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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Ibrakhim Bolotkanov, an adult,

Petitioner,

v.

John Cantu, Phoenix Field Office
Director Immigration and Customs
Enforcement and Removal Operations
("ICE/ERO"); Todd Lyons, Acting
Director of Immigration Customs
Enforcement ("ICE") U.S. Immigration
and Customs Enforcement; Kristi Noem,
Secretary of the Department of
Homeland Security ("DHS"); U.S.
Department of Homeland Security; and
Pamela Bondi,
Attorney General of the United States,

Respondents.

Case No. 2:25-cv-03025-KML-JZB

**Petitioner's Reply in Support of
Petition for Writ of Habeas Corpus
Pursuant to 28 U.S.C. § 2241**

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PETITIONER'S REPLY

Petitioner Bolotkanov asks this Court to put an end to his unlawful detention by the Executive. As the Supreme Court has explained, “the writ of habeas corpus has traditionally provided a vehicle for testing the legality of executive imprisonment, and in that setting its protections are at their strongest.” *INS v. St. Cyr*, 533 U.S. 289, 301 (2001), superseded by statute on other grounds as recognized in *Patel v. U.S. Att’y Gen.*, 971 F.3d 1258, 1270 (11th Cir. 2020). The writ’s core function is to check arbitrary confinement; that is exactly what Petitioner seeks.

Respondents, a coalition of immigration agencies with considerable power and a detention apparatus at their disposal, have placed themselves above the law by continuing to confine him without lawful authority.¹ They point to no statutory provision that can sustain his custody, and in fact rely on an implausible construction of the immigration statutes. Their own rules and

¹Amanda Terkel & Lawrence Hurley, “Trump, asked if he has to ‘uphold the Constitution,’ says, ‘I don’t know’”, NBC News (May 4, 2025), available at <https://www.nbcnews.com/politics/trump-administration/trump-asked-uphold-constitution-says-dont-know-rcna204580>(citing the President’s response about providing due process where he explained that the administration would have to provide “2 million or 3 million trials,” that he “was elected to get [immigrants] the hell out of here, and the courts are holding [him] from doing it”); see also, Ernst Fränkel, *The Dual State: A Contribution to the Theory of Dictatorship* 3, 24-25, 39 (Oxford U. Press 1941) (explaining how two states arose in Germany in the 1900s with the “co-existence of legal order and lawlessness” where executive officials “exercise[d] their discretionary prerogatives” to create the zones of “arbitrary actions” against the politically unpopular).

policies show that, on the facts here, Bolotkanov should never have been taken back into custody on May 13, 2025, and every additional day he has been held is unlawful.

Nor do Respondents' jurisdictional defenses hold up. This case goes to the heart of habeas review: whether the government has lawful authority to detain. Because no removal order has been issued against Petitioner, the jurisdictional limits of 8 U.S.C. § 1252(a) and § 1252(g) are irrelevant.

For these reasons, the Court should grant the writ and direct Petitioner's immediate release.

I. INTRODUCTION

Until May 13, 2025, Bolotkanov believed that his immigration case was proceeding under the ordinary rules of law. That expectation collapsed when Respondents abruptly altered course and used those changes to justify detaining him.

Until that day, Bolotkanov had been fully compliant with every directive he had received. He had consistently followed the government's instructions: after receiving death threats from the Kyrgyz government, he sought refuge in the United States pursuant to his statutory right to apply for asylum. *See* 8 U.S.C. § 1158. He presented himself at the port of entry, requested asylum, and was granted release on parole under 8 U.S.C. § 1182(d)(5). *See* Dkt. 24 Exhibit 1; Dkt. 23 Exhibit 1 at ¶8.

After relocating to California, Bolotkanov built a life consistent with U.S. law. He obtained work authorization. Bolotkanov then filed his asylum application on time with the Van Nuys Immigration Court. He has no criminal record and has never been charged with criminal conduct.

Despite this record of compliance, Respondents abruptly changed course. Without giving Petitioner notice, an opportunity to be heard, or any explanation, DHS moved on May 30, 2025, to dismiss his ongoing asylum case.

Petitioner has now spent nearly five months detained, cut off from his community, his wife and two U.S. citizen children.

II. THE COURT HAS HABEAS JURISDICTION TO ORDER PETITIONER'S RELEASE.

The Court has subject matter jurisdiction over this Petition, which seeks Petitioner's release from custody. Respondents argue that section 1252(g) deprives this Court of jurisdiction over Petitioner's habeas petition. They are incorrect because this Court has jurisdiction under 28 U.S.C. § 2241, and no jurisdiction-stripping provision of the INA applies. This Court also retains jurisdiction under the Suspension Clause of the U.S. Constitution.

A. Section 1252(g) of the INA does not bar jurisdiction to grant release.

Respondents contend that 8 U.S.C. § 1252(g) prevents this Court from reviewing Petitioner's claims. Dkt. 23 at 5. But they misconstrue this "narrow" statutory provision. *See Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 487 (1999) (hereinafter "*AADC*").

Far from barring “all claims relating in any way to deportation proceedings,” *Catholic Social Services, Inc. v. INS*, 232 F.3d 1139, 1150 (9th Cir. 2000), section 1252(g) simply limits review of three discrete, enumerated acts: namely, DHS’s discretionary decisions “to commence proceedings, adjudicate cases, or execute removal orders.” 8 U.S.C. § 1252(g); *accord. AADC*, 525 U.S. at 482-83.²

Here, none of Petitioner’s claims challenge these discrete, enumerated acts. Respondents argue that section 1252(g) “strip federal courts of jurisdiction over Petitioner’s challenges to the commencement of removal proceedings any claims arising from removal proceedings.” Dkt. 23 at 1. However, Petitioner does not challenge such a decision. Instead, Petitioner challenges Respondents’ decision to *detain* Petitioner even though he had been granted parole under 8 U.S.C. § 1182(d)(5) that neither expired nor was revoked with the requisite written notice and individualized consideration of his case and circumstances. *See infra* § III.B.3. Detention decisions are not among the three discretionary acts rendered unreviewable by section 1252(g). *See Y-Z-L-H v. Bostock*, No. 3:25-cv-00965-SI, slip op. at 26 (D. Or. July 9, 2025) (holding that even if the INA’s review provisions precluded review of parole termination, the court retained jurisdiction under the Suspension Clause).

² Although AADC references the “Attorney General’s” discretionary determinations, that decision predates the Homeland Security Act of 2002, which transferred prosecutorial functions from the Attorney General to DHS. *See* 6 U.S.C. §§ 202, 557, 651; 8 U.S.C. § 1103(a)(1).

Here, Respondents concede that Bolotkanov is not in expedited removal proceedings; he remains in section 1229a proceedings through the conclusion of his administrative appeal. *See* Dkt. 23 at 4. And even if he were in expedited removal proceedings, habeas would still be an appropriate vehicle for him to seek release from unlawful custody. *See Sissoko v. Rocha*, 509 F.3d at 949 (9th Cir. 2007) (“because *Sissoko* was never issued an expedited removal order, a habeas petition under 8 U.S.C. § 1252(e)(2) could have been successful in remedying his allegedly false arrest”).

Even if Bolotkanov were presently facing expedited removal, § 1252(g) would still permit this Court to review legal issues. The Ninth Circuit has explained that a “district court may consider a purely legal question that does not challenge the Attorney General's discretionary authority, even if the answer to that legal question—a description of the relevant law—forms the backdrop against which the Attorney General later will exercise discretionary authority.” *United States v. Hovsepien*, 359 F.3d 1144, 1155 (9th Cir. 2004); *see also Madu v. U.S. Attorney Gen.*, 470 F.3d 1362, 1368 (11th Cir. 2006) (“While [§ 1252(g)] bars courts from reviewing certain exercises of discretion by the attorney general, it does not proscribe substantive review of the underlying legal bases for those discretionary decisions and actions.”).

Here, Petitioner asks the Court to interpret the legal “backdrop” against which Respondents may seek to detain him—namely, to find that Petitioner may not be detained without written notice of the individualized revocation of

his parole, in contravention of federal regulations, the INA, and his Due Process rights.

B. No other provision of 8 U.S.C. § 1252 limits this Court's jurisdiction over Petitioner's Habeas Corpus Claims.

Respondents have not asserted that any other section of the INA limits this Court's authority, *see* Dkt. 23, and no such restriction exists. "[T]he REAL ID Act's jurisdiction-stripping provisions do not remove federal habeas jurisdiction over petitions that do not directly challenge a final order of removal." *Trinidad y Garcia v. Thomas*, 683 F.3d 952, 958 (9th Cir. 2012) (Thomas, J., concurring) (citing *Nadarajah v. Gonzales*, 443 F.3d 1069, 1075 (9th Cir. 2006)).

The petitioner is not asking the Court to review a final order of removal, since none has been issued in this case, *see* 8 U.S.C. § 1252(a)(5), nor is he contesting "any action taken . . . to remove him from the United States." *Id.* § 1252(b)(9). Instead, he challenges his unlawful detention, a claim that "fall[s] within the core of the writ of habeas corpus and thus must be brought in habeas." *Trump v. J. G. G.*, 145 S. Ct. 1003, 1005 (2025) (internal quotations omitted). For example, The District of Oregon has confirmed that "claims that are independent of or collateral to the removal process . . . are excluded from the PFR process and, thus, may be heard in federal district courts." *Innovation L. Lab v. Nielsen*, 342 F. Supp. 3d 1067, 1076 (D. Or. 2018) (internal quotations omitted); *see also Nadarajah*, 443 F.3d at 1075–76 (upholding district court

jurisdiction over a habeas petition that did not challenge a final order of removal).

C. The Court retains jurisdiction under the Suspension Clause.

Even if a statute purported to strip this Court of jurisdiction over Petitioner’s claims, the Court would nonetheless have jurisdiction under the Suspension Clause, which provides that “[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion³ the public Safety may require it.” U.S. Const. Art. I § 9, cl. 2.

If this Court does not have jurisdiction to consider Petitioner’s claims, there would be no other adequate forum for Bolotkanov, an asylum seeker who has developed strong connections to the United States, to contest his unlawful detention. Such a “miscarriage[] of justice” would clearly violate the Suspension Clause, which serves as the “fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action.” *Harris v. Nelson*, 394 U.S. 286, 290–91 (1969).

³ Respondents do not dispute that the Writ of Habeas Corpus has not been suspended. While the Executive has suggested the existence of an “invasion” and has justified sending the military to Los Angeles to “liberate” “a city of criminals;” there has been no determination from Congress that either an invasion or a rebellion exists. *See* Donald J. Trump (@realDonaldTrump), Truth Social (Jun 15, 2025 at 5:43 PM) <https://truthsocial.com/@realDonaldTrump/posts/114690267066155731>; Stephen Miller (@StephenM), X (Jun 9, 2025 at 2:26 PM) <https://x.com/StephenM/status/1932187550598250953>; Anthony L. Fisher, “Kristi Noem says the feds are coming to ‘liberate’ Los Angeles,” MSNBC (Jun. 13, 2025, 3:00 AM) available at <https://www.msnbc.com/opinion/msnbc-opinion/kristi-noem-alex-padilla-detained-los-angeles-ice-rcna212764>.

Further, the Ninth Circuit has recognized that the Suspension Clause can be triggered when a petitioner is requesting relief from custody. *Rauda v. Jennings*, 55 F.4th 773 (9th Cir. 2021) at 780 (quoting *Hamama v. Adducci*, 912 F.3d 869, 880 (6th Cir. 2018)).

This is precisely the situation for Bolotkanov, who seeks relief from unlawful executive detention. As an asylum seeker who has lived in the United States for nearly eight years, the Petitioner is entitled to rely on the protections of the Suspension Clause. See *Boumediene v. Bush*, 553 U.S. 723, 739 (2008) (considering whether particular individuals may invoke the Suspension Clause based on their status). The Clause, “at the absolute minimum . . . protects the writ as it existed” when the Constitution was adopted in 1789. *St. Cyr*, 533 U.S. at 301 (citation and internal quotation marks omitted). At that time, habeas corpus “provided a vehicle to challenge all manner of detention by government officials,” and the Suspension Clause “could be invoked by aliens already in the country who were held in custody pending deportation.” *D.H.S. v. Thuraissigiam*, 591 U.S. 103, 137 (2020).

Bolotkanov clearly fits within this category. Unlike an individual who is “apprehended within hours of surreptitiously entering the United States,” *Castro v. United States Dep’t of Homeland Sec.*, 835 F.3d 422, 445 (3d Cir. 2016), or stopped just steps from the border, *Thuraissigiam*, 591 U.S. at 107, the Petitioner has built deep and lasting connections to the United States. He has lived in the country for about eight years, was granted parole, obtained

work authorization, and consistently followed all directives from immigration authorities, including attending every scheduled immigration court appearance. He is also the father of two young U.S. citizen children and contributes meaningfully to his community in California.

Accordingly, Petitioner can properly invoke the Suspension Clause. *See Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (explaining that a noncitizen’s constitutional status changes after he “gains admission to our country” and begins developing community ties); *United States v. Verdugo-Urquidez*, 494 U.S. 259, 271 (1990) (“[Noncitizens] receive constitutional protections when they have come within the territory of the United States and developed substantial connections with this country.”); *Osorio-Martinez v. Att’y Gen. United States of Am.*, 893 F.3d 153, 178 (3d Cir. 2018) (holding that jurisdiction-stripping provision of the INA violated the Suspension Clause as applied to recipients of special immigrant juvenile status).

Because the Petitioner is entitled to the protections of the Suspension Clause, this Court has a duty to exercise jurisdiction over his claims. To prevent any unlawful suspension of the Great Writ, an individual must be given “a meaningful opportunity to demonstrate that he is being held pursuant to ‘the erroneous application or interpretation’ of relevant law.” *Boumediene*, 553 U.S. at 779 (quoting *St. Cyr*, 533 U.S. at 302). The court reviewing such a case “must have sufficient authority to conduct a meaningful review of both the cause for detention and the Executive’s power to detain.” *Id.* at 783. The

importance of habeas review is greatest in cases like this one, where the detention is imposed by executive action rather than through a criminal judgment, since those held under executive authority do not receive the procedural protections afforded in a criminal trial. *Id.* at 783.

Here, the Executive Branch has detained the Petitioner in violation of the legal framework that governs his parole, including applicable federal regulations, the INA, and the guarantees of the Due Process Clause. Absent this Court's intervention, there is no meaningful process available for Bolotkanov to contest the legality of his confinement. *See Boumediene*, 553 U.S. at 771 (considering whether, even where "a statute [purports to strip] jurisdiction to issue the writ," Congress has nevertheless "provided adequate substitute procedures for habeas corpus").

Accordingly, the Suspension Clause requires that this Court retain jurisdiction to review the Petitioner's claims.

III. RESPONDENTS ASSERT NO LAWFUL BASIS FOR PETITIONER'S DETENTION.

Respondents have invoked a basis for detention that is legally impossible and have failed to articulate any coherent justification for taking into custody a law-abiding individual who had been lawfully released on parole. Under the governing statutes, regulations, and agency policies, the circumstances of this case make clear that Petitioner should never have been detained on May 13, 2025, and that each day of his continued confinement remains unlawful.

Because Respondents cannot identify any valid legal authority supporting this detention, it is necessarily arbitrary and contrary to law.

A. Petitioner’s detention is not authorized by §§ 1225(b)(1)(A)(i) or (B)(iii)(IV)

Respondents describe Petitioner’s detention as authorized under 8 U.S.C. § 1225(b)(1)(A)(i) and 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). Dkt. 23 at 6.

(“Petitioner is an arriving alien subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), and detention throughout the remainder of those proceedings are lawful.” *See* 8 U.S.C. § 1225(b)(1)(A)(i), (B)(iii)(IV).”).

By Respondents’ own admission, neither of the cited statutory provisions applies to Petitioner. Section 1225(b)(1)(A)(i) does not apply because Petitioner is not in expedited removal proceedings. *See* Dkt. 23 at 4. This provision, commonly referred to as the “expedited removal” statute, allows immigration officers to order the quick removal of certain noncitizens from the United States “without further hearing or review,” unless the person indicates a fear of persecution or an intent to apply for asylum. *See* 8 U.S.C. § 1225(b)(1)(A)(i). If such a claim is made, the individual must be referred to an asylum officer for a credible fear interview. *Id.* § 1225(b)(1)(A)(ii). During that process, the statute provides that the noncitizen “shall be detained” until a credible fear determination is made and must remain detained until removal if the credible fear claim is denied. *Id.* § 1225(b)(1)(B)(iii)(IV).

Here, Petitioner is not in expedited removal proceedings. *See* Dkt. 23 at 4. Respondents concede, as they must, that Petitioner remains in removal proceedings under 8 U.S.C. § 1229a, often called section 240 proceedings under the INA, while his administrative appeal is still pending. Therefore, Respondents cannot rely on 8 U.S.C. § 1225(b)(1)(B)(iii)(IV) as authority for his detention.

B. Respondents' May 13, 2025, re-detention of Petitioner was unlawful.

Respondents do not claim that Petitioner's parole formally expired, yet his re-detention operated as an effective termination of that parole. Respondents acted unlawfully, both procedurally and substantively, when they re-detained him. If they intended to revoke his parole, Petitioner was entitled to notice and an opportunity to respond. If his parole had expired, he was entitled to an individualized determination of whether he should be re-paroled.

The Department of Homeland Security's arrest of Bolotkanov on May 13, 2025, was unlawful because it amounted to an implied revocation of parole that failed to comply with the INA, federal regulations, and the guarantees of due process.

When Respondents detained Bolotkanov on May 13, 2025, they issued no written revocation of parole, conducted no individualized assessment of whether his parole should be withdrawn, and gave no explanation for their abrupt decision to detain and transfer him based on his specific circumstances. As a

result, their decision to detain Bolotkanov violates the APA. 5 U.S.C. § 706(2)(A) (directing courts to “hold unlawful and set aside agency action” that is arbitrary and capricious); *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (requiring an agency to articulate a “satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made”); *Cf. Y-Z-L-H* slip op. at 27-29 (finding DHS’s termination of parole arbitrary and capricious where it failed to provide notice, an individualized determination, or a rational explanation for its decision); *see also Matter of Sugay*, 17 I&N Dec. 637, 640 (BIA 1981) (holding that “where a previous bond determination has been made by an immigration judge, no change should be made by a District Director absent a change of circumstance”); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (noting that DHS has incorporated *Matter of Sugay* “into its practice, requiring a showing of changed circumstances . . . where the previous release decision was made by a DHS officer”).

1. The INA requires parole to be granted or revoked “only on a case-by-case basis.”

The INA provides that DHS “may . . . in [the Secretary’s] discretion parole” an arriving asylum seeker into the United States “on a case-by-case basis for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A). Release on parole is an “express exception” to detention and

constitutes a “specific provision authorizing release.” *Jennings v. Rodriguez*, 583 U.S. 231, 300 (2018). The plain text of the statute makes clear that parole decisions must be individualized. Section 1182(d)(5)(A) directs that parole may be granted “only on a case-by-case basis” and may be terminated “when the purposes of such parole shall . . . have been served.” *See Y-Z-L-H*, slip op. at 17-18 (explaining that immigration officials must make individualized determinations when granting or terminating parole and rejecting DHS’s categorical revocation as unlawful).

The Supreme Court in *Jean v. Nelson*, 472 U.S. 846, 856–57 (1985), held that the statutory phrase authorizing the Attorney General to act “in his discretion” in granting parole requires immigration officials to evaluate each parole applicant’s individual circumstances in determining whether release is appropriate. Courts have repeatedly confirmed this requirement. *See, e.g., Marczak v. Greene*, 971 F.2d 510, 515 (10th Cir. 1992) (explaining that *Jean* requires immigration authorities to “make individualized determinations of parole”); *accord. Diaz v. Schiltgen*, 946 F. Supp. 762, 764–65 (N.D. Cal. 1996) (observing that under the prior version of the statute, “[t]he District Director is required to ‘make individualized determinations of parole’”). The *Marczak* court further explained that “in each case a district director must determine whether a particular person is likely to flee, and whether that person’s continued detention would be in the public interest.” *Id.* at 515.

Construing *Jean*, the court reasoned that “as a logical matter, we do not see how an immigration official could base his decision on a general rule, given the Supreme Court’s requirement that the district director ‘make individualized determinations of parole.’” *Id.* at 515 (emphasis omitted).

Unlike the earlier version of the statute, the current provision explicitly requires consideration “on a case-by-case basis.” 8 U.S.C. § 1182(d)(5). This language underscores that individualized review is mandatory. *See also Doe v. Noem*, 2025 WL 1099602, at *18 (concluding that, under the terms of the statute, “such termination must attend to the reasons an individual alien received parole”); *Doe v. Noem*, 2025 WL 1505688, at *1 (1st Cir. May 5, 2025) (noting that “[c]ommon sense suggests . . . that parole given only on a case-by-case basis is to be terminated only on such a basis” and highlighting the individualized language of § 1182(d)(5)).

By contrast, courts have made clear that immigration officials do “not have the discretion to categorically terminate grants of parole,” *Doe*, 2025 WL 1099602, at *13, and may not “decide[] parole applications based on broad, non-individualized policies,” *Marczak*, 971 F.2d at 515; *accord. Diaz*, 946 F. Supp. at 765.

2. Any purported revocation of parole by DHS on May 13, 2025, was unlawful.

After Petitioner arrived in the United States to seek protection, Respondents released him on parole following a case-by-case determination

pursuant to 8 U.S.C. § 1182(d)(5). *See* Dkt. 24 Ex. A. To the extent that Respondents effectively revoked that parole on May 13, 2025, they did so unlawfully by failing to provide him with notice of the revocation, an opportunity to respond, and an individualized assessment based on the facts of his case.

Respondents also failed to consider the humanitarian or public interest factors relevant to Bolotkanov's situation, as required by law. They did not evaluate either the purpose of his parole or the undisputed evidence showing that his detention serves no public interest because he poses no flight risk and no danger to the community. *See* 8 C.F.R. § 212.5(b)(5); ICE Parole Directive 11002.1, *Parole of Arriving Aliens Found to Have a Credible Fear of Persecution or Torture*, ¶ 6.2 (Dec. 8, 2009) (interpreting "aliens whose continued detention is not in the public interest" to mean that "he or she presents neither a flight risk nor danger to the community").⁴

Instead, Respondents relied on improper considerations, including their erroneous conclusion that Bolotkanov was subject to mandatory detention under the expedited removal statute and their broader policy objective of categorically detaining asylum seekers as a means of punishment and deterrence. *See, e.g., E.O. 14165, Securing Our Borders*, 90 Fed. Reg. 8467, 67–68 (Jan. 20,

⁴ Available at: https://www.ice.gov/doclib/foia/policy/11002.1_ParoleArrivingAliensCredibleFear.pdf

2025) (“It is the policy of the United States to take all appropriate action to secure the borders of our Nation through the following means . . . (b) Deterring and preventing the entry of illegal aliens into the United States; (c) Detaining, to the maximum extent authorized by law, aliens apprehended on suspicion of violating Federal or State law, until such time as they are removed from the United States”); *id.* (“The Secretary of Homeland Security shall take all appropriate actions to detain, to the fullest extent permitted by law, aliens apprehended for violations of immigration law until their successful removal from the United States . . . including the termination of the practice commonly known as ‘catch-and-release,’ whereby illegal aliens are routinely released into the United States shortly after their apprehension for violations of immigration law.”); Brittany Gibson & Stef W. Kight, *Scoop: Stephen Miller, Noem tell ICE to supercharge immigrant arrests* (May 28, 2025), *Axios* (reporting that the DHS Secretary “demand[ed] that immigration agents seek to arrest 3,000 people a day” and that “increased pressure on agents comes as border-crossing numbers have plummeted”), available at <https://www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller>; Pres. Donald Trump, @realDonaldTrump, *Truth Social* (June 15, 2025, 5:43 PM) (“ICE Officers are herewith ordered, by notice of this TRUTH, to do all in their power to achieve the very important goal of delivering the single largest Mass Deportation Program in History.”).

Because DHS's May 13 custody decision necessarily turned on how the agency applied its parole regulations, the APA analysis properly looks to 8 C.F.R. § 212.5(e) as the benchmark of lawfulness for the same agency action already challenged in the petition.

DHS also failed to provide the required notice of its intent to revoke Bolotkanov's parole, despite his consistent compliance with its conditions. Once DHS granted parole, federal regulations made clear that it would terminate only upon its expiration, upon his departure from the United States, or "upon the accomplishment of the purpose for which parole was authorized." 8 C.F.R. §§ 212.5(e)(1), (2)(i).

If none of these conditions is met, parole may be terminated only after written notice of an individualized determination that "neither humanitarian reasons nor public benefit warrants the continued presence of the [noncitizen] in the United States." 8 C.F.R. § 212.5(e)(2)(i) (emphasis added). Respondents satisfied none of these requirements when they detained Bolotkanov on May 13, 2025. DHS gave no advance notice of its intent to revoke his parole. To this day, Petitioner has not received written notice explaining the revocation of his parole.

On this basis alone, his detention violates federal regulations that require individualized, written notice for any parole termination. *See* 8 C.F.R. § 212.5(e)(2)(i).

3. If his parole had expired, Petitioner was entitled to have his re-parole application considered prior to his re-detention.

Even if Petitioner's parole had expired, which he disputes, DHS was obligated to provide him with an opportunity to renew his parole. Because there has been no material change in his circumstances, the decision to re-detain him was arbitrary, capricious, and an abuse of discretion. The evidence shows that Bolotkanov's continued parole serves a significant public interest, as he poses no flight risk and no danger to the community. *See* ICE Parole Directive 11002.1 at ¶ 6.2.

Since receiving parole, Petitioner has complied fully with the legal requirements of his asylum case and has not engaged in any criminal conduct. The only relevant change in his personal circumstances supports renewal of his parole. During his nearly eight years of residence in the United States, he has built strong community relationships, become a father of two U.S. citizen children, complied with all parole conditions, and appeared at every immigration court hearing. Continued parole also provides an important humanitarian benefit because the purpose of his parole, which is to allow him to attend and participate in his removal proceedings and pursue his claim for protection in the United States, has not yet been completed.⁵

⁵ As of October 6, 2025, Petitioner's asylum application is still pending with the USCIS.

IV. CONCLUSION

For the aforementioned reasons, Petitioner's detention is unlawful, and the Court should order Respondents to release Bolotkanov.

Dated: October 6, 2025

/s/ Eli Goldmann

Eli Goldmann
Attorney for Petitioner

Exhibit A

DHS Parole Decision and I-94 granting parole