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10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 JAMEURAHMAN NOORI,  
13  
14 Petitioner,

15 v.

16 CHRISTOPHER LAROSE, warden of  
17 Otay Mesa Detention Center  
18 SIDNEY AKI, San Diego Field Office  
19 Director, Immigration and Customs  
20 Enforcement and Removal Operations  
21 (“ICE/ERO”);  
22 TODD LYONS, Acting Director of  
23 Immigration Customs Enforcement  
24 (“ICE”);  
25 KRISTI NOEM, Secretary of the  
26 Department of Homeland Security  
27 (“DHS”);  
28 PAMELA BONDI, Attorney General of  
the United States,  
U.S. DEPARTMENT OF HOMELAND  
SECURITY;  
U.S. IMMIGRATION AND CUSTOMS  
ENFORCEMENT;  
Respondents.

Case No.: 3:25-cv-03006-BAS-MMP

PETITIONER’S REPLY TO  
RESPONSE

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**INTRODUCTION**

1  
2 Jameurahman Noori is a citizen of Afghanistan who, through the CBP One  
3 application, was invited into the United States and was granted humanitarian  
4 parole on June 17, 2024 to seek asylum in the United States. ECF 1-2 p.2. He  
5 was also issued an NTA upon his entry which commenced removal proceedings.  
6 However, on December 12, 2024, those removal proceedings were dismissed by  
7 IJ Grande with the expressed intention that Mr. Noori file his asylum application  
8 affirmatively with USCIS. ECF 4-2 p.7. But despite complying with all his check-  
9 in requirements and submitting his affirmative asylum application, Mr. Noori was  
10 detained at Camp Pendleton late in the evening on October 3, 2025 while he was  
11 lawfully working as an Uber driver. He was held there for at least three and a half  
12 hours without cause. On October 4, 2025 at approximately 0330 hours and  
13 without any notice or explanation, ICE ignored his parole status and took him into  
14 custody. ECF 4-2 p. 11. He was held in the downtown San Diego facility for two  
15 days without charge and still without revocation of his parole status, and was then  
16 transferred to the Otay Mesa Detention Facility. Two days after his arrest, on  
17 October 6, 2025 he was placed in removal proceedings by issuing a new NTA  
18 before an immigration judge, thereby terminating his affirmative asylum  
19 proceedings previously filed with USCIS. ECF 4-2 p.16.

20 Mr. Noori filed a habeas petition on November 5, 2025 to contest his  
21 unlawful arrest and detention on October 4, 2025. His arrest was unlawful for  
22 being made without cause in violation of the Fourth Amendment to the  
23 Constitution. His arrest and detention are unlawful as they occurred without due  
24 process guaranteed by the Fifth Amendment to the Constitution and because they  
25 violate the Administrative Procedures Act and for other reasons as set out more  
26 fully below.

27 First, this Court has jurisdiction to consider the claims asserted in  
28 Mr. Noori's habeas petition, for three reasons. First, Mr. Noori's claims are

1 inextricably intertwined with the government’s authority to detain him, which this  
2 Court has jurisdiction to review. Second, this Court has jurisdiction to consider  
3 whether the agency has complied with due process and its mandatory,  
4 nondiscretionary duties. Finally, even if Mr. Noori’s claims *were* precluded by the  
5 Immigration and Nationality Act, which they are not, this Court could review  
6 them under the Suspension Clause. Thus, no jurisdictional bars prevent this Court  
7 from reviewing Mr. Noori’s claims.

8 Mr. Noori’s claims also succeed on the merits. While it is unclear whether  
9 the government has formally revoked Mr. Noori’s humanitarian parole, the  
10 government’s actions are unlawful regardless. If the agency did not revoke his  
11 parole, then it violated that parole by detaining him. And if the agency *did* revoke  
12 his parole, then it did so in violation of the statute and regulations, which require  
13 written notification and a determination that the purposes of the parole have been  
14 served. Either way, the agency’s actions violated the Administrative Procedures  
15 Act and procedural due process. Thus, this Court should order the release of Mr.  
16 Noori, bar his re-detention without further order of this court, bar his removal  
17 from this district and reinstate his humanitarian parole status.

18 The agency’s termination of Mr. Noori’s affirmative asylum process also  
19 violated the Administrative Procedures Act and procedural due process because  
20 the agency provided no notice, explanation, or reasons for its decision. Nor can it,  
21 because Mr. Noori complied with all the agency’s requirements by attending all  
22 his check-in appointments, submitting a timely asylum application, and  
23 committing no crimes. Thus, this Court should order the government to reinstate  
24 Mr. Noori’s humanitarian parole and his affirmative asylum application process  
25 before USCIS.

26  
27  
28

1 **STATEMENT OF FACTS**

2 **I. Mr. Noori does not contest the government’s authority to initiate**  
3 **removal proceedings.**

4 The government’s first argument against the petition is that his claim is  
5 barred because he contests the government’s right to initiate removal proceedings.  
6 This completely misstates the argument. Mr. Noori does not contest the  
7 government’s ability to initiate removal proceedings. Mr. Noori contends that his  
8 detention was unlawful at its commencement. He was paroled into the United  
9 States so was here lawfully for the duration of his parole or until such time that  
10 his parole had expired or his parole had been properly revoked. Neither of those  
11 conditions had been met when he was held without cause by the Military Police  
12 on Camp Pendleton nor when ICE arrived and took him into custody on October  
13 4, 2025.

14 The government completely dismisses this unlawful arrest and detention on  
15 October 4, 2025. The government’s contention seems to be that whatever  
16 happened on October 4, 2025 doesn’t matter because on October 6, 2025, with the  
17 filing of a new NTA, Mr. Noori’s parole was now revoked, he was now in  
18 removal and his detention is now lawful. Mr. Noori does not contend that the  
19 government didn’t have the right to initiate removal proceedings again on October  
20 6, 2024. Mr. Noori contends that when the government did file a new NTA, this  
21 didn’t somehow magically make their unlawful arrest, detention, revocation of  
22 parole and cancellation of his affirmative asylum application lawful.

23 **II. Mr. Noori was paroled into the United States and allowed to**  
24 **affirmatively apply for asylum through USCIS.**

25 When Mr. Noori presented themselves at the San Ysidro port of entry on  
26 June 17, 2024, he was granted “DT” humanitarian parole under 8 U.S.C. §  
27 1182(d)(5) and issued an I-94 that permitted them to remain in the United States  
28

1 until June 16, 2024. *See* ECF 1, Exh. A, I-94. He was also issued a Notice to  
2 Appear and placed in removal proceedings. *See* ECF 4-2, p. 2. But several months  
3 later, IJ Grande dismissed his removal proceedings to allow Mr. Noori to file an  
4 affirmative asylum claim with USCIS. *See* ECF 4-2 p. 7, Order Granting Motion  
5 to Dismiss.

6 Terminating Mr. Noori’s removal proceedings allowed him to file his  
7 asylum application “affirmatively” through the United States Citizenship and  
8 Immigration Services (USCIS), rather than “defensively” through removal  
9 proceedings. During this affirmative asylum process, an asylum officer “meets  
10 informally with the applicant, considers the documents presented with the asylum  
11 application, then decides whether asylum should be granted or whether the matter  
12 should be referred to an [immigration judge] for formal adjudication.” *Barahona-*  
13 *Gomez v. Reno*, 236 F.3d 1115, 1120 (9th Cir. 2001) (citing 8 C.F.R. § 208.2(a);  
14 § 208.14(b)(2)). So individuals who file affirmatively through USCIS are not  
15 detained, go through a non-adversarial interview process, and are able to obtain  
16 work authorization. *See* 8 C.F.R. § 208.7(a)(1); 8 C.F.R. § 274a.12(c)(11).

17 After his immigration court proceedings were terminated, Mr. Noori  
18 complied with all his check-in requirements and submitted his asylum application  
19 to USCIS on January 13, 2025 but is accorded the filing date of 11/12/2024 as this  
20 was the original filing date of his application with EOIR. *See* ECF 1, Exhibit B  
21 Asylum Receipt. USCIS sent him an acknowledgement of receipt of the  
22 application stating, “You may remain in the United States until your asylum  
23 application is decided.” *Id.* Several months later, USCIS issued Mr. Noori a work  
24 authorization permit pursuant to 8 C.F.R. § 274a.12(c)(11). All that remained was  
25 for Mr. Noori to attend his interview.

26 **III. While making an Uber delivery to Camp Pendleton, Mr. Noori is**  
27 **arrested, turned over to ICE, and placed in removal proceedings with**  
28 **no notice or explanation.**

Using his lawful work authorization, Mr. Noori began working as an Uber

1 driver. On October 3, 2025, Mr. Noori was attempting to make a delivery at Camp  
2 Pendleton Marine Base. When he approached the gate, he presented his lawfully  
3 obtained driver's license.

4 The military official at the gate instructed Mr. Noori to move over to the  
5 side of the lane. Suddenly, the Military Police arrived and blocked his car so he  
6 could not leave. Mr. Noori asked several times if he was free to go but was told he  
7 could not. He presented proof of his work authorization and proof of his pending  
8 asylum application with USCIS, which were ignored. Military personnel detained  
9 Mr. Noori for three and a half hours without explaining what law he had broken  
10 or what authority they had to arrest him.

11 After almost four hours, ICE officials arrived. They did not have a warrant  
12 for his arrest. They did not explain what law he had violated. They did not allege  
13 that he had violated the conditions of his parole or that his parole was being  
14 revoked. Instead, they handcuffed Mr. Noori and transported him to the ICE  
15 facility in downtown San Diego before eventually taking him to the Otay Mesa  
16 Detention Center. *See* ECF 4-2 p. 10, I-213 Record of Deportable/Inadmissible  
17 Alien, October 6, 2025.

18 Two days *after* Mr. Noori was arrested, ICE issued a Notice to Appear  
19 placing Mr. Noori in removal proceedings. *See* ECF 4-2 p., Notice to Appear.  
20 This stripped USCIS of authority to proceed with his affirmative asylum  
21 application.

#### 22 LEGAL ANALYSIS

23 In his habeas petition, Mr. Noori challenges the detention that violated his  
24 humanitarian parole and the agency's actions of cancelling his USCIS asylum  
25 proceedings and placing him in removal proceedings before an immigration  
26 judge. There are two pertinent legal questions in this analysis: 1) whether the  
27 Court has jurisdiction to consider these claims; and 2) whether these claims  
28 succeed on the merits. The answer to both is yes.

1 **I. This Court has jurisdiction to consider Mr. Noori’s claims.**

2 In cases raising similar claims, the government has argued that this Court  
3 lacks jurisdiction to consider or grant relief under 8 U.S.C. §§ 1252(g) and  
4 1252(b)(9). This argument fails here for at least three independent reasons. First,  
5 Mr. Noori’s claims are inextricably intertwined with the government’s authority  
6 to detain him, which this Court has jurisdiction to consider. Second, this Court has  
7 jurisdiction to review whether the agency has complied with due process and its  
8 mandatory, nondiscretionary duties. Finally, even if Mr. Noori’s claims *were*  
9 precluded by the statute, which they are not, this Court could review them under  
10 the Suspension Clause.

11 **A. Mr. Noori’s claims challenge the government’s authority to**  
12 **detain him.**

13 Courts have jurisdiction to “decide a purely legal question that does not  
14 challenge the Attorney General’s discretionary authority.” *Ibarra-Perez v. United*  
15 *States*, 154 F.4th 989, 996 (9th Cir. 2025) (quotations omitted). In *Ibarra-Perez*,  
16 the Ninth Circuit squarely held that “§ 1252(g) does not prohibit challenges to  
17 unlawful practices merely because they are in some fashion connected to removal  
18 orders.” *Id.* at 997. Accordingly, the question is whether Mr. Noori’s claims  
19 “challenge the Attorney General’s discretionary authority.” *Id.* at 996.

20 They do not. First, Mr. Noori’s claims relate to the government’s authority  
21 to detain him, and courts have widely held that review of issues related to  
22 detention is not barred by § 1252(g) or (b)(9). *See, e.g., Flores–Torres v.*  
23 *Mukasey*, 548 F.3d 708, 711 (9th Cir. 2008) (holding that habeas jurisdiction  
24 exists to review a challenge to immigration detention based on a citizenship  
25 claim); *Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023) (holding that  
26 “assertions of illegal detention [were] plainly collateral to ICE’s prosecutorial  
27 decision to execute [a detainee’s removal]” and thus not subject to § 1252’s  
28 jurisdictional bars); *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000)

1 (“[S]ection 1252(g) does not bar courts from reviewing an alien detention  
2 order[.]”); *Parra v. Perryman*, 172 F.3d 954, 957 (7th Cir. 1999) (§ 1252(g) did  
3 not apply to a “claim concern[ing] detention”). To undersigned counsel’s  
4 knowledge, every judge in this district has held that it has jurisdiction to consider  
5 claims that an individual is unlawfully detained.

6 Importantly, all of the claims Mr. Noori asserts in his habeas petition relate  
7 to the government’s authority to detain him. In his habeas, Mr. Noori’s asks this  
8 Court to find that “the denial of petitioner’s affirmative asylum claim *by detaining*  
9 *him* and commencing new [INA] 240 removal proceedings” violated procedural  
10 due process and the Administrative Procedures Act. As this claim suggests, the  
11 government’s cancellation of USCIS proceedings and commencement of removal  
12 proceedings is inextricably intertwined with its authority to detain him, for two  
13 reasons.

14 *First*, the government paroled Mr. Noori into the United States through the  
15 CBP One App to allow him to apply for asylum. EFC 1 Exh. A, I-94. Mr. Noori’s  
16 I-94 states that this parole does not expire until June 16, 2026. *See id.* The  
17 government never claimed before his detention that it revoked this parole, nor has  
18 it provided evidence that it was revoked. Yet ICE detained Mr. Noori as though it  
19 *had* been revoked.

20 Importantly, a person shall only be “returned to the custody from which he  
21 was paroled” when “the purposes of such parole . . . have been served.” 8 U.S.C.  
22 § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e) (parole may only be terminated  
23 “upon accomplishment of the purpose for which parole was authorized”); *Y-Z-L-*  
24 *H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at \*12 (D. Or. July 9,  
25 2025) (noncitizen should not be returned to custody unless the purposes of the  
26 parole have been served). Additionally, parole shall only be “terminated upon  
27 written notice to the alien.” 8 C.F.R. § 212.5(e)(2)(i). So under the statute and the  
28 regulations, parole revocation (and thus the noncitizen’s re-detention) only occurs

1 when the parole’s purpose is served and the noncitizen receives written notice of  
2 the revocation.

3 Here, neither occurred. Mr. Noori was paroled into the United States to  
4 apply for asylum, and “the purposes of such parole” have not yet “been served”  
5 because his asylum claim has not been adjudicated through either through an  
6 affirmative or a defensive proceeding. 8 U.S.C. § 1182(d)(5)(A). Moreover, there  
7 is no indication that Mr. Noori’s parole has been revoked, nor has he received any  
8 written notification of a revocation, as the regulations require. 8 C.F.R.  
9 § 212.5(e). So by placing Mr. Noori in removal proceedings, where he can be—  
10 and in fact, *was*—detained, the government violated its own parole order, in  
11 violation of statutory and regulatory authority.

12 While it remains unclear whether the government has formally revoked  
13 Mr. Noori’s parole, this Court retains jurisdiction regardless. If the agency did not  
14 revoke his parole, then his detention in October 2025 violated the agency’s own  
15 parole decision. And if the agency *did* revoke his parole, then it did so in violation  
16 of the statute and regulations, which require written notification and a  
17 determination that “purposes of such parole have been served.” 8 U.S.C.  
18 § 1182(d)(5)(A); 8 C.F.R. § 212.5(e)(2)(i). Either way, this Court has jurisdiction  
19 to review the status of Mr. Noori’s parole and the government’s authority to  
20 detain him.

21 *Second*, the termination of Mr. Noori’s USCIS proceedings and his  
22 placement in proceedings before an immigration judge subjected him to detention  
23 under 8 U.S.C. § 1226, which governs custody determinations in removal  
24 proceedings. And under § 1226(b), an immigration judge “may revoke” a grant of  
25 parole without following the procedural protections of 8 C.F.R. § 212.5(e)(2)(i).  
26 Importantly, the Board of Immigration Appeals’ recent decision in *Matter of*  
27 *Yahure Hurtado*, 29 I&N Dec. 216 (BIA 2025), requires immigration judges to  
28 hold that individuals in removal proceedings charged with the grounds of

1 inadmissibility (such as Mr. Noori) are subject to mandatory detention and  
2 ineligible for bond. In other words, the agency’s termination of USCIS  
3 proceedings and initiation of immigration court proceedings meant that an  
4 immigration judge could 1) revoke Mr. Noori’s parole, and 2) declare that he was  
5 subject to mandatory detention under *Yahure Hurtado*. Thus, Mr. Noori’s  
6 substantive claims cannot be divorced from the question of his detention.

7 In sum, the cancellation of Mr. Noori’s USCIS asylum proceedings affected  
8 the government’s authority to detain him by 1) effectively revoking his parole, in  
9 violation of the statute and regulations, and 2) subjecting him to mandatory  
10 detention. The Supreme Court recently clarified that when petitioners’ claims for  
11 relief “necessarily imply the invalidity of their confinement and removal,” such  
12 claims “fall within the core of the writ of habeas corpus.” *Trump v. J. G. G.*, 672  
13 (2025) (quotations omitted). Because the government’s authority to detain Mr.  
14 Noori is thus inextricably intertwined with the claims in his habeas petition, this  
15 Court has jurisdiction to consider them.

16 **B. This Court has jurisdiction to consider claims alleging that the**  
17 **government failed to comply with its mandatory duties and due**  
18 **process.**

19 Even if Mr. Noori’s claims were *not* inextricably intertwined with the  
20 government’s authority to detain him, they would still not be jurisdictionally  
21 barred. That is because the jurisdictional bars of § 1252 do not bar review of  
22 claims that ICE is “failing to carry out non-discretionary statutory duties and  
23 provide due process.” *J.R. v. Bostock*, No. 2:25-CV-01161-JNW, 2025 WL  
24 1810210, at \*3 (W.D. Wash. June 30, 2025); *see also D.V.D. v. U.S. Dep’t of*  
25 *Homeland Sec.*, 778 F. Supp. 3d 355, 377–78 (D. Mass. 2025) (§ 1252(g) did not  
26 bar review of “the purely legal question of whether the Constitution and relevant  
27 statutes require notice and an opportunity to be heard”).

28 That is precisely what Judge Curiel recently held in a similar case. In *Sayed*  
*Nasser Noori v. Larose*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at \*1

1 (S.D. Cal. Oct. 1, 2025) (no relation to the petitioner), the petitioner was (like this  
2 Mr. Noori) an asylum seeker from Afghanistan who “presented himself at the  
3 U.S. Port of Entry in San Ysidro, California and applied for admission with a  
4 CBP One application.” Immigration officials “paroled him into the United States”  
5 under the same type of “DT” humanitarian parole as Mr. Noori. *Id.* But after the  
6 government cancelled the petitioner’s removal proceedings and placed him in  
7 expedited removal, he filed a habeas petition, and the government argued that §§  
8 1252(g) and (b)(9) stripped the court of jurisdiction to hear his claims. *Id.* at \*5.

9 Nevertheless, Judge Curiel found that he had jurisdiction to hear the claims,  
10 noting that “Petitioner does not challenge the decision to commence proceedings.”  
11 *Id.* at \*6. Instead, “Petitioner challenges the legality of the revocation of  
12 humanitarian parole in violation of the law and dismissal of ongoing removal  
13 proceedings without due process.” *Id.* So even assuming the agency’s revocation  
14 of parole “constitutes a decision or action to adjudicate cases,” that action is not  
15 “in the discretion” of the agency under § 1252(g) where it was “not performed in  
16 accordance with the mandatory procedures.” *Id.* (quoting *Sharkey v. Quarantillo*,  
17 541 F.3d 75, 86 (2d Cir. 2008) (alterations omitted)).

18 Other courts have held the same. In *Dep’t of Homeland Sec. v. Regents of*  
19 *the Univ. of California*, 140 S. Ct. 1891, 1907 (2020), the Supreme Court held  
20 that § 1252(b)(9) “does not present a jurisdictional bar” where those bringing suit  
21 “are not asking for review of an order of removal,” “the decision to seek  
22 removal,” or “the process by which removability will be determined.” (quotations  
23 and alterations omitted). And in *Vasquez Garcia v. Noem*, 25-cv-02180-DMS-  
24 MMP, 2025 WL 2549431, Dkt. 7 at \*8 (S.D. Cal. Sept. 3, 2025), Judge Sabraw  
25 held that “§ 1252(g) does not limit the Court’s jurisdiction in the present case”  
26 because the petitioners were “enforcing their constitutional rights to due process  
27 in the context of the removal proceedings—not the legitimacy of the removal  
28 proceedings or any removal order.”

1 Here, Mr. Noori similarly challenges the legality of the government’s  
2 arbitrary decision to cancel his USCIS asylum process and place him in  
3 proceedings before an immigration judge without notice, an opportunity to be  
4 heard, or any justification. Because these actions were “not performed in  
5 accordance with the mandatory procedures,” they were not undertaken “in the  
6 discretion” of the agency. *Noori*, 2025 WL 2800149, at \*6; *see also United States*  
7 *ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265–68 (1954) (holding that  
8 agencies must adhere to their own binding regulations, both substantively and  
9 procedurally). Accordingly, this Court is not jurisdictionally barred from  
10 reviewing them.

11 **C. Mr. Noori’s claims do not fall within the plain language of § 1252**  
12 **and if they did, the statute would violate the Suspension Clause**  
13 **and Due Process.**

14 Finally, Mr. Noori’s claims do not fall within the plain language of the  
15 § 1252(g) and § 1252(b)(9) jurisdictional bars. And even if they did, this Court  
16 could still review them under the Suspension Clause.

17 Section 1252(g) precludes judicial review of an agency decision to  
18 “commence proceedings, adjudicate cases, or execute removal orders.” “The  
19 Supreme Court has instructed that we should read § 1252(g) narrowly.” *Ibarra-*  
20 *Perez v. United States*, 154 F.4th 989, 991 (9th Cir. 2025) (citing *Reno v. Am.-*  
21 *Arab Anti-Discrimination Comm. (AADAC)*, 525 U.S. 471, 487 (1999); *Dep’t of*  
22 *Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020). That is  
23 because, as a general matter, establishing unreviewability is a “heavy burden,”  
24 and “where substantial doubt about the congressional intent exists, the general  
25 presumption favoring judicial review of administrative action is controlling.”  
26 *Block v. Cmty. Nutrition Inst.*, 467 U.S. 340, 351 (1984).

27 Here, Mr. Noori’s challenge does not fall within any of the three categories  
28 of § 1252(g). He does not challenge the agency’s decision to “commence

1 proceedings” under § 1252(g) because his asylum proceedings had already  
2 “commenced” before USCIS. Nor does he challenge the agency’s decision to  
3 “adjudicate” his case—only the arbitrary decision to switch from one adjudicator  
4 (USCIS) to another (immigration court) mid-stream. And Mr. Noori could not  
5 challenge the agency’s ability to “execute [his] removal order” given that he  
6 doesn’t have one. Reading § 1252(g) “narrowly,” *Ibarra-Perez*, 154 F.4th at 991,  
7 thus shows that Mr. Noori’s claims do not fall within any of these three  
8 categories.

9 The same is true of § 1252(b)(9). This section bars “[j]udicial review of all  
10 questions of law and fact, including interpretation and application of  
11 constitutional and statutory provisions, arising from any action taken or  
12 proceeding brought to remove an alien from the United States[.]” 8 U.S.C.  
13 § 1252(b)(9). But the Ninth Circuit holds that this statute, by its plain language,  
14 applies only to “judicial review of an order of removal” and does not eliminate the  
15 ability of a court to review claims that are “independent of challenges to removal  
16 orders.” *Singh v. Gonzales*, 499 F.3d 969, 978 (9th Cir. 2007) (quotations  
17 omitted). Rather, § 1252(b)(9) was designed to limit noncitizens to “one bite of  
18 the apple with regard to challenging an order of removal,” precluding, for  
19 instance, claims that the BIA erred in finding an individual “ineligible for asylum,  
20 withholding of removal, and relief under the [Convention Against Torture].”  
21 *Martinez v. Napolitano*, 704 F.3d 620, 622–23 (9th Cir. 2012). Thus, determining  
22 jurisdiction under § 1252 “requires a case-by-case inquiry turning on a practical  
23 analysis” of the noncitizen’s circumstances. *Singh v. Holder*, 638 F.3d 1196, 1211  
24 (9th Cir. 2011).

25 Here, Mr. Noori does not challenge any decision that the BIA or a circuit  
26 court could review as part of a final order of removal. Nor could he, since the  
27 agency has yet to issue a decision regarding his removal. Rather, he seeks review  
28 of the agency’s parole revocation and termination of his USCIS asylum

1 proceedings, which do not relate to the substance of his removal proceedings.  
2 Thus, neither provision in § 1252 strips this Court of jurisdiction to hear his  
3 claims.

4 But even if the government’s expansive reading of § 1252 *were* correct, this  
5 Court could still hear Mr. Noori’s claims under the Suspension Clause. Under the  
6 Suspension Clause, “[t]he Privilege of the Writ of Habeas Corpus shall not be  
7 suspended, unless when in Cases of Rebellion or Invasion the public Safety may  
8 require it.” U.S. Const. Art. I ¶ 9, cl. 2. Courts have held that even when  
9 “Congress intended to strip all courts of jurisdiction over [a petitioner’s] claim,  
10 the Suspension Clause of the Constitution nonetheless requires that [he] may  
11 bring his challenge through the writ of habeas corpus.” *Ragbir v. Homan*, 923  
12 F.3d 53, 57–58 (2d Cir. 2019), *cert. granted, judgment vacated sub nom. Pham v.*  
13 *Ragbir*, 141 S. Ct. 227 (2020). In determining the reach of the Suspension Clause,  
14 courts are required to consider “(1) the citizenship and status of the detainee and  
15 the adequacy of the process through which that status determination was made;  
16 (2) the nature of the sites where apprehension and then detention took place; and  
17 (3) the practical obstacles inherent in resolving the prisoner’s entitlement to the  
18 writ.” *Boumediene v. Bush*, 553 U.S. 723, 766 (2008).

19 In *Noori*, Judge Curiel applied these factors to hold that review was also  
20 available under the Suspension Clause. *See* 2025 WL 2800149, at \*9. Judge  
21 Curiel explained that “although Petitioner is not a citizen, he was paroled into the  
22 United States upon a finding that he was not a flight risk or a danger to the  
23 community,” and has “remained here for more than a year,” “received a work  
24 authorization,” and “developed ties to the community.” *Id.* Judge Curiel also  
25 noted that the petitioner was “apprehended and detained within the United  
26 States,” and there was “no evidence that Petitioner is a danger to the community  
27 or a flight risk—in fact, Respondents decided to parole Petitioner when he arrived  
28 without ties to the community after determining that he did not have any criminal

1 history and then approved a work authorization.” *Id.* Judge Curiel thus concluded  
2 that “even if Section 1252 precluded the Court from reviewing Respondents’  
3 decision to terminate Petitioner’s parole and detain him, the Court would have  
4 jurisdiction to review this decision under the Suspension Clause.” *Id.*

5 Here, the facts in Mr. Noori’s case are materially identical to those in  
6 *Noori*. Mr. Noori was “paroled into the United States upon a finding that he was  
7 not a flight risk or a danger to the community,” has “remained here for more than  
8 a year,” “received a work authorization,” and “developed ties to the community.”  
9 *Id.* Thus, as in *Noori*, the *Boumediene* factors weigh in his favor, and at a  
10 minimum, this Court has jurisdiction to review his claims under the Suspension  
11 Clause.

12 **II. On the merits, the government’s actions violated the Administrative  
Procedures Act and due process.**

13 Moving to the merits, Mr. Noori presents two claims. First, he argues that  
14 the agency’s effective revocation of his parole violated the Administrative  
15 Procedures Act and procedural due process. Second, he argues that the agency’s  
16 termination of his affirmative asylum proceedings before USCIS also violated the  
17 Administrative Procedures Act and procedural due process.

18 **A. Revoking Mr. Noori’s parole and subjecting him to detention  
19 violates the Administrative Procedures Act and Due Process.**

20 As recounted above, the government paroled Mr. Noori into the United  
21 States through the CBP One App to allow him to apply for asylum. ECF 1, Exh.  
22 A, I-94. According to Mr. Noori’s I-94, this parole did not expire until June 16,  
23 2026. *Id.* But when ICE detained Mr. Noori on October 4, 2025, it did not say  
24 whether it was revoking his parole or not. Either way, the government’s actions  
25 violate the Administrative Procedures Act and Due Process.

26 **1. The government’s actions violated the Administrative  
27 Procedures Act.**

28 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

1 otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). An action is an  
2 abuse of discretion if the agency “entirely failed to consider an important aspect  
3 of the problem, offered an explanation for its decision that runs counter to the  
4 evidence before the agency, or is so implausible that it could not be ascribed to a  
5 difference in view or the product of agency expertise.” *Nat’l Ass’n of Home*  
6 *Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle*  
7 *Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43  
8 (1983)). For a challenged agency action to be upheld, the agency “must explain  
9 the evidence which is available, and must offer a rational connection between the  
10 facts found and the choice made.” *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983)  
11 (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United*  
12 *States*, 371 U.S. 156, 168 (1962)).

13 Here, regardless of whether the agency formally revoked Mr. Noori’s  
14 parole or not, it violated the APA. If the agency did *not* revoke his parole, then it  
15 inexplicably violated its own parole decision by detaining Mr. Noori in October  
16 2025—eight months before his parole was set to expire on June 16, 2026. *See*  
17 *Exh. A, I-94*. Doing so violated the APA because the agency did not “offer a  
18 rational connection between the facts found and the choice made”—i.e., the fact  
19 that Mr. Noori was still on parole, yet the agency decided to detain him. *Motor*  
20 *Vehicle Mfrs*, 463 U.S. at 52. And nothing suggests that there *was* a “rational”  
21 reason for this choice, given that Mr. Noori had filed an asylum application,  
22 complied with all the conditions of his parole, and had no criminal history. This  
23 was the epitome of an “arbitrary” and “capricious” act under the APA. 5 U.S.C. §  
24 706(2)(A).

25 But assuming the agency *had* revoked his parole, it also violated the APA.  
26 As explained, a person shall only be “returned to the custody from which he was  
27 paroled” when “the purposes of such parole . . . have been served.” 8 U.S.C.  
28 § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be

1 terminated “upon accomplishment of the purpose for which parole was  
2 authorized”); *Y-Z-L-H*, 2025 WL 1898025, at \*12 (same). Alternatively, the  
3 regulations permit revocation of parole when “neither humanitarian reasons nor  
4 public benefit warrants the [noncitizen’s] continued presence.” 8 C.F.R.  
5 § 212.5(e)(2)(i). But under either scenario, parole shall only be “terminated upon  
6 written notice to the alien.” 8 C.F.R. § 212.5(e)(2)(i). So under the statute and the  
7 regulations, the agency may only revoke parole and re-detain a noncitizen when  
8 the parole’s purpose is served or no humanitarian reasons warrant it *and* the  
9 noncitizen receives written notice.

10 None of this occurred here. Because “the purpose[ ] of [Mr. Noori’s]  
11 parole” was to allow him to apply for asylum, that purpose has not yet “been  
12 served” because his asylum claim has not been adjudicated through either an  
13 affirmative or a defensive proceeding. 8 U.S.C. § 1182(d)(5)(A). Moreover, the  
14 “humanitarian reasons” for Mr. Noori’s parole—to allow an Afghan with  
15 attachments of the pre-August 2021 government to seek asylum protection from  
16 the Taliban—have not changed. 8 C.F.R. § 212.5(e)(2)(i). What’s more,  
17 Mr. Noori never received any written notification of a revocation under 8 C.F.R. §  
18 212.5(e). So if the agency revoked his parole, this decision violated both the  
19 statute and the regulation and was “not in accordance with law” under the APA. 5  
20 U.S.C. § 706(2)(A).

21 That is precisely what Judge Curiel concluded in *Noori*, 2025 WL 2800149,  
22 at \*13. Relying on the same authority cited above, *Noori* concluded that “to meet  
23 statutory and regulatory requirements, revocation should only occur when (1) the  
24 parole’s purpose is served or (2) when humanitarian reasons and public benefit  
25 are no longer warranted, and the noncitizen is provided written notice.” *Id.* The  
26 first requirement was not met because the petitioner “applied for asylum and was  
27 still in the middle of those proceedings when Respondents issued and executed  
28 the revocation.” *Id.* And even though the petitioner was provided a “generic

1 notification” of his revocation, the second requirement was not met because  
2 “humanitarian reasons still warrant the Petitioner’s presence in the country.” *Id.*  
3 At a minimum, Judge Curiel held, parole revocation “requires an individualized  
4 determination,” which the government had not provided because it failed to  
5 explain “why the Petitioner would now be considered a flight risk or danger to the  
6 community.” *Id.*

7 Here, as in *Noori*, the government failed to meet the statutory and  
8 regulatory requirements for parole revocation. In fact, the government here did  
9 not even provide Mr. Noori a “generic notification” of revocation, as it did in  
10 *Noori*. *Id.* Thus, the government here “has acted arbitrarily and capriciously in  
11 violation of the APA.” *Id.*

12 **2. The government’s actions violated procedural due process.**

13 Not only did the government’s effective revocation of parole violate the  
14 APA, it also violated procedural due process. The Fifth Amendment guarantees  
15 that “[n]o person shall be ... deprived of life, liberty, or property, without due  
16 process of law.” U.S. Const. amend. V. To determine a violation of procedural  
17 due process, courts weigh the traditional factors of (1) the private interest at issue,  
18 (2) the risk of erroneous deprivation of that interest through the procedures used,  
19 and (3) the government’s interest. *Mathews v. Eldridge*, 424 U.S. 319, 334–35  
20 (1976). Here, these factors easily weigh in Mr. Noori’s favor.

21 First, the private interest at issue is Mr. Noori’s deprivation of liberty—i.e.,  
22 remaining on parole, rather than being detained. *See Morrissey v. Brewer*, 408  
23 U.S. 471, 482-483 (1972); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001)  
24 (“Freedom from imprisonment—from government custody, detention, or other  
25 forms of physical restraint—lies at the heart of the liberty that [the Due Process]  
26 Clause protects.”). Not only is Mr. Noori’s general liberty interest substantial, he  
27 has an added interest in remaining out of custody so he can work with his attorney  
28 to prepare his asylum case. What’s more, Mr. Noori’s work authorization is

1 contingent on his parole status, and revocation of his parole will directly impact  
2 his ability to provide for himself and his family. Thus, the first factor weighs  
3 heavily in Mr. Noori’s favor.

4 Second, the procedures the agency used to determine whether to revoke  
5 Mr. Noori’s parole presented a high risk of erroneous deprivation of liberty. To  
6 date, the agency’s actions surrounding Mr. Noori’s parole have completely failed  
7 to comply with the statute, the regulations, and even the agency’s own decision.  
8 After granting Mr. Noori humanitarian parole in June 2024, the agency  
9 inexplicably revoked this parole eight months before it expired. ECF 1, Exh. A, I-  
10 94. It did so even though Mr. Noori had attended all his check-in appointments,  
11 had no criminal history, and had timely filed an asylum application. ECF 1, Exh.  
12 B, Asylum Receipt. The agency did not claim that “the purposes of such parole . .  
13 . have been served,” 8 U.S.C. § 1182(d)(5)(A), nor that the “humanitarian  
14 reasons” for his parole no longer existed, 8 C.F.R. § 212.5(e)(2)(i). Because  
15 consideration of any of these factors should have led to a different result, the risk  
16 of erroneous deprivation of Mr. Noori’s parole without these procedures was  
17 high, and this factor weighs heavily in his favor.

18 Finally, any government interest in revoking Mr. Noori’s parole is minimal.  
19 Mr. Noori has complied with all his check-in requirements, has no criminal  
20 history, has timely applied for asylum, and does not represent a danger or a flight  
21 risk. All the government need do is comply with its *own decision* to grant Mr.  
22 Noori parole until at least June 16, 2026. Thus, the *Mathews v. Eldridge* factors  
23 weigh heavily in Mr. Noori’s favor, and his revocation of parole violates  
24 procedural due process.

25 **B. Terminating Mr. Noori’s USCIS asylum proceedings violated the**  
26 **Administrative Procedures Act and Due Process.**

27 For similar reasons, the agency’s termination of Mr. Noori’s affirmative  
28 asylum process before USCIS violated both the APA and procedural due process.

1                   **1. The government’s actions violated the APA.**

2                   As with its revocation of parole, the government’s termination of  
3 Mr. Noori’s affirmative asylum proceedings before USCIS was “arbitrary” and  
4 “capricious” under the APA. 5 U.S.C. § 706(2)(A). After he was originally placed  
5 in removal proceedings, the IJ Grande acknowledged that this was inconsistent  
6 with his humanitarian parole and granted a motion to dismiss the Notice to  
7 Appear. ECF 4-2 p. 7 Order Dismissing Case. This permitted Mr. Noori to pursue  
8 a more non-adversarial route to asylum through USCIS. *See Barahona-Gomez v.*  
9 *Reno*, 236 F.3d at 1120.

10                  But a year later—when Mr. Noori had filed an asylum application with  
11 USCIS and was still in full compliance with his parole conditions—the agency  
12 inexplicably changed its mind. It appears to have done so only because of  
13 Mr. Noori’s random (but entirely lawful) delivery to Camp Pendleton and the  
14 military’s interrogation and detention of him. *See* I-213 Record of Deportable  
15 Alien, ECF 4-2 p10 . Indeed, the agency did not create a warrant for Mr. Noori’s  
16 arrest. In other words, the agency’s decision to terminate Mr. Noori’s USCIS  
17 asylum proceedings and issue a new Notice to Appear seems to have occurred  
18 solely as a result of Camp Pendleton’s decision to detain him and turn him over to  
19 ICE.

20                  This was “arbitrary” and “capricious.” 5 U.S.C. § 706(2)(A). To uphold its  
21 decision, the agency “must explain the evidence which is available, and must  
22 offer a rational connection between the facts found and the choice made.” *Motor*  
23 *Vehicle Mfrs*, 463 U.S. at 52. Here, the “available evidence” shows that USCIS  
24 was adjudicating Mr. Noori’s timely-filed asylum application. ECF 1 Exhibit B,  
25 Asylum Receipt. Yet with no explanation or reasons, the agency terminated his  
26 USCIS proceedings and put him in proceedings before an immigration judge.  
27 Looking at this “available evidence,” the agency cannot offer any “rational  
28 connection between the facts found and the choice made.” *Motor Vehicle Mfrs*,

1 463 U.S. at 52. Nothing in Mr. Noori’s lawful delivery to Camp Pendleton and his  
2 unjustified arrest provides a motive for terminating his USCIS asylum  
3 proceedings. Thus, the government’s actions violated the APA.

4 **2. The government’s actions violated procedural due process.**

5 For similar reasons, the government’s termination of Mr. Noori’s USCIS  
6 asylum proceedings also violated procedural due process under a weighing of the  
7 *Mathews v. Eldridge* factors. 424 U.S. at 334–35.

8 First, Mr. Noori’s interest in applying for asylum through USCIS is high.  
9 As explained, in an affirmative asylum adjudication, an asylum officer “meets  
10 informally with the applicant, considers the documents presented with the asylum  
11 application, then decides whether asylum should be granted.” *Barahona-Gomez v.*  
12 *Reno*, 236 F.3d at 1120. Importantly for asylum seekers who are fearful or have  
13 experienced trauma, “[t]he asylum officer shall conduct the interview in a  
14 nonadversarial manner and, except at the request of the applicant, separate and  
15 apart from the general public.” 8 C.F.R. § 208.9(b). If asylum is denied, the case  
16 will be “referred to an [immigration judge] for formal adjudication,” thereby  
17 giving the individual two bites at the apple. *Barahona-Gomez v. Reno*, 236 F.3d at  
18 1120. What’s more, the USCIS process allows Mr. Noori to obtain work  
19 authorization and avoid the mandatory detention that would likely occur in  
20 removal proceedings under *Matter of Yahure Hurtado*, 29 I&N Dec. 216 (BIA  
21 2025). Thus, the first factor weighs heavily in Mr. Noori’s favor.

22 Second, the “procedures used” to determine whether to terminate  
23 Mr. Noori’s USCIS asylum proceedings presented a high risk of the erroneous  
24 deprivation of that interest. *Mathews v. Eldridge*, 424 U.S. 319, 334–35. Frankly,  
25 the agency did not appear to use *any* “procedures” to make this decision. All it did  
26 was respond to Camp Pendleton’s unjustified and unlawful detention of Mr. Noori  
27 by taking him into custody and issuing a new Notice to Appear. The agency  
28 provided no explanation for its decision to terminate USCIS proceedings, nor

1 could it, since Mr. Noori had filed a timely asylum application, complied with all  
2 his check-in appointments, and engaged in no criminal activity. Thus, the second  
3 factor also weighs heavily in Mr. Noori’s favor.

4 Finally, the government’s interest is negligible. Absent evidence that  
5 Mr. Noori poses any danger or threat to society, the government has no reason to  
6 try to bypass the USCIS asylum process. If Mr. Noori’s application is denied, the  
7 government can then place him in removal proceedings. So the only “risk” to the  
8 government is that Mr. Noori will spend some time out of detention lawfully  
9 employed before being put in removal proceedings. Given the minimal burden  
10 this places on the government, combined with Mr. Noori’s weighty interests on  
11 the first two factors, the *Mathews v. Eldridge* factors lean heavily in his favor.  
12 Accordingly, this Court should find that the government’s termination of his  
13 USCIS affirmative asylum proceedings violated due process.

14 **Conclusion**

15 Because this Court has jurisdiction to consider Mr. Noori’s claims, and  
16 because these claims succeed on the merits, this Court should GRANT the habeas  
17 Petition and ORDER

- 18 1. Mr. Noori’s immediate release;  
19 2. Prohibit his re-detention without further order of this court;  
20 3. Prohibit his removal from this district;  
21 4. Reinstate his parole and his affirmative application with USCIS;  
22 5. Award counsel attorney fees;  
23 6. And any other relief the court deems appropriate.

24 Respectfully submitted,

25  
26 Dated: November 18, 2025

/s/Brian J. McGoldrick  
27 Brian J. McGoldrick, Esq.  
Pro Bono Counsel for Petitioner

**CERTIFICATE OF SERVICE**

I, Brian J. McGoldrick, CERTIFY

I am over the age of 18 and not a party to this matter. My business address is 4916 Del Mar Avenue, San Diego, CA 92107. On November 18, 2025, I served a copy of this Reply to Response and Declaration of Jameurahman Noori by the method and to the parties listed below:

On November 18, 2025, I accessed the electronic mailing list for CM/ECF users in this case and representatives of all parties are CM/ECF users and are noticed as follows:

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