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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

H-L-P-F,

Case No.: 6:25-cv-01899-AA

Petitioner,

v.

**RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

**CAMMILLA WAMSLEY;¹ TODD
LYONS; KIRSTI NOEM; PAMELA
BONDI; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT; U.S.
DEPARTMENT OF HOMELAND
SECURITY,**

Respondents.

¹ Cammilla Wamsley is substituted for Drew Bostock pursuant to Federal Rule of Civil Procedure 25(d).

Pursuant to the Court's October 15, 2025 order (ECF 4), Respondents submit this response to the Petition (ECF 1, "Pet.").

To obtain habeas relief, Petitioner must prove that his custody violates the Constitution, laws, or treaties of the United States. 28 U.S.C. § 2241. Petitioner claims, on "information and belief," that the Department of Homeland Security ("DHS") revoked his release from custody and re-detained him without any consideration of his individualized circumstances in violation of the Administrative Procedure Act ("APA") and the Fifth Amendment of the United States Constitution. Petitioner's argument ignores the facts of his case.

In 2024, DHS detained Petitioner and placed him in removal proceedings. DHS then released Petitioner on his own recognizance subject to conditions of release. One of those conditions required Petitioner to notify Immigration and Customs Enforcement ("ICE") and obtain prior written approval before moving to a new address. After Petitioner violated this condition, ICE warned him that another such violation would result in DHS taking him back into custody. A few months later, during the execution of a search warrant for unlawfully possessed firearms, ICE found Petitioner living at the warrant address without approval. Based on Petitioner's violations of his conditions of release, ICE re-detained him.

ICE taking Petitioner back into custody conforms with its broad statutory and regulatory authority to re-detain noncitizens in removal proceedings. The Court should accordingly deny the Petition.

BACKGROUND

A. The Constitution and Federal Statutes Confer Broad Powers on the Executive Branch to Administer the Immigration System

“Control over immigration is a sovereign prerogative.” *El Rescate Legal Servs., Inc. v. Exec. Off. of Immigr. Rev.*, 959 F.2d 742, 750 (9th Cir. 1991). The primary immigration statute, the Immigration and Nationality Act (“INA”), provides the Executive Branch with a comprehensive scheme to administer the immigration system. *See generally* 8 U.S.C. Ch. 12. Among those powers, the President, through the Department of State and DHS, decides which noncitizens may enter and remain in the country. *See* 8 U.S.C. §§ 1103, 1104.

Under the INA, if an applicant for admission seeks admission to the United States without a valid entry document, DHS may charge the alien as inadmissible and initiate removal proceedings against the noncitizen. 8 U.S.C. § 1229a(a)(2). Removal proceedings begin when an immigration officer files the notice to appear with an immigration court, which is part of the Executive Office of Immigration Review at the U.S. Department of Justice. 8 C.F.R. §§ 239.1 (listing which DHS authorities may issue a notice to appear), 1003.14 (establishing that proceedings commence when a notice to appear is filed in immigration court).

B. Noncitizens are Subject to Detention During Removal Proceedings

Under 8 U.S.C. § 1225(b)(2), a noncitizen “who is an applicant for admission” is subject to mandatory detention pending full removal proceedings “if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A)

(requiring that such noncitizens “be detained for a proceeding under section 1229a of this title”); *Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025) (“[F]or aliens arriving in and seeking admission into the United States who are placed directly in full removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention ‘until removal proceedings have concluded.’”) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 299 (2018)). DHS though has the sole discretionary authority to temporarily release on parole “any alien applying for admission to 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); see *Biden v. Texas*, 597 U.S. 785, 806 (2022).

Under 8 U.S.C. § 1226(a), DHS may, in its discretion, detain a noncitizen during his removal proceedings, release him on bond, or release him on conditional parole. By regulation, immigration officers can release a noncitizen if he demonstrates that he “would not pose a danger to property or persons” and “is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8).

DHS “at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.” 8 U.S.C. § 1226(b); see also 8 C.F.R. §§ 236.1(c)(9), 1236.1(c)(9) (“When an alien who, having been arrested and taken into custody, has been released, such release may be revoked at any time in the discretion of the district director [and certain other federal officers] in which event the alien may be taken into physical custody and detained. If detained, unless a breach has occurred, any outstanding bond shall be

revoked and canceled.”). When DHS takes a noncitizen back into custody, the noncitizen can request a custody redetermination (i.e., a bond hearing) by an immigration judge at any time before a final order of removal is issued. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1), 1003.19. At a custody redetermination, the immigration judge may continue detention or release the noncitizen on bond or conditional parole. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d)(1).

C. Factual Background

Petitioner, a native and citizen of Venezuela, entered the United States without a valid entry document on August 1, 2024. Declaration of Jason Weiss (“Weiss Decl.”) ¶ 4. DHS issued Petitioner a Notice to Appear (“NTA”), alleging he was subject to removal under 8 U.S.C. § 1182(a)(7)(A)(i)(I). *Id.*

DHS then released Petitioner from custody on an Order of Recognizance (“OREC”) and instructed him to report to the ICE office in Eugene, Oregon. *Id.* ¶ 5. Petitioner was told to report to the Eugene ICE office based on him providing a residential address in Junction City, Oregon. *Id.* ¶ 6. Petitioner’s OREC conditions of release included a requirement that he not change his place of residence without first notifying and securing written permission from ICE. *Id.* ¶ 7.

On February 25, 2025, Petitioner reported to the ICE office in Eugene, Oregon. At that time, ICE learned that Petitioner had changed his address without notifying and securing written permission. An ICE Supervisory Detention and Deportation Officer advised Petitioner that he had violated his OREC. The officer also warned Petitioner that if he changed his place of residence again without

notifying and securing written permission from ICE that his OREC would be revoked, and he would be taken into custody. *Id.* ¶ 8.

On October 15, 2025, the Federal Bureau of Investigation (“FBI”) executed a search warrant for unlawfully possessed firearms at 1300 Quaker Street, Apartment 25 in Eugene, Oregon. *Id.* ¶ 11. This was not Peittioner’s address of record with ICE. *See id.* ¶ 8. During the execution of the warrant, an ICE officer encountered Petitioner who admitted that he now resides at the warrant address. Petitioner did not notify ICE about, and ICE did not permit, this second change of address. *Id.* ¶ 11.

Due to this subsequent OREC violation and consistent with ICE’s warning that Petitioner would be taken into custody if he again changed his address without permission, Assistant Field Office Director Jeff Chan revoked Petitioner’s OREC. *Id.* ¶ 12. Accordingly, ICE took Petitioner into custody and is detaining him at the Northwest ICE Processing Center in Tacoma, Washington. *Id.* ¶¶ 12, 16; *see also* ECF 5.

ARGUMENT

A. DHS Re-detained Petitioner Based on his Specific Circumstances

Petitioner claims DHS did not consider his individualized circumstances when it decided to re-detain him in violation of the APA. Pet. ¶ 67. Assuming

arguendo DHS was required to consider Petitioner's individualized circumstances,² DHS did so.

Petitioner violated the conditions of his release by changing residential addresses without notifying ICE or receiving written approval. Prior to re-detaining him, ICE warned Petitioner that another such violation would result in the revocation of his OREC and re-detention. During the execution of a search warrant to locate unlawfully possessed firearms, ICE learned that Petitioner yet again changed addresses without notification or prior written approval. Consistent with the warning he had received, and based on his individualized circumstances, ICE revoked Petitioner's OREC and took him into custody. Accordingly, DHS made "a rational connection between the facts found and the choice made" consistent with the requirements of the APA. *Dep't of Comm. v. New York*, 588 U.S. 752, 773 (2019) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

B. DHS Made an Individualized Determination to Re-detain Petitioner

Petitioner also claims "[o]n information and belief" that DHS violated his due process rights because it made "no individualized custody revocation or re-detention decision" for him. Pet. ¶ 80. But as explained above, Assistant Field Office Director

² Petitioner's argument that DHS must consider his individualized circumstances ignores that the statute and regulation authorizing DHS to re-detain noncitizens is broad and contains no such requirement. *See, e.g., Salvador F.-G. v. Noem*, No. 25-cv-0243, 2025 WL 1669356, at *9 (N.D. Okla. June 12, 2025) (finding nothing in the statute or regulation authorizing the revocation of bond or parole to require a change in a noncitizen's circumstances before being re-detained).

Jeff Chan revoked Peititioner's OREC based on Petitioner's OREC violations and warning that another such violation would result in ICE re-detaining him. Weiss Decl. ¶ 12. Given Petitioner's repeated violations of his OREC and changing addresses without providing notice to or receiving approval from ICE, Petitioner posed a flight risk and DHS rationally and appropriately took him back into custody.³

CONCLUSION

The Court should deny the Petition.

Respectfully submitted this 20th day of October 2025.

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/s/ Patrick J. Conti
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³ Petitioner also alleges two additional claims based on "information and belief" that he is now in expedited removal proceedings. Pet. ¶¶ 61, 72. Petitioner's full removal proceedings under 8 U.S.C. § 1229a remain active, and he makes no showing to the contrary or that he has in fact been placed in expedited removal proceedings. Accordingly, his claims regarding expedited removal proceedings are unsubstantiated and unripe, and Petitioner otherwise lacks standing to assert those claims.