


**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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PascalY MEDARD (A# )	:
	:
<i>Petitioner,</i>	:
	:
v.	:
	:
John TSOUKARIS, in his official capacity as Newark, NJ	:
Field Office Director, Immigration and Customs	:
Enforcement, Enforcement and Removal Operations;	:
	:
Luis SOTO, in his official capacity as Director, Delaney	:
Hall Detention Facility,	:
	:
Kristi NOEM, in her official capacity	:
as United States Secretary of Homeland Security, and	:
	:
Pamela BONDI, in her official capacity as Attorney	:
General of the United States,	:
	:
<i>Respondents.</i>	:
	:
	X

Case No. 25-15279

**REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS AND
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Petitioner, PascalY Medard (“Petitioner” or “Mr. Medard”), by his undersigned counsel, hereby replies to the Answer filed by Respondents on December 8, 2025, Doc. # 4, within thirty days of the filing of said Answer, as permitted by the Court’s Order to Answer, Doc. # 3 at 3. Although we recognize that inaccuracies in Respondents’ Answer to the initial Petition and Complaint may arguably be moot given the subsequent filing of an Amended Petition and Complaint, Doc. # 5, we believe that it is nonetheless appropriate to address those inaccuracies.

The Answer asserts that Petitioner “entered the United States without inspection in 2024.” Doc. # 4 at 1 (citing Pet. ¶ 11). In actuality, as set out in both the initial Petition and Complaint and the amended Petition and Complaint, Petitioner “arrived in the United States at the Hidalgo,

Texas Port of Entry, on or about September 27, 2024, after making an appointment using the CBP One app.” Doc. # 1, Pet. ¶ 11; Doc. # 5, Amended Pet. ¶ 12. Petitioner was then issued a Notice to Appear placing him in removal proceedings and was paroled into the United States. Doc. # 1, Pet. ¶¶ 12-13; Doc. # 5, Amended Pet. ¶¶ 13-14; Doc. # 5-1, Exhibit A to Amended Pet. (Notice to Appear); Doc. # 5-2, Exhibit B to Amended Pet. (Form I-94 evidencing parole). His parole appears to have been issued subsequent to the Notice to Appear, which mentions his application for admission but does not mention his parole. Doc. # 1, Pet. ¶¶ 12-13; Doc. # 5, Amended Pet. ¶¶ 13-14; Doc. # 5-1, Exhibit A to Amended Pet. (Notice to Appear). His parole was valid until September 26, 2026. *See* Doc. #1, Pet. ¶ 14; Doc. # 5, Amended Pet. ¶ 15; Doc. # 5-2, Exhibit B to Amended Pet. (Form I-94). His parole has never been properly revoked. *See* Doc. # 1, Pet. ¶¶ 19-21, 35-49; Doc. # 5, Amended Pet. ¶¶ 20-22, 53-69. No finding was made in accordance with the statute and regulations that would justify revocation of his parole, he was not provided with notice and an opportunity to respond, and he was not provided with a hearing regarding revocation of his parole. *See* Doc. # 1, Pet. ¶¶ 35-56; Doc. # 5, Amended Pet. ¶¶ 53-80.

Relatedly, the Answer refers to courts having concluded that “[8 U.S.C. §] 1226(a) applies to noncitizens, like Petitioner, who were already present in the country, albeit unlawfully, at the time of their encounter with immigration authorities.” Doc. # 4 at 1-2. Petitioner, unlike the other noncitizens referred to in the Answer, was not present in the country unlawfully at the time of his encounter with immigration authorities. He came to the country after making a lawful appointment with those immigration authorities, and was paroled into the country. *See* Doc. # 1, Pet. ¶ 11; Doc. # 5, Amended Pet. ¶ 12; Doc. # 5-2, Exhibit B to Amended Pet. (Form I-94).

For this reason, a bond hearing under § 1226(a) was not the principal form of relief requested in either the initial Petition or the amended Petition, although a bond hearing under

§ 1226(a) with the burden of proof shifted to the Department of Homeland Security was a form of relief requested in the alternative in the amended Petition, Doc. # 5 at ¶ 91(e). Rather, we have contended and continue to contend that because Petitioner was detained during the period of his valid parole, without termination of his parole in accordance with either the governing statute or the governing regulation, and without being afforded due process of law, Petitioner should be released, and the Court should enjoin Respondents from re-detaining him without first taking the proper procedural steps. *See* Doc. #1, Pet. ¶¶ 35-56, 57(a)-(c); Doc. # 5, Amended Pet. ¶¶ 53-80, 91(a)-(c); *Mata Velasquez v. Kurzdorfer*, 794 F.Supp.3d 128, 144-155 (W.D.N.Y. 2025). In the alternative, if a bond hearing is held following Petitioner's lengthy detention without one, the Department of Homeland Security should bear the burden of proof at such a hearing, because the lack of a hearing for many months was due to a regulation that is unconstitutional as applied to Petitioner. Doc. # 5, Amended Pet. ¶¶ 86-90, 91(d)-(e); *see German Santos v. Warden Pike County Correctional Facility*, 965 F.3d 203, 211-213 (3d Cir. 2020).

This distinction has become particularly important now that, as Respondents will presumably soon update the Court, an ordinary bond hearing was held under § 1226(a) earlier today, January 7, 2026, based on the Court's Text Order of December 31, 2025 (an Order which was, in turn, based on Respondents' factually incorrect Answer). At that hearing, Petitioner was denied bond on the basis that he was purportedly a flight risk.

On the actual facts alleged in the Petition and Amended Petition, as opposed to the incorrect facts asserted in the Answer, the appropriate remedy for Petitioner's unlawful detention despite his valid parole is release from custody, along with a prohibition against re-detention absent appropriate due process. *See O.F.B. v. Maldonado*, ___ F.Supp.3d ___, 25-CV-6336 (HG), 2025 WL 3277677 (S.D.N.Y. Nov. 25, 2025), at *8; *Mata Velasquez*, 794 F.Supp.3d at 147-153; *Rojas*

Acevedo v. Almodovar, 25-cv-7189 (LJL), 2025 WL 3034183 (S.D.N.Y. Oct. 30, 2025), at *5-*8. Or, in the alternative, a bond hearing could be held with the burden shifted to the Department of Homeland Security, as a remedy for Petitioner's prolonged detention without a hearing under an unconstitutional regulation, *see German Santos v. Warden Pike County Correctional Facility*, 965 F.3d 203, 211-213 (3d Cir. 2020); *A.L. v. Oddo*, 761 F.Supp.3d 822, 826 (W.D. Pa. 2025). An ordinary bond hearing might have been appropriate based on the facts asserted in Respondent's Answer, but it is not appropriate based on the facts alleged in the Petition and Amended Petition and demonstrated by Exhibits A and B to the Amended Petition.

Respectfully submitted,

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