

1 TODD BLANCHE
 Deputy Attorney General of the United States
 2 SIGAL CHATTAH
 First Assistant United States Attorney
 3 District of Nevada
 Nevada Bar Number 8264
 4 VIRGINIA T. TOMOVA
 Nevada Bar No. 12504
 5 501 Las Vegas Blvd. So., Suite 1100
 Las Vegas, Nevada 89101
 6 Phone: (702) 388-6336
 Fax: (702) 388-6787
 7 Virginia.Tomova@usdoj.gov
Attorneys for the Federal Respondents

8
 9 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

10 L.M., V.M., and R.L.,

11 Petitioners,

12 v.

13 KRISTI NOEM, in her official capacity as
 Secretary, U.S. Department of Homeland
 Security; U.S. DEPARTMENT OF
 14 HOMELAND SECURITY; PAMELA
 BONDI, in her official capacity as Attorney
 15 General of the United States; U.S.
 DEPARTMENT OF JUSTICE; TODD
 16 LYONS, in his official capacity as Acting
 Director and Senior Official Performing
 17 Duties of the Director for U.S. Immigration
 and Customs Enforcement; JASON
 18 KNIGHT, in his official capacity as Acting
 Field Office Director, Salt Lake City Field
 19 Office Director, U.S. Immigration &
 Customs Enforcement; U.S.
 20 IMMIGRATION & CUSTOMS
 ENFORCEMENT; JOHN MATTOS, in his
 21 official capacity as Warden, Nevada
 Southern Detention Center,

22 Respondents.
 23

Case No. 2:25-cv-02194-APG-BNW

**Federal Respondents' Response to
 Petitioners' Memorandum of Law in
 Support of Temporary Restraining
 Order**

24 Federal Respondents Kristi Noem, U.S. Department of Homeland Security, Pamela
 25 Bondi, U.S. Department of Justice, Todd Lyons, Jason Knight, and U.S. Immigration &
 26 Customs Enforcement' file their response to Petitioners' memorandum of law in support of
 27 temporary restraining order (motion for TRO). ECF No. 2. Federal Respondents' response
 28 is supported by the following memorandum of points and authorities. The motion for TRO

1 should be denied as a matter of law as the Petitioners fail to demonstrate that they are
2 entitled to a temporary injunctive relief, have failed to exhaust their administrative remedies
3 and there is no futility to such exhaustion.

4 Respectfully submitted this 23rd day of November 2025.

5 SIGAL CHATTAH
6 First Assistant United States Attorney

7 /s/ Virginia T. Tomova
8 VIRGINIA T. TOMOVA
9 Assistant United States Attorney

10 **Memorandum of Points and Authorities**

11 **I. Introduction**

12 As a general matter, an alien who arrives in the United States and cannot
13 demonstrate his admissibility generally is either promptly removed or detained pending
14 removal proceedings. See 8 U.S.C. §§ 1225(b)(1)(A), (B), and (2)(A). The Immigration and
15 Nationality Act (“INA”) provides, however, that in limited circumstances the Secretary of
16 Homeland Security may parole such an alien—that is, release him from detention and
17 allow him to temporarily enter the United States. See 8 U.S.C. § 1182(d)(5)(A). Whether to
18 grant parole to inadmissible applicants for admission and release them into the interior in
19 lieu of otherwise mandatory immigration detention, and whether and when to terminate
20 that parole, lies within the discretion of the Department of Homeland Security (DHS)—as
21 does the decision to terminate any such parole whenever “the purposes of such parole
22 shall, in the opinion of the Secretary of Homeland Security, have been served.” 8
23 U.S.C. §1182(d)(5)(A). Therefore, the temporary and discretionary nature of parole
24 indicates that reliance interest upon the continued existence of parole is limited. In April
25 2025, U.S. Customs and Border Protection (CBP), a component of DHS, started

1 transmitting notices to inadmissible aliens who had been paroled at a Port of Entry (POE)
2 along the U.S.-Mexico border POEs after scheduling appointments for inspection using the
3 CBP One app, informing them that their parole was being terminated. Petitioners challenge
4 this discretionary termination of parole, alleging the termination of their parole (as well
5 as their parole-based employment authorization) was arbitrary, capricious, and contrary to
6 law in violation of the Administrative Procedure Act (APA). On May 30, 2025, the
7 Supreme Court of the United States issued an order lifting the U.S. District Court for the
8 District of Massachusetts's April 14, 2025, Preliminary Injunction that stayed parts of the
9 March 25, 2025, Federal Register notice titled, "Termination of Parole Process for Cubans,
10 Haitians, Nicaraguans, and Venezuelans (CHNV)." See *Noem v. Svitlana Doe*, 605 U.S. ____
11 (2025). With this decision, the Supreme Court of the United States allowed DHS to
12 proceed with terminating parole granted under the CHNV parole programs and with
13 revoking any employment authorization based on being paroled under the CHNV parole
14 programs, for illegals from Cuba, Haiti, Nicaragua and Venezuela. *Id.* Petitioner V.M. is
15 from Venezuela and R.L is from Cuba. The Notice effectively terminates the program and
16 the humanitarian parole held by the individuals who entered the U.S. through it.
17 Termination of respective paroles will take effect on April 24 — 30 days after the notice was
18 published. Aliens whose parole is terminated and whose employment authorization is
19 revoked will receive notification in their myUSCIS account. All three petitioners received
20 email notifications regarding the termination of their parole and admitted that such emails
21 were "written notice." ECF No.2, p. 16. The Court should deny the motion for
22 preliminary injunction, because the Court lacks jurisdiction to review DHS' decision to
23 terminate parole. Congress reserved the parole-termination decision exclusively to the

1 opinion of the Secretary. Underscoring as much, Congress barred judicial review of
2 discretionary decisions like the decision to end parole:

3 “Notwithstanding any other provision of law . . . no court shall have jurisdiction to review...
4 any other decision or action . . . the authority for which is specified under this subchapter
5 to be in the discretion of . . . the Secretary of Homeland Security.” 8 U.S.C. §
6 1252(a)(2)(B)(ii). And the parole power is just one such discretionary authority. But, even
7 if the Court were to reach the merits of Petitioners’ claims, Federal Respondents’
8 terminations of parole for Petitioners were not contrary to law because there is no
9 requirement that terminations of parole address individualized reasons for termination—as
10 the First Circuit recently held in *Svitlana Doe v. Noem*, 152 F.4th 272 (1st Cir. 2025) and
11 because Defendants complied with their notice regulations. The terminations were also not
12 arbitrary and capricious, but they were in accordance with the policy that such mass grants
13 of parole were inconsistent with the purpose of the parole statute.

14 **II. Background**

15 **a. Legal Background**

16 The Executive Branch has broad constitutional and statutory power over the
17 administration and enforcement of the nation’s immigration laws. *Knauff v. Shaughnessy*, 338
18 U.S. 537, 543 (1950) *superseded by statute on other grounds as stated in Dep’t of Homeland*
19 *Security v. Thuraissigiam*, 591 U.S. 103, 135 (2020); *see, e.g.*, 6 U.S.C. § 202(4); 8 U.S.C. §
20 1103(a)(1), (3). The INA authorizes the Secretary of Homeland Security, “in [her]
21 discretion,” to “parole into the United States” applicants for admission “temporarily under
22 such conditions as [the Secretary] may prescribe” “only on a case-by-case basis for urgent
23 humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A). “Congress

1 has delegated remarkably broad discretion to executive officials under the INA, and these
2 grants of statutory authority are particularly sweeping in the context of parole[.]” *Amanullah*
3 *v. Nelson*, 811 F.2d 1, 6 (1st Cir. 1987).

4 Parole is, by definition, a temporary permission for an alien to physically enter the
5 United States. Parole permits an alien “to enter the United States temporarily while
6 investigation of eligibility for admission takes place.” *Succar v. Ashcroft*, 394 F.3d 8, 15 (1st
7 Cir. 2005). *See also, e.g., Leng May Ma v. Barber*, 357 U.S. 185, 190 (1958) (describing
8 parole as a device used to release aliens “while administrative proceedings are conducted”
9 without effecting a change in legal status). “Besides allowing legal access to the United
10 States with the ability to work, and in some cases receive federal benefits, a grant of parole
11 does not per se confer additional rights upon a non-citizen.” *Svitlana Doe v. Noem*, 152
12 F.4th 272, 277 (1st Cir. 2025) (citing *Dept’ of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103
13 (2020) (explaining that even aliens who have been paroled for years “are ‘treated’ for due
14 process purposes ‘as if stopped at the border’” (quotation omitted)). Immigration officers
15 such as CBP officers have the discretion to parole applicants for admission into the United
16 States. *See* 8 C.F.R. §§ 212.5(b), 235.3(b)(2)(iii), (c). Such parole “shall not be regarded as
17 an admission.” 8 U.S.C. § 1182(d)(5)(A). DHS may also terminate parole “when the
18 purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have
19 been served,” and “the alien shall forthwith return or be returned to the custody from
20 which he was paroled and thereafter his case shall continue to be dealt with in the same
21 manner as that of any other.

22 **CBP One App.** In October 2020, CBP launched a mobile device application
23 called CBP One. Beginning in 2023, CBP One was made available for aliens to schedule

1 an appointment to present at a POE for consideration for an exception to the Title 42 Public
2 Health Order. 88 Fed. Reg. 31314, 31317 n.30 (May 16, 2023). Following the termination
3 of the Title 42 Public Health Order, CBP One was made available for aliens to schedule
4 an appointment to present at a POE along the Southwest Border for inspection under Title
5 8. *Id.* at 31317. The prior administration described this function of the CBP One app as a
6 “mechanism for noncitizens to schedule a time to arrive at POEs along the [Southwest
7 Border], to allow an increasing number of migrants who may wish to claim asylum to
8 request an available time and location to present and be inspected and processed at certain
9 POEs.” *Id.* Many of the aliens who presented at the POE after scheduling an
10 appointment using the CBP One app, following immigration processing, were placed in
11 removal proceedings under 8 U.S.C. § 1229a and paroled into the United States.

12 **Discontinuance of CBP One App and Parole Terminations.** On January 20, 2025,
13 CBP discontinued use of the scheduling function of the CBP One app. *See CBP Removes*
14 *Scheduling Functionality in CBP One™ App* (Jan. 21, 2025), at
15 [https://www.cbp.gov/newsroom/national-media-release/cbp-removes-scheduling-
17 functionality-cbp-one-app](https://www.cbp.gov/newsroom/national-media-release/cbp-removes-scheduling-
16 functionality-cbp-one-app). In April 2025, DHS began sending out parole termination
18 notices to individuals who had been paroled at POEs after scheduling appointments for
19 inspection using the CBP One app.

19 **b. Procedural History**

20 There are three petitioners L.M., a citizen of Ecuador, V.M., a citizen of Venezuela
21 and R.L., a citizen of Cuba. ECF No. 2., pp. 4-6. As referenced above, as of April 14, 2025,
22 the Supreme Court of the United States allowed DHS to proceed with terminating parole
23 granted under the CHNV parole programs and with revoking any employment

1 authorization based on being paroled under the CHNV parole programs, for illegals from
2 Cuba, Haiti, Nicaragua and Venezuela, just like V.M. and R.L. Because Petitioners' paroles
3 were revoked their status is the same that they held at the time they were paroled: arriving
4 aliens seeking admission.

5 L.M. (Ecuador) sought admission at the port of entry, less than two years ago on
6 March 12, 2024, and was temporarily paroled into the United States. ECF No. 2, p. 4. U.S.
7 Customs and Border Patrol (CBP) determined that L.M. was not in possession of valid
8 entry documentation and issued him a Notice to Appeal (NTA) and paroled him into the
9 United States pursuant to 8 U.S.C. § 1182(d)(5). He claims that he filed an I-589 application
10 for asylum on May 5, 2025, which was rejected due to lack of process of service. *Id.*, p. 5.
11 L.M. claims that he is re-filing his I-589 application. *Id.* What L.M. is failing to mention to
12 the Court is that while he was in expedited removal proceedings, a Judge conducted a
13 credible fear interview of L.M. on July 3, 2025, and ruled that there was no finding of
14 credible fear. L.M. was served with that decision on July 8, 2025. L.M. is an applicant for
15 admission subject to mandatory detention pending his removal from the United States.

16 Just like L.M., V.M. (Venezuela) entered the United States at a port of entry less
17 than two years ago on October 29, 2024, and was temporarily paroled into the United
18 States. ECF No. 2, p. 5. Similarly, V.M. also fails to mention to the Court, that he had a
19 credible fear interview conducted on June 30, 2025, while in detention and his matter was
20 administratively closed on June 30, 2025, due to jurisdictional issues. After an Immigration
21 Judge dismissed V.M.'s 240 removal proceedings, he appealed this decision to the BIA on
22 June 17, 2025. While the appeal is pending, jurisdiction remains vested with DOJ/EOIR,
23 and expedited removal cannot be completed until the 240 proceedings are resolved. V.M.

1 has failed to exhaust administrative remedies as his appeal is still pending before the BIA.
2 V.M. is an applicant for admission subject to mandatory detention pending his removal
3 from the United States.

4 Like L.M. and V.M., R.L. (Cuba) entered the United States at a port of entry less
5 than two years ago on June 7, 2024, and was temporarily paroled into the United States.
6 ECF No. 2, p. 6. Contrary to R.L.'s claims that he has I-589 application pending with
7 USCIS since May 16, 2025, there is no record of such filing with USCIS.

8 **c. Legal Standards**

9 Federal courts are courts of limited jurisdiction, and the party asserting jurisdiction
10 bears the burden of showing it exists. *Viqueira v. First Bank*, 140 F.3d 12, 16 (1st Cir.
11 1998). “Dismissal based on the pleadings is appropriate . . . when the facts alleged in the
12 complaint, taken as true, do not support a finding of federal subject matter jurisdiction.”
13 *Patel v. Jaddou*, 695 F. Supp. 3d 158, 165 (D. Mass. 2023), *aff’d sub nom. Gupta v. Jaddou*,
14 118 F.4th 475 (1st Cir. 2024). In cases involving review of agency action under the APA,
15 “review is limited to the administrative record.” *Lovgren v. Locke*, 701 F.3d 5, 20 (1st Cir.
16 2012).

17 In general, the showing required for a temporary restraining order is the same as that
18 required for a preliminary injunction. *See Stuhlberg Int’l Sales Co., Inc. v. John D. Brush & Co.,*
19 *Inc.*, 240 F.3d 832, 839 (9th Cir. 2001). To prevail on a motion for a temporary restraining
20 order, a plaintiff must “establish that he is likely to succeed on the merits, that he is likely to
21 suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips
22 in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council,*
23 *Inc.*, 555 U.S. 7, 20 (2008); *see Nken v. Holder*, 556 U.S. 418, 426 (2009). Plaintiff must

1 demonstrate a “substantial case for relief on the merits.” *Leiva-Perez v. Holder*, 640 F.3d 962,
2 967-68 (9th Cir. 2011). When “a plaintiff has failed to show the likelihood of success on the
3 merits, we need not consider the remaining three [*Winter* factors].” *Garcia v. Google, Inc.*, 786
4 F.3d 733, 740 (9th Cir. 2015).

5 The final two factors required for preliminary injunctive relief—balancing of the
6 harm to the opposing party and the public interest—merge when the Government is the
7 opposing party. *See Nken*, 556 U.S. at 435. The Supreme Court has specifically
8 acknowledged that “[f]ew interests can be more compelling than a nation’s need to ensure
9 its own security.” *Wayte v. United States*, 470 U.S. 598, 611 (1985); *see also United States v.*
10 *Brignoni-Ponce*, 422 U.S. 873, 878-79 (1975); *New Motor Vehicle Bd. v. Orrin W. Fox Co.*, 434
11 U.S. 1345, 1351 (1977); *Blackie’s House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1220-21 (D.C.
12 Cir. 1981); *Maharaj v. Ashcroft*, 295 F.3d 963, 966 (9th Cir. 2002) (movant seeking injunctive
13 relief “must show either (1) a probability of success on the merits and the possibility of
14 irreparable harm, or (2) that serious legal questions are raised and the balance of hardships
15 tips sharply in the moving party’s favor.”) (quoting *Andreiu v. Ashcroft*, 253 F.3d 477, 483
16 (9th Cir. 2001)).

17 **III. Argument**

18 Petitioners cannot establish that they are likely to succeed on the underlying merits,
19 cannot show irreparable harm, and the equities do not weigh in their favor.

20 **I. Petitioners Do Not Have Likelihood of Success on the Merits.**

21 Likelihood of success on the merits is a threshold issue. *See Garcia*, 786 F.3d at 740.
22 Petitioners cannot establish that they are likely to succeed on the merits of their claims
23 When there is “an irreconcilable conflict in two legal provisions,” then “the specific governs

1 over the general.” *Karczewski v. DCH Mission Valley LLC*, 862 F.3d 1006, 1015 (9th Cir.
2 2017).

3 First, this Court lacks jurisdiction. Parole terminations are unreviewable
4 discretionary decisions by the Secretary of Homeland Security. Second, even if the

5 Court reaches the merits of Petitioners’ arguments, Petitioners cannot show that they
6 are likely to succeed on the merits, because DHS has discretionary authority and decision to
7 terminate parole for Petitioners or others, who received parole, after presenting themselves
8 at POEs after having made appointments via the CBP One app and such decision was
9 not contrary to law or arbitrary and capricious.

10 **a. The Court Lacks Subject Matter Jurisdiction**

11 This Court lacks jurisdiction over Petitioners’ claims because parole terminations
12 are discretionary decisions by the Secretary of Homeland Security that are not reviewable,
13 under the INA, 8 U.S.C. § 1252. The APA also forecloses review of this discretionary
14 decision-making.

15 **i. The INA Deprives the District Court of Jurisdiction**

16 Section 1252(a)(2) of Title 8 of the United States Code, entitled “Matters Not Subject
17 to Judicial Review” states that “[n]otwithstanding any other provision of law . . . no court
18 shall have jurisdiction to review” and decision or action of the Secretary “the authority for
19 which is specified under this subchapter to be in [her] discretion.” 8 U.S.C. §
20 1252(a)(2)(B)(ii). Congress has placed the authority to terminate parole in the Secretary’s
21 discretion. The parole statute explicitly provides that the Secretary may terminate parole
22 when she determines, in her “opinion,” that the “purposes” of parole “have been served.” 8
23 U.S.C. § 1182(d)(5)(A); *see also Bouarfa v. Mayorkas*, 604 U.S. 6, 13–14 (2024) (determining

1 that statutory language that Secretary may revoke visa approval “for what he deems to be
2 good and sufficient cause” denotes discretion). Accordingly, because parole termination is a
3 discretionary decision by the Secretary, Section 1252(a)(2)(B)(ii)’s judicial-review bar
4 applies. *See* 8 U.S.C. § 1252(a)(2)(B)(ii); *Kucana v. Holder*, 558 U.S. 233, 247–48 (2010). The
5 language “no court shall have jurisdiction to review” in § 1252(a)(2)(B) is about as specific as
6 language gets—and this bar applies without exception and “notwithstanding any other
7 provision of law (statutory or nonstatutory).” 8 U.S.C. § 1252(a)(2)(B). The Court thus
8 may not review the decisions to terminate parole at issue in this matter and should deny
9 preliminary injunction.

10 **ii. The APA Forecloses Judicial Review**

11 In addition, the APA provides a second independent ground for why review is
12 foreclosed. The parole terminations are “agency action . . . committed to agency discretion
13 by law.” 5 U.S.C. § 701(a)(2). As stated, *supra*, Section 1182(d)(5)(A) vests the Secretary with
14 authority to terminate parole whenever “the purposes of such parole shall, *in [her] opinion*,
15 . . . have been served.” 8 U.S.C. § 1182(d)(5)(A) (emphasis added). The statute thus
16 makes the Secretary’s *opinion* the touchstone for the decision. Reviewing courts cannot
17 know better than the Secretary herself what her own opinion is. That phrasing thus “fairly
18 exudes deference” to the Secretary, closely resembling other statutes that commit a decision
19 to agency discretion such that judicial review is not authorized. *See Bouarfa*, 604 U.S. at 13-
20 14 (statute providing that Secretary may revoke visa petition approval “for what he deems to
21 be good and sufficient cause”); *Webster v. Doe*, 486 U.S. 592, 600 (1988) (statute providing
22 official may fire employee when he “shall deem such termination necessary or advisable”).
23 “Short of permitting cross-examination of the [Secretary] concerning [her] views,” there is

1 “no basis on which a reviewing court could properly assess” her decision. *Webster*, 486 U.S.
2 at 600.

3 **b. The Termination of Parole Were Not Contrary to Law or Regulation**

4 **i. The Parole Does Not Require Individualized Termination of Parole**

5 Petitioners argue that the Federal Respondents’ terminations of parole of
6 individuals who had made appointments to present themselves at a POE using the CBP
7 One app violate the INA and DHS regulations. These arguments are meritless. Petitioners
8 claim that even though they received written notices letting them know that their parole is
9 being terminated, they claim that such notices were not sufficient “because they “never
10 received the individualized, case-by-case justification that is required to properly terminate
11 parole.” ECF No. 2, p. 16. Contrary to Petitioners’ claim, case-by-case termination
12 decisions are not fundamentally incompatible with a general policy directive applied to a
13 large number of individual cases. Plaintiffs’ argument has been rejected by the First Circuit.
14 In *Svitlana Doe v. Noem*, 152 F.4th 272 (1st Cir. 2025), the First Circuit held that the parole
15 statute does not require terminations of parole to be done on a case-by-case basis. In *Doe*,
16 Plaintiffs had challenged the CHNV parole programs allowing Venezuelan, Cuban,
17 Haitian, and Nicaraguan nationals and their immediate family members to obtain
18 authorization to travel to the United States to seek a discretionary, case-by-case grant of
19 parole for up to two years. 87 Fed. Reg. 63507, 63508 (Oct. 19, 2022). On March 25,
20 2025, DHS terminated the CHNV parole programs effective immediately. 90 Fed. Reg. at
21 13611. In the ensuing litigation, the First Circuit agreed with the Government’s assertion
22 that the parole statute permits categorical or *en masse* termination of parole. 152 F.4th at
23 287. The Court noted that while the parole statute specifies that grants of parole must be

1 carried out “only on a case by case basis” and “for urgent humanitarian reasons or
2 significant public benefit” (citing 8 U.S.C. § 1182(d)(5)), “the clause describing the
3 Secretary’s authority to terminate any grants of parole does not contain the same limiting
4 language.” *Id.* at 286. Thus, assuming *arguendo*, the decision to terminate Plaintiffs’ or
5 others’ parole was made categorically and *en masse*, that did not render those terminations
6 unlawful.

7 Petitioners also argue that the terminations violate the parole statute because there is
8 no evidence that the Secretary (or her designee) determined that the “purposes of parole has
9 been achieved, or humanitarian/public interests no longer support their parole.” ECF No.
10 2, p. 16. But, as noted, no individualized determination needs to be made to terminate
11 parole. And in any event, whether terminations are based on categorical or individual
12 grounds, the determination that the purposes of parole have been served is implicit in the
13 discretionary decision to terminate—which, as discussed, the Court cannot review. 8
14 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5(e). Petitioners point to nothing requiring a
15 statement of reasons or other memorialization of that decision, and in any event such a
16 requirement would be inconsistent with the discretion granted DHS in this arena, as well as
17 the INA’s and the APA’s bars to judicial review of discretion.

18 **ii. The Parole Terminations Comport with DHS Regulations**

19 Petitioners allege that the notices of termination provided no explanation for the
20 termination of parole. ECF No. 2, p. 16-17. First, Petitioners point to no statutory or
21 regulatory requirement, nor does one exist, requiring that a Notice of Termination
22 provide, on its face, any explanation for the termination of parole nor that any explanation
23 for the termination decision be otherwise memorialized. As explained, the

1 determination that the purposes of parole have been served is implicit in the discretionary
2 and unreviewable decision to terminate. Nor does the termination regulation require any
3 signature by the authorized official. Instead, 8 C.F.R. § 212.5(e) provides in relevant
4 part:

5 [U]pon accomplishment of the purpose for which parole was authorized or
6 when in the opinion of one of the officials listed in paragraph (a) of this
7 section, neither humanitarian reasons nor public benefit warrants the
8 continued presence of the alien in the United States, parole shall be
9 terminated upon written notice to the alien and he or she shall be restored
10 to the status that he or she had at the time of parole.

11 8 C.F.R. § 212.5(e)(2)(i) (emphasis added). According to the plain text of this regulation, the
12 written notice simply needs to advise the alien that his/her parole is being terminated.

13 Petitioners seek to insert requirements that the Notice of Termination also contain an
14 explanation for the termination and be signed by an authorized official ECF No. 2, p. 16, but
15 the text of the regulation does not support either of these requirements. Instead, what is
16 required is that the Secretary of Homeland Security, or one of her designees, make a
17 determination that the purpose for which parole was authorized was accomplished, or
18 that neither urgent humanitarian reasons nor significant public benefit warrants the alien's
19 continued presence in the United States, followed by written notice of termination to the
20 alien. The explanation for that determination was provided by Acting Secretary Huffman, in
21 two memorandums on January 20, 2025, and January 23, 2025, titled "Exercising
22 Appropriate Discretion Under Parole Authority" and "Guidance Regarding How to
23 Exercise Enforcement Discretion," respectively. Second, in this case, the Notices of
24 Termination did provide an explanation for the terminations by invoking 8 U.S.C. §
25
26
27
28

1 1182(d)(5)(A) and 8 C.F.R. § 212.5(e) as the authorities under which parole was being
2 revoked.

3 Section 1182(d)(5)(A) provides that:

4 The Secretary of Homeland Security may, . . . in his discretion parole
5 into the United States temporarily under such conditions as he may
6 prescribe only on a case-by-case basis for urgent humanitarian reasons
7 or significant public benefit any alien applying for admission to the
8 United States, but such parole of such alien shall not be regarded as an
9 admission of the alien and when the purposes of such parole shall, in the
10 opinion of the Secretary of Homeland Security, have been served the
11 alien shall forthwith return or be returned to the custody from which he
12 was paroled and thereafter his case shall continue to be dealt with in the
13 same manner as that of any other applicant for admission to the United
14 States.

15 8 U.S.C. § 1182(d)(5)(A) (emphases added). By invoking these statutes, the
16 termination notice denoted that the purposes of parole had been served. Further, the policy
17 announced by the Secretary of Homeland Security, both through the Jan. 20 and Jan. 23
18 Huffman memos and the EOs on which they were based, which led to the parole
19 terminations here, was based on the recognition that it was not consistent with the statute
20 or in the public interest to have granted parole on a large-scale, *en masse* basis to the vast
21 majority of aliens who presented at a U.S. POE after having made an appointment to do
22 so with the CBP One app. Indeed, this approach led to inadequate vetting of individuals
23 before they were granted parole, leading to many individuals being in the United States
24 who do not meet the criteria for parole and in fact should be excluded for various reasons.
25 Thus, the Secretary made the decision to terminate the parole of individuals like the
26 Plaintiffs because continuing with their parole no longer served the country's interest. As
27 the First Circuit recognized in *Svitlana Doe*: “[o]nce the executive branch determines . . . that
28

1 achieving the policy aim is no longer possible or desired, then it takes no individualized
2 determination in any way to ascertain those persons for whom it can no longer be said that
3 parole furthers the country’s interest.” 152 F.4th at 286. Here, Petitioners received notices
4 to inform them that their parole are being terminated, and they acknowledge the receipt of
5 such notices. Petitioners’ expectations that each one of them should be provided with
6 personalized case-by-case analysis is contrary to statutory and case law.

7 **iii. The Decision to Terminate Parole was Not Arbitrary and**
8 **Capricious**

9 Petitioners next assert that the terminations of their parole were arbitrary and
10 capricious because no explanation was given for the terminations. Not so. First, as
11 discussed, DHS may terminate parole at its discretion at any time, when, in the opinion of
12 the Secretary, the purpose of the parole has been served. *See* 8 U.S.C. § 1182(d)(5)(A); 8
13 C.F.R. § 212.5(e)(2). Second, DHS has provided sufficient explanations for its termination
14 of parole in this context, and its decision to do so was not arbitrary and capricious.
15 “Review under the arbitrary and capricious standard is narrow and this [c]ourt may not
16 substitute its judgment for that of the agency, even if it disagrees with the agency’s
17 conclusions.” *Svitlana Doe*, 152 F.4th at 290 (quoting *River St. Donuts, LLC v. Napolitano*, 558
18 F.3d 111, 114 (1st Cir. 2009)). Here, the agency has provided an explanation for its
19 termination of parole grants. On January 20, 2025, Acting Secretary Huffman explained
20 the policy that led to the termination of paroles at issue in this case: “Although parole is
21 a discretionary authority to be exercised in narrow circumstances and only on a case-by-
22 case basis, it has been repeatedly abused by the Executive Branch over the past several
23 decades in ways that are blatantly inconsistent with the statute. Most important, the

1 parole statute does not authorize categorical parole programs that makes aliens
2 presumptively eligible on the basis of some set of broadly applicable criteria.” This policy
3 was made more explicit with the January 23, 2025, Huffman Memo which instructed DHS’s
4 component agencies “to pause, modify, or terminate, effective immediately, any parole
5 program that is inconsistent with the [Jan. 20] memorandum – subject to certain conditions
6 designed to ensure any such actions are lawful.” This policy, which underlies subsequent
7 parole terminations such as those at issue here, evidences an acknowledgment that the
8 large-scale parole of those who presented themselves at POEs with CBP One appointments
9 is not in the public interest or consistent with the statute. Because the termination decision
10 at issue is discretionary and unreviewable both under the INA and because it is committed
11 to agency discretion under the APA, there is no APA requirement to explain that exercise
12 of discretion. It would defeat the purpose of unreviewable discretion to subject it to
13 APA review, no matter how deferential. Plaintiffs incorrectly argue that the parole
14 terminations here represent a change in position involving reliance interests that requires a
15 “more detailed justification” for the reversal. ECF No. 2, 15-16.

16 Petitioners do not actually identify a rule or policy that they claim was reversed—
17 they point to no policy document governing grants of parole for those who presented
18 themselves at POEs with CBP One appointments. Although the government has indeed
19 terminated individual grants of parole for Petitioners and others as a result of the policy
20 announced in the Huffman memos, Petitioners do not point to any particular reason they
21 were granted parole such that the agency should be required to justify any alleged
22 departure from those reasons in terminating their paroles. In sum, parole terminations do
23 not fall under the rubric of the cases Petitioners cite regarding departures from prior policy.

1 Nor does the parole statute or regulations require any justification for terminating parole,
2 including any consideration of reliance interests before terminating parole. Indeed,
3 Petitioners have no legitimate reliance interests in a term of parole, as parole termination is
4 an intended outcome of the temporary process of parole under the statute and regulations.
5 DHS never guaranteed that the parole of those who presented themselves at POEs with
6 CBP One appointments would not be terminated in accordance with those statutes and
7 regulations. When parole was codified into immigration law, the Supreme Court found
8 that “the parole of aliens seeking admission is simply a device through which needless
9 confinement is avoided while administrative proceedings are conducted.” *See Leng May*
10 *Ma v. Barber*, 357 U.S. 185, 190 (1958); 90 Fed. Reg. at 13612. Here, although Petitioners
11 have made it impossible for the government to know precisely the status of Petitioners’
12 efforts to seek asylum, the government presumes that parole has served its purpose by
13 giving Petitioners the ability to apply for asylum or adjustment of status while in removal
14 proceedings—rather than being placed in expedited removal and detained pending such
15 proceedings. *See* 8 U.S.C. § 1225(b)(1), (b)(2)(A).

16 Currently, the Petitioners are not placed in expedited removal proceedings but rather
17 in Sec. 240 removal proceedings. An Immigration Judge already has ruled that L.M. has not
18 demonstrated credible fear for an asylum, that V.M.’s request for asylum is ineligible since
19 he has pending appeal before the BIA regarding the dismissal of his removal proceedings
20 and R.L. has no pending asylum application, nor has he requested a credible fear interview
21 determination. In sum, the reasons for the termination of parole for those aliens who had
22 been paroled after having made an appointment to present at a U.S. POE using the CBP
23 One app, are clear: to reverse the large-scale grants of parole to these individuals who had

1 made appointments using the CBP One app, which was contrary to the INA requirement
2 that parole grants must be made only on a case-by-case basis, and only when an
3 individual alien demonstrates urgent humanitarian reasons or a significant public benefit
4 derived from their particular continued presence in the United States.

5 **c. The Court May Not Grant the Requested Universal Relief.**

6 Petitioners ask the Court to vacate the “decision” to terminate parole for members of
7 a putative class, to vacate their parole terminations and the revocations of their
8 corresponding parole-based employment authorization, as well as to declare such decisions
9 unlawful. *See* ECF 2, pp. 16-23. First, such relief would run afoul of § 1252(a)(2)(B)(ii) by
10 compelling the government to grant parole to aliens even though such decisions are clearly
11 within DHS’s sole discretion. Petitioners’ proposed relief would also eliminate DHS’s
12 discretion with respect to granting employment authorization. *See* 8 C.F.R. §§
13 274a.12(c)(11), 274a.13(a)(1) (“The approval of applications filed under 8 CFR
14 274a.12(c)...are within the discretion of USCIS. The Court may not issue relief that is
15 broader than necessary to remedy actual harm shown by specific Plaintiffs. *See Gill v.*
16 *Whitford*, 585 U.S. 48, 73 (2018). Congress enacted the APA against a background rule
17 that statutory remedies should be construed in accordance with “traditions of equity
18 practice.” *Hecht Co. v. Bowles*, 321 U.S. 321, 329 (1944). Courts “do not lightly assume that
19 Congress has intended to depart from established principles” of equity, *Weinberger v.*
20 *Romero-Barcelo*, 456 U.S. 305, 313 (1982), and ordinarily courts expect that Congress will
21 make “an unequivocal statement of its purpose” if it intends to make “a drastic departure
22 from the traditions of equity practice,” *Hecht Co.*, 321 U.S. at 329. Thus, the APA does not
23 authorize universal vacatur. *See* ECF 176-1 at 34. Indeed, remedies “ordinarily operate

1 with respect to specific parties,” rather than “on legal rules in the abstract”; reading the
2 APA to authorize universal relief would do the opposite. *California v. Texas*, 593 U.S. 659,
3 671 (2021). But at minimum, the language of 5 U.S.C. § 706(2) authorizing courts to “set
4 aside” agency action must be considered alongside the traditional equitable principle that
5 equitable relief be no broader than necessary to afford relief to the specific Plaintiffs. *See*
6 *Trump v. CASA, Inc.*, 606 U.S. 831, 851-52 (2025) (citing *Califano v. Yamasaki*, 442 U.S.
7 682, 702 (1979) (“[I]njunctive relief should be no more burdensome to the defendant
8 than necessary to provide complete relief to the plaintiffs.”)). Indeed, the Supreme Court
9 has recently rejected such universal relief. In *Trump v. CASA*, the Supreme Court rejected
10 “universal injunctions,” or injunctions that bar the defendant from enforcing “a law or
11 policy against anyone,” in contrast to injunctions limited to the plaintiff. *CASA*, 606 U.S.
12 at 833 (finding “[b]ecause the universal injunction lacks a historical pedigree, it falls
13 outside the bounds of a federal court’s equitable authority under the Judiciary Act.”).
14 Universal relief is not appropriate here where there is no overarching final agency action in
15 the form of a decision or policy document to vacate—rather, each parole termination is the
16 final agency action from which legal consequences flow. *See Bennett v. Spear*, 520 U.S. 154,
17 178 (1997).

18 Finally, the Ninth Circuit has stated that when an alien fails to exhaust appellate
19 review at the BIA, courts should “ordinarily” dismiss the habeas petition without prejudice
20 or stay proceedings until he exhausts his appeals. *Leonardo v. Crawford*, 646 F.3d 1157, 1160
21 (9th Cir. 2011). Petitioners have appeals before the BIA regarding the dismissal of their
22 removal proceedings. They have failed to exhaust their administrative remedies, and their
23 habeas petition should be denied as a matter of law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IV. Conclusion

For the reasons described above, Federal Respondent request that the Court deny the motion for temporary restraining order.

Respectfully submitted this 23rd day of November 2025.

SIGAL CHATTAH
First Assistant United States Attorney

/s/ Virginia T. Tomova
VIRGINIA T. TOMOVA
Assistant United States Attorney