

GARY P. BURCHAM
BURCHAM & ZUGMAN
California State Bar No. 190780
402 West Broadway, Suite 1130
San Diego, CA 92101
Telephone: (619) 699-5930
garypburcham@gmail.com

Attorney for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LOUIS ANCHELOT,

Petitioner,

v.

JEREMY CASEY, Warden, Imperial
Regional Detention Center,
Center, MARKWAYNE MULLIN,
Secretary of the Department of
Homeland Security, TODD BLANCHE,
Acting Attorney General, TODD
LYONS, Acting Director, ICE,

Respondents.

Case No. 26-cv-3562-JLS-VET

**PETITIONER'S FIRST AMENDED
PETITION FOR A WRIT OF HABEAS
CORPUS**

INTRODUCTION

Petitioner is a citizen of Haiti who, in 2023, was released so that he could seek asylum in the United States. Although Petitioner's asylum case remains pending at the immigration court level, ICE arrested him on May 2, 2026. ICE took Petitioner into custody without any pre-deprivation process, without providing him any paperwork, or without any opportunity to contest his re-detention.

While it is unclear whether the government has formally revoked Petitioner's parole, the government's actions are unlawful regardless. If ICE did not revoke his parole, then it violated that parole by detaining him. And if ICE did revoke his parole, then it did so

1 in violation of the statute and regulations, which required written notification and a
2 determination that the purposes of the parole have been served, as well as the Constitution,
3 which requires pre-deprivation notice and hearing. Either way, ICE's actions violated the
4 Administrative Procedures Act and the Due Process Clause. Thus, this Court should order
5 Petitioner's immediate release.

6 STATEMENT OF FACTS

7 Louis Anchelot is a 40-year old Haitian citizen. [Ex. "A"]. On August 29, 2023,
8 he entered the United States with a CBP One appointment seeking asylum in this country.
9 *Id.* He was paroled into the United States that same day, and went to the State of Florida
10 where he resided thereafter. *Id.* Petitioner obtained authorization to work in the United
11 States, and has worked consistently following his arrival. *Id.* Petitioner is the father of three
12 children who live in Haiti (ages 15, 16 and 20), and does not have any family in the United
13 States. *Id.*

14 In 2025, Petitioner was arrested on two occasions for driving under the
15 influence. *Id.* He pled guilty to a misdemeanor charge in each case, and was sentenced to
16 six months in jail. *Id.* May 2, 2026 was the last day of his sentence which he served in local
17 custody. *Id.* Instead of being released, ICE detained Petitioner and has kept him in
18 immigration custody ever since. *Id.* Petitioner received no pre-deprivation hearing or process
19 prior to his arrest, he was not provided anything in writing concerning why he was being
20 detained by ICE, and he was not provided an opportunity to contest his detention. *Id.*
21 Petitioner refused to sign the paper. *Id.* Petitioner has not had a bond hearing since his
22 arrest; however, he did meet with ICE officials on one occasion in June 2026 to discuss being
23 released from custody. *Id.*

CLAIMS FOR RELIEF

I. Count 1: ICE failed to comply with its own regulations in revoking Petitioner's parole under 8 C.F.R. § 212.5, violating the Administrative Procedures Act and due process.

When ICE detained Petitioner on May 2, 2026, it did not tell him why it was revoking his parole, so it is unclear whether a revocation occurred.¹ [Ex. "A"]. Either way, the government's actions violate the Administrative Procedures Act and Due Process.

Under the Administrative Procedures Act (APA), an agency action may be held unlawful and set aside if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). For a challenged agency action to be upheld, the agency "must explain the evidence which is available, and must offer a rational connection between the facts found and the choice made." *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983) (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)).

Here, regardless of whether ICE formally revoked Petitioner's parole, it violated the APA. If ICE did not revoke his parole, then it inexplicably violated its own parole decision by detaining Petitioner in May 2026. 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 Petitioner 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 Petitioner has a pending asylum application and consistently made his check-in

¹ Petitioner does not yet have a copy of the I-213 in this case.

1 appointments with ICE. This detention therefore was an “arbitrary” and “capricious” act
2 under the APA. 5 U.S.C. § 706(2)(A).

3 Assuming ICE did revoke Petitioner’s parole, it still violated the APA. Per ICE
4 regulations, a person shall only be “returned to the custody from which he was paroled” when
5 “the purposes of such parole . . . have been served.” 8 U.S.C. § 1182(d)(5)(A); *see also* 8
6 C.F.R. § 212.5(e)(2)(i) (parole may only be terminated “upon accomplishment of the purpose
7 for which parole was authorized”). Alternatively, the regulations permit revocation of parole
8 when “neither humanitarian reasons nor public benefit warrants the [noncitizen’s] continued
9 presence.” 8 C.F.R. § 212.5(e)(2)(i). But under either scenario, parole shall only be
10 “terminated upon written notice to the alien.” 8 C.F.R. § 212.5(e)(2)(i). So under the statute
11 and the regulations, the agency may only revoke parole and re-detain a noncitizen when the
12 parole’s purpose is served or no humanitarian reasons warrant it, and the noncitizen receives
13 written notice.

14 None of this occurred here. Because “the purpose[] of [Petitioner’s] parole” was
15 to allow him to apply for asylum, that purpose has not yet “been served” because his asylum
16 claim is still pending before the immigration court. 8 U.S.C. § 1182(d)(5)(A). And the
17 humanitarian reasons for parole—to avoid unnecessary detention when an asylum seeker
18 poses no danger or flight risk—remains the same. Put differently, “upon Petitioner’s entry
19 into the United States, Respondents determined that Petitioner was suitable for parole.
20 Respondents have not provided a reasoned explanation or any changed circumstances that
21 would justify their current departure from their prior decision.” *Y-Z-L-H v. Bostock*, 792 F.
22 Supp. 3d 1123, 1146 (D. Or. 2025). Under the APA, “[i]t is Respondents’ burden to provide
23 a reasoned explanation for their action,” which they will not be able to do. *Id.*

24 Also, Petitioner never received any written notification of a revocation under 8
25 C.F.R. § 212.5(e). [Ex. “A”]. So if ICE revoked his parole, this decision violated both the
26 statute and the regulation and was “not in accordance with law” under the APA. 5 U.S.C.

§706(2)(A). Several courts have released parolees on this basis. *See Arias v. Larose*, No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385 (S.D. Cal. Nov. 25, 2025); *Noori v. LaRose*, 807 F. Supp. 3d 1146, 1166-69, 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*, 792 F. Supp. 3d at 1146.

II. Count 2: The Due Process Clause required notice and a chance to be heard before parole was revoked.

The Supreme Court has stated that “[f]reedom 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 (9th Cir. 2001). “[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.” *Id.* at 693. “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*, 807 F. Supp. 3d at 1164 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

“First, Petitioner has a private interest in remaining free, which developed over the [years] he resided in the United States.” *Id.* For Petitioner, it was the nearly 2 ½ years he lived here after first being paroled in. And 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.*; *see also Rosales Mireles v. United States*, 585 U.S. 129, 139 (2018) (observing that “any amount of actual jail time . . . has exceptionally severe consequences for the incarcerated individual and for society which bears the direct and

1 indirect costs of incarceration” (internal quotation marks and alterations omitted)). Petitioner
2 has been housed for nearly three months in a crowded detention facility which has the
3 restrictions and design of a facility to hold criminal defendants charged with serious crimes,
4 not immigration detainees. In our society where “liberty is the norm,” *United States v.*
5 *Salerno*, 481 U.S. 739, 755 (1987), this first *Mathews* factor weighs strongly in favor of
6 release.

7 The second *Mathews* factor is “the risk of an erroneous deprivation of such
8 [private] interest through the procedures used, and the probable value, if any, of additional
9 or substitute procedural safeguards.” *Mathews*, 424 U.S. at 335. The only interest to be
10 considered at this part of the *Mathews* analysis is that of the detained individuals—not the
11 government. *See Hamdi v. Rumsfeld*, 542 U.S. 507, 530 (2004).

12 This factor also weighs in favor of Petitioner, as the “procedures used” for
13 detainees such as Petitioner at this point are wholly insufficient. *Mathews*, 424 U.S. at 355.
14 “Civil immigration detention is permissible only to prevent flight or protect against danger
15 to the community.” *Perez*, 2025 WL 3171742, at *5. Requiring the Government to justify
16 detention reduces the risk of an ongoing and erroneous deprivation of Petitioner’s liberty.
17 *See L.G. v. Choate*, 744 F. Supp.3d 1172, 1183-84 (D. Colo. Jul. 19, 2024). Here, the
18 procedures include no mechanism for Petitioner’s release, nor any particular individualized
19 review of the need for his continued detention. For this reason, the “risk of an erroneous
20 deprivation of such interest is high as Petitioner’s parole was revoked without providing
21 [him] a reason for revocation or giving [him] an opportunity to be heard.” *Salazar*, 2025 WL
22 3063629, at *4.

23 The third *Mathews* factor also favors Petitioner. “[T]he Government’s interest
24 in detaining Petitioner without notice, reasoning, and a hearing is low.” *Salazar*, 2025 WL
25 3063629, at *5 (cleaned up). “Detention for its own sake, to meet an administrative quota,
26 or because the government has not yet established constitutionally required pre-detention
27
28

1 procedures is not a legitimate government interest.” *Pinchi v. Noem*, 792 F. Supp. 3d 1025,
2 1036 (N.D. Cal. 2025). Because Respondents did not provide proper notice, reasoning, and
3 a pre-deprivation hearing before revoking parole, Petitioner’s detention violated the Due
4 Process Clause.

5 **III. Prayer for Relief**

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

7 1. Order Respondents to immediately release Petitioner from
8 custody, subject to the conditions of his preexisting parole;

9 2. Order that prior to any re-detention of Petitioner, that Petitioner
10 is entitled to notice of the reasons for revocation of his parole and
11 a hearing before an immigration judge to determine whether
12 detention is warranted. Respondents should bear the burden of

13 establishing, by clear and convincing evidence, that Petitioner
14 poses a danger to the community or a risk of flight at that hearing;

15 3. In the alternative—if and only if this Court rejects the parole-
16 based arguments—order a bond hearing at which the government
17 bears the burden to prove danger or flight by clear and convincing
18 evidence, and stipulate that the government must make a record of
19 the bond hearing available to counsel upon request; and

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

21
22 Respectfully submitted,

23
24
25 Dated: July 27, 2026

26 /s/ Gary P. Burcham
27 **GARY P. BURCHAM**
28 Attorney for Petitioner