

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

RALPH BRONSON FILS-AIME

Petitioner,

v.

ANDREW ACKLEY, Acting Warden of the Federal Correctional Institute, Berlin;
PATRICIA H. HYDE, Acting Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations, Boston Field Office; **TODD LYONS**, Acting Director, U.S. Immigration and Customs Enforcement; **KRISTI NOEM**, Secretary of U.S. Department of Homeland Security; **PAMELA BONDI**, U.S. Attorney General;

Respondents.

Case Number: 1:25-cv-287-JL-TSM

**PETITIONER'S SUR-REPLY IN SUPPORT OF OPPOSITION TO RESPONDENTS'
MOTION TO DISMISS OR, IN THE ALTERNATIVE, MOTION FOR SUMMARY
JUDGMENT AND REQUEST FOR HABEAS CORPUS RELIEF**

Pursuant to Local Rule 7.1(e)(3), Petitioner Ralph Bronson Fils-Aime hereby files this sur-reply to address two points that Respondents raise in their September 12, 2025 reply. While Petitioner still believes that this case is ready for an oral argument or hearing and adjudication as explained in his September 12, 2025 motion to expedite the case, addressing Respondents' points about the effects of the reopening of his removal proceedings on Petitioner's statutory withholding of removal protection (to Haiti) and third country removal challenge would be beneficial in resolving the instant habeas corpus petition.

First, Respondents' view that the reopening of Petitioner's removal proceedings has rendered "his grant of withholding . . . vacated" is incorrect. Govt's Reply at 2. While it is true that the Department of Homeland Security (DHS) often needs to move to reopen a noncitizen's removal proceedings before DHS can seek to terminate the Immigration Judge's (IJ's) grant of a noncitizen's asylum, statutory withholding of removal, or protection under the Convention Against Torture (CAT), the regulation requires much more than the mere reopening of removal proceedings. *See* 8 C.F.R. § 1208.24(f). The regulation provides that "[i]n such a reopened proceeding, [DHS] must establish, by a preponderance of evidence, one or more of the grounds set forth in paragraphs (a) or (b) of this section." *Id.* *See also* 8 C.F.R. § 1208.24(b)(1)-(4) (four specific grounds for terminating the grant of withholding of removal). Further, DHS is required to "provide[] a notice of intent to terminate" the grant of Petitioner's statutory withholding of removal. 8 C.F.R. § 1208.24(f). No such intent or plan has been served on Petitioner. *See generally Grigoryan v. Barr*, 959 F.3d 1233, 1240 (9th Cir. 2020) ("The Grigoryans—who underwent a rigorous screening process resulting in their admission into our country—must be afforded 'the full panoply of procedural due proces protections' under the Constitution, . . . and 'may be expelled only after proceedings conforming to traditional standards of fairness[.]'")

(quoting *Angov v. Lynch*, 788 F.3d 893, 898 (9th Cir. 2015) and *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)). Indeed, while a final removal order is needed for the grant of withholding of removal to operate (e.g., preventing Respondents from executing the final removal order to a particular country), it does not mean that the order is required to grant the protection as a matter of law. See, e.g., *Matter of I-S- & C-S-*, 24 I. & N. Dec. 432, 434 n.3 (B.I.A. 2008) (“In instances in which an [IJ] grants both asylum *and* withholding of removal, an order of removal would not normally be required, as an asylum grant does not require an order of removal.”) (emphasis in original).

Second, similarly, Respondents’ view that “[w]hat due process third-country removal requires is irrelevant here, and appeals to that process cannot be used to magnify the rights to which Petitioner is entitled while his removal proceedings are pending” is also incorrect. Govt’s Reply at 2. The only reason why Petitioner still faces removal from the United States is that Respondents elected not to appeal the IJ’s grant of statutory withholding of removal but chose to remove him to an alternative country. As the procedure required to remove Petitioner (who has been granted a statutory relief) is more protective than that of others who have not gone through the rigorous screening process, Petitioner’s due process rights not to be detained without a bond hearing in a prolonged manner are more protective than those of other noncitizens who have not been granted any statutory relief.

For the reasons stated above, this Court should grant Petitioner’s Petition for Writ of Habeas Corpus and deny Respondents’ Motion to Dismiss or, in the Alternative, for Summary Judgment.¹

¹ Petitioner does not challenge his detention authority under 8 U.S.C. § 1225(b). Although the Notice to Appear (charging document) does not indicate that he was charged as an arriving alien and Form I-213 indicates that he was

Date: September 14, 2025

Ralph Bronson Fils-Aime,

By and through her attorneys,

/s/ SangYeob Kim

Gilles R. Bissonnette (NH Bar: 265393)

SangYeob Kim (NH Bar: 266657)

Chelsea Eddy (NH Bar: 276248)

AMERICAN CIVIL LIBERTIES UNION OF

NEW HAMPSHIRE

18 Low Avenue

Concord, NH 03301

Phone: 603.333.2081

gilles@aclu-nh.org

sangyeob@aclu-nh.org

chelsea@aclu-nh.org

“released on his own recognizance” through Form I-220A, which would have served as evidence that he was released on 8 U.S.C. § 1226(a) instead of 8 U.S.C. § 1158(d)(5)(A), Petitioner confirmed that Petitioner was actually released under 8 U.S.C. § 1158(d)(5)(A). See Exhibit 20 (Parole Authorization Notice under 8 U.S.C. § 1158(d)(5)(A)); cf. Docket Number (DN) 5-1 at 5, 12. Therefore, Petitioner does not challenge the detention authority. Cf. *Jimenez v. FCI Berlin*, Warden, No. 25-cv-326-LM-AJ, 2025 U.S. Dist. LEXIS 176165, at *14 (D.N.H. Sep. 8, 2025) (“Here, Jimenez was released on conditional parole under § 1226(a), not humanitarian parole under § 1182(d)(5)(A). Thus, the provision of § 1182(d)(5)(A) relied upon in [Matter of] Q. Li—providing that revocation of humanitarian parole returns the noncitizen to the custody from which they were paroled—is inapplicable.”). In Petitioner’s view, he is detained under 8 U.S.C. § 1225(b)(2) instead of 8 U.S.C. § 1225(b)(1). This is because Petitioner’s current detention is not “during the pendency of expedited removal proceedings and the credible fear interview and review process.” *Jimenez*, 2025 U.S. Dist. LEXIS 176165, at *16-17. Respondents agree with Petitioner on this point. See Govt’s Br. (Docket Number 15-0) at 1 (“Petitioner is . . . detained . . . [under] 8 U.S.C. § 1225(b)(2)(A).”).