166, 173-1 (D.D.C. Dec. 19, 2025) (operative and proposed amended complaint in ongoing litigation regarding the validity of the regulation underlying operation of these bilateral agreements in immigration court).[4]

Mr. Pardo Escobar also learned that the immigration judge's order was not final, and that he had 30 days to appeal. *Id.* He "tried to explain that [he] was going to appeal," but ICE still arrested him. Exhibit A ¶ 10. An officer told him he "could be released any time as long as [he] filed [his] appeal." *Id.* He did timely file an appeal with the BIA, which remains pending. Exhibit C. A briefing schedule has not yet been set. *Id.*

Meanwhile, ICE has not released him. It first transferred Mr. Pardo Escobar to a detention center in Baltimore, then to Arizona, and then to Otay Mesa, where he spent about 100 days. Exhibit A ¶ 8. On May 25, 2026, Mr. Pardo Escobar signed and submitted his habeas petition in the Otay Mesa prison mail system. *See* ECF No. 1 at 8. That was received by this Court on May 29, 2026; on that day, he was also transferred to the California City detention facility, where he currently remains. Exhibit A ¶ 8.

To this day, Mr. Pardo Escobar has never received written notice that his conditional parole has been revoked. He has not had a chance to explain why his parole should not be revoked, or why he should not be re-detained while pursuing his appeal. He explains, "No one from ICE has explained why they could detain me while my appeal is pending or what happened to my release conditions they gave me." *Id.* ¶ 10.

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agreements-what-you-must-know.

[4] Available at https://cgrs.uclawsf.edu/en/legal-document/second-amended-complaint-2.

LEGAL ARGUMENT

I. Summarily revoking Mr. Pardo Escobar's parole and subjecting him to detention violates Due Process.

The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

An individual released from immigration custody has a constitutionally protected liberty interest in remaining free from detention. *Morrissey v. Brewer*, 408 U.S. 471, 482, 92 S. Ct. 2593, 2601, 33 L. Ed. 2d 484 (1972); *see also Sanchez v. LaRose*, 25-cv-2396, 2025 WL 2770629, at * 3 (S.D. Cal.). Thus, Petitioner has a fundamental interest in liberty and being free from official restraint.

"Even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody [he] has a protected liberty interest in remaining out of custody." *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025) (internal citation omitted). That liberty interest "is not limited to a bond hearing"; people who receive conditional parole have "a protected liberty interest in remaining out of custody." *Kumar v. LaRose*, No. 25-cv-3796-JLS-DDL, 2026 WL 40873, *2 (S.D. Cal. Jan. 6, 2026); *accord, e.g.*, *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *11 (E.D. Cal. Aug. 21, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2578207, at *3 (N.D. Cal. Sept. 5, 2025); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *13 (D. Or. July 9, 2025).

To determine which procedures are constitutionally sufficient to satisfy the Due Process Clause, the Court must apply the *Matthews* factors. *See Matthews v.*

Eldridge, 424 U.S. 319, 335 (1976). Courts must consider: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.*

All three factors support a finding that the government's revocation of Mr. Pardo Escobar's conditional parole without reasoning or an opportunity to be heard denied him of his due process rights. First, Mr. Pardo Escobar has a significant liberty interest in remaining out of custody pursuant to his conditional parole. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." *Zadvydas*, 533 U.S. at 690. He also has an interest in remaining in the community. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) ("Subject to the conditions of his parole, he can be gainfully employed and is free to be with family and friends and to form the other enduring attachments of normal life.").

Second, the risk of an erroneous deprivation of such interest is high as Mr. Pardo Escobar's parole was revoked without providing him a reason for revocation or giving him an opportunity to be heard. When he was paroled, the government made a finding that he did not pose a danger to the community and was not a flight risk. *See Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1760 (N.D. Cal. 2017) ("Release reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk."). "Once a noncitizen has been released, the law prohibits federal agents from rearresting him merely because he is subject to removal proceedings." *Id.* "Rather, the federal agents must be able to present evidence of materially changed circumstances—namely, evidence that the noncitizen is in fact dangerous or has become a flight risk." *Id.*

"Where, as here, 'the petitioner has not received any bond or custody hearing,' 'the risk of an erroneous deprivation of liberty is high' because neither the government nor [Petitioner] has had an opportunity to determine whether there is any valid basis for his detention." *Pinchi*, 2025 WL 2084921 at *5 (cleaned up).

Third, the Government's interest in detaining Mr. Pardo Escobar without proper notice and reasoning or a hearing is "low." *Id*; *see also Matute*, 2025 WL 2817795 at *6; *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. Nov. 22, 2019) ("If the government wishes to re-arrest [Petitioner] at any point, it has the power to take steps toward doing so; but its interest in doing so without a hearing is low."). Mr. Pardo Escobar was granted parole to pursue asylum within the United States, which he continues to do by appealing the immigration judge's non-final order.

Thus, Mr. Pardo Escobar's detention is unlawful. *See, e.g., Alegria Palma v. Larose et al.*, No. 25-cv-1942 BJC (MMP), slip op. at 14 (S.D. Cal. Aug. 11, 2025) (granting a TRO based on a procedural due process challenge to a revocation of parole without a pre-deprivation hearing); *Navarro Sanchez*, 2025 WL 2770629, at *5 (granting a writ of habeas corpus releasing petitioner from custody to the conditions of her preexisting parole on due process grounds).

II. This Court has jurisdiction to consider Mr. Pardo Escobar's claim.

In cases raising similar claims, the government has sometimes argued that this Court lacks jurisdiction to consider or grant relief under 8 U.S.C. §§ 1252(g) and 1252(b)(9). This argument fails here.

Courts have jurisdiction to "decide a purely legal question that does not challenge the Attorney General's discretionary authority." *Ibarra-Perez v. United States*, 154 F.4th 989, 996 (9th Cir. 2025) (quotations omitted). In *Ibarra-Perez*, the Ninth Circuit squarely held that "§ 1252(g) does not prohibit challenges to unlawful practices merely because they are in some fashion connected to removal orders." *Id.* at 997. Accordingly, the question is whether Petitioner's claim

"challenge[s] the Attorney General's discretionary authority." *Id.* at 996.

They do not. First, Petitioner claim relates to the government's authority to detain him, and courts have widely held that review of issues related to detention is not barred by § 1252(g) or (b)(9). *See, e.g., Flores–Torres v. Mukasey,* 548 F.3d 708, 711 (9th Cir. 2008) (holding that habeas jurisdiction exists to review a challenge to immigration detention based on a citizenship claim); *Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023) (holding that "assertions of illegal detention [were] plainly collateral to ICE's prosecutorial decision to execute [a detainee's removal" and thus not subject to § 1252's jurisdictional bars); *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000) ("[S]ection 1252(g) does not bar courts from reviewing an alien detention order[.]"); *Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999) (§ 1252(g) did not apply to a "claim concern[ing] detention").

As a result, in *Noori*, 2025 WL 2800149 at *1, Judge Curiel explained that he had jurisdiction over a similar claim. He explained, "Petitioner challenges the legality of the revocation of humanitarian parole in violation of the law and dismissal of ongoing removal proceedings without due process." *Id.* So even assuming the agency's revocation of parole "constitutes a decision or action to adjudicate cases," that action is not "in the discretion" of the agency under § 1252(g) where it was "'not performed in accordance with the mandatory procedures.'" *Id.* (quoting *Sharkey v. Quarantillo*, 541 F.3d 75, 86 (2d Cir. 2008) (alterations omitted)). So too here.

Finally, "jurisdiction attaches on the initial filing for habeas corpus relief, and it is not destroyed by a transfer of the petitioner and the accompanying custodial change." *Francis v. Rison*, 894 F.2d 353, 354 (9th Cir. 1990) (internal quotation marks omitted). Mr. Pardo Escobar was at the Otay Mesa Detention Center on May 25, 2026, at the time his initial *pro se* petition was signed, and also at the time this petition was filed with the Court on May 29, 2026. *See* ECF No. 1; *Hernandez v. Spearman*, 764 F.3d 1071, 1074 (9th Cir. 2014) (explaining the

prison mailbox rule in *pro se* habeas litigation). Because this amended petition properly names his warden at the time of filing, its "amendments 'relate[] back' to the original date of filing," and it thus "complies with the immediate custodian requirement." *Khalil v. President, United States*, 164 F.4th 259, 272 (3d Cir. 2026).

CLAIM AND PRAYER FOR RELIEF

For the reasons just given, the Fifth Amendment Due Process Clause prohibits the government from continuing to detain Petitioner.

Accordingly, Petitioner respectfully requests that this Court:

1. Order Respondents to immediately release Petitioner from custody under the same conditions of his conditional parole, with all his property confiscated at the time of his ICE arrest;
2. Order Respondents to not cause Petitioner to be re-detained during the pendency of his removal and appellate proceedings without prior leave of this Court; and
3. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: June 10, 2026

s/ Jessie Agatstein

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With assistance from supervised law student intern Olivia Wallgren under General Order 644-E